

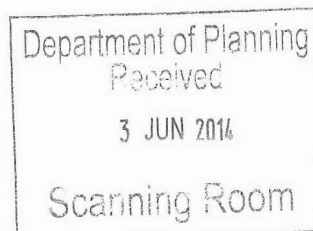


Office of
Environment
& Heritage



Your reference : SSD 5248
Our reference : DOC14/53734
Contact : Rachel Lonie 9995 6837

Ms Sally Munk
A/Team Leader Industry, Key Sites & Social Projects
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001



Attention: Brent Devine

Dear Ms Munk

I refer to your correspondence to the Office of Environment and Heritage (OEH) regarding the public exhibition of a Development Application and Environmental Impact Statement for the Gazcorp Industrial Estate at Lot 5 DP 24090, 813 – 819 Wallgrove Rd Horsley Park.

Comments on biodiversity, flood risk management and Aboriginal cultural heritage are provided in Attachment 1.

Should you have any queries in regard to this correspondence please contact Rachel Lonie, Senior Operations Officer, on 9995 6837 or by email at rachel.lonie@environment.nsw.gov.au.

Yours sincerely,

S. Harrison 30/05/14

SUSAN HARRISON
Senior Team Leader Planning
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ATTACHMENT 1. Office of Environment and Heritage (OEH) comments on public exhibition of Development Application and Environmental Impact Statement for the Gazcorp Industrial Estate at Lot 5 DP 24090, 813 – 819 Wallgrove Rd Horsley Park.

1. Biodiversity

1.1 Offsetting of impacts on Critically Endangered and Endangered Ecological Communities

The proposal involves the clearing of 13.1 hectares of the critically endangered Cumberland Plain Woodland (CPW) and 1.4 hectares of the endangered ecological community (EEC) River-flat Eucalypt Forest (RFEF). The Proponent has proposed to only offset 50% of the required credits indicated in the BioBanking Assessment for this loss (i.e. approximately 130 ecosystem credits). These are proposed to be will largely CPW credits (i.e. HN528 and HN529).

OEH is unable to comment on the number of credits that have been generated using the Biobanking calculator tool as the results and full assessment reports are not provided. However, the number of credits per hectare is considered to be reasonably equivalent to similar development sites involving CPW offsets that OEH is aware of.

The *Ecological Impact Assessment* (EIA) report by Cumberland Ecology gives a number of reasons as to why discounting of the offsets is appropriate. These include the poor condition of the vegetation and little opportunity for long term recovery, particularly as future development of WSEA lands around the subject site will further isolate the on-site occurrences from surrounding bushland. A further reason is that a key focus of the riparian management plan will be the restoration of Forest Red Gum – Rough-barked Apple grassy woodland in the riparian area along Reedy Creek.

OEH does not consider these to be valid justifications. The disturbed condition of the vegetation would be expected to have already returned a lower number of credits than would be required if the vegetation was in a good condition. Also, even degraded areas of CPW are recognised as being part of the critically endangered ecological community (CEEC) and have the potential to be regenerated and restored. Removal of cattle from the area with assisted regeneration would be expected to result in a substantial improvement on the vegetation condition. The patches of vegetation are also relatively large and reasonably well connected. The site was mapped as containing around 22 hectares of continuous CEEC and EEC vegetation in the OEH Cumberland Plