



Office of
Environment
& Heritage

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Your reference:
Our reference: Doc12/27754
Contact: Rachel Lonie , 9995 6837

Ms Heather Warton
Director, Metropolitan and Regional Projects North
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001

Dear Ms Warton

I refer to your letter dated 5 July 2012 seeking comments from the Office of Environment and Heritage (OEH) on a State Significant Development (SSD 5169) for the Horsley Drive Business Park.

OEH has reviewed the documents and provides comments in Attachment 1. These identify biodiversity and flooding issues with the proposal.

If you have any queries regarding this matter please contact Rachel Lonie (02) 9995 6837 (note working days are generally Monday and Wednesday only).

Yours sincerely

Lou Ewins 27/8/12

LOU EWINS
Manager Planning and Aboriginal Heritage
Conservation and Regulation
Office of Environment and Heritage

ATTACHMENT 1

Office of Environment and Heritage (OEH) Comment on State Significant Development (SSD 5169) for the Horsley Drive Business Park

1. Aboriginal Cultural Heritage

OEH has reviewed the ACH assessment report for Horsley Drive and agrees with its recommendations. The subject land was identified as having been subject to previous disturbances, no Aboriginal objects were identified during the course of fieldwork and the subject land was not identified as containing areas of potential archaeological sensitivity. As such, it has been recommended that there are no further Aboriginal archaeological and cultural constraints to the proposed development.

2. Biodiversity

OEH has reviewed the "*Ecological Issues and Assessment Report*" (SLR June 2012) (Appendix 14) and considers that the report is inadequate in relation to a number of matters:

- Page 4 of the report states that "each patch of native vegetation was inspected". OEH is not clear what would constitute a patch, and whether the isolated trees that appear to occur on site would have been included in the survey. These isolated trees could constitute an endangered or critically endangered ecological community. OEH is also concerned that cryptic species that can occur in areas without native overstorey, such as *Pimelea spicata*, may have been missed if only 'patches' (of an unspecified size) of native vegetation were inspected.
- OEH's 'draft Native Vegetation of the Sydney Metropolitan Catchment Management Authority Area' (SMCMA mapping, OEH 2009) is not referred to in the report. The 'Regrowth Mixed Eucalypt Woodland' which has been mapped as on site, is mapped in the SMCMA mapping as Cumberland Riverflat Forest, (which is equivalent to the endangered ecological community (EEC), River-flat Eucalypt Forest (RFEF)). Given that many of the species characteristic of RFEF were recorded on site, eg *Eucalyptus tereticornis*, *Angophora floribunda*, *Bursaria spinosa*, *Microlaena stipoides*, *Dichondra repens*, *Einadia hastata* and *Glycine clandestina*, OEH considers that this EEC may be present. If RFEF is likely to be present on site, an assessment of the likely impacts on this EEC should also have been undertaken.
- The report states that Cumberland Plain Woodland (CPW) is not on site because the vegetation doesn't match the description in the Scientific Committee's final determination for CPW, ie the vegetation does not have not "near-continuous groundcover dominated by [native] grasses and herbs" and "is not dominated by a diverse range of native grasses". OEH notes that the consultant has inserted [native] in the above sentence and it isn't in the sentence in the final determination for CPW. In addition, OEH does not agree that the lack of a diverse, near-continuous cover of native grasses and herbs are valid reasons for determining that the remnant is not CPW. The most relevant factors to consider in the final determination is the assemblage of species that are listed, and the location that is specified. This is in accordance with findings of the Land and Environment Court (eg *VAW (Kurri Kurri) Pty Ltd v Scientific Committee 2003 [NSWCA297]*). Other factors in the determination are provided as additional information only. According to the information in the report, the OEH considers that the remnant vegetation on site does meet the definition of CPW, albeit a degraded example, given some of the species in the final determination for CPW were recorded on site, and given the site is within the specified area (ie on the Cumberland Plain).
- OEH notes that surveys for all flora, fauna and ecological communities were undertaken in one day in April 2012. OEH considers that given the size of the site (21 ha), and the number of potential species on site, this amount of survey effort may not be an adequate, particularly given the cryptic nature of some of the potential species on site, eg Cumberland Land Snail and *Pimelea spicata*.
- OEH finds confusing that the report states (on page 11) that one Spotted Gum on the site has tree-hollows, but also states (within the same paragraph) that the site is highly unlikely to have any trees with hollows.
- While Appendix F provides an assessment of significance (AoS) for CPW and the Little Eagle, section 8.2 of the report provides a generic AoS for all other species, populations and communities

that may occur on site. OEH considers that it is not possible to undertake an adequate AoS when the species, populations and EECs that are the subject of the AoS are not named. In addition, the AoS will not be adequate when all species, populations and EECs are assessed together. Each species, population and EEC that is likely to be present on site, or is likely to utilise habitat on site, should be identified and assessed separately. Where this would result in numerous AoSs, it may be appropriate to group species into functional groups for the assessment.

- OEH notes that the Wildlife Atlas search (Appendix B) is a public report from the Wildlife Atlas. In order to adequately assess which species are likely to be present on site, the consultant should have obtained a full Wildlife Atlas report under licence from OEH.
- Appendix B provides a list of threatened fauna species recorded in the locality. The report indicates that for all species listed, the site is either of low or no relevance as habitat. However, OEH considers that given the number of records in the locality and that habitats available on site, that the site may provide habitat for a number of fauna species, particularly the Varied Sittella, Swift Parrot (recorded in a Grey Box nearby), Grey-headed Flying Fox, Eastern Freetail Bat, Eastern Bent-wing Bat and Cumberland Land Snail (of which there are 58 records in the locality). Given the minimal survey effort that was undertaken for fauna, OEH considers a precautionary approach should have been taken, and habitat for such species should have been assessed as being likely to be present on site.
- OEH notes that Factor 'f' of the AoS in section 8.2 (page 17) mentions the subject site being at Kellyville.
- OEH disagrees with a number of statements in the report regarding the lack of conservation values on site. For example, on page vii of Appendix F, the report states "there is in essence no native vegetation present" and on page ix of Appendix F, the report states that the remnant vegetation on site contains "absolutely no biodiversity or ecological conservation value".
- OEH considers that remnant vegetation is present on site, and that it does provide conservation values, given it is likely to provide habitat for at least one EEC which is critically endangered, as well as habitat for a number of frogs, reptiles and birds (including a vulnerable species). In addition, and as stated above, the site may well provide habitat for a number of other species, given the species identified on site were recorded after minimal survey effort.
- Appendix F states (on page ix) that there is no recovery plan in place for CPW. However, the Cumberland Plain Recovery Plan was approved in January 2011.
- OEH considers that if critically EECs and/or EECs are to be lost as a result of the proposal, as well as habitats for fauna species, these impacts should be adequately offset, in accordance with OEH's "Principles for the use of biodiversity offsets in NSW". This requirement was stipulated in the DGRs for the proposal. OEH notes that no offsets have been proposed in the EIS.

3. Floodplain Risk Management

The primary objective of the Government's Flood Prone Land Policy is to reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone land and reduce private and public losses resulting from floods. The most appropriate method to assess the development of flood prone land is through the floodplain risk management process which is detailed in the NSW Floodplain Development Manual (2005).

After considering the floodplain management issues in the application, the EIS, the Civil Engineering Reports (on the Department of Planning and Infrastructure website) against the Director General's Environmental Assessment Requirements, OEH offers the following comments:

A hydrological and hydraulic assessment has been undertaken (Civil Engineering Report Costin Roe Consulting, June 2012) to include the proposed development, all adjacent areas, proposed staging and the full potential forecast development of the site. The Assessment is limited to the 1 in 100 year flood. As stated in the Director General's Requirements, further consideration should also be given to:

- an understanding of flood risk / hazards to people and properties for the rare floods between the 1 in 100 year flood up to the probable maximum flood (PMF) event;
- the impact of the proposed development on the flood behaviour (i.e. levels, velocities and duration of flooding) and the impact of the proposed development on adjacent, downstream and upstream areas;
- the impact of rare flooding (up to the PMF event) on the proposed development;
- a sensitivity analyses to determine the potential impacts from climate change (increased rainfall) on flooding behaviour;
- discussion on the possibility and merits of a flood free access to or from the development site; and
- a recommended emergency response plan to manage floods above the flood planning level. This plan should include an assessment of the flood evacuation needs and impacts from the proposed development on the capacity or operational aspects of existing local evacuation routes.

References

- McKenzie Group Consulting, Environmental Impact Statement, June 2012.
- Costin Roe Consulting, Horsley Drive Business Park—Development Application, June 2012.
- NSW Government, Floodplain Development Manual, (April 2005).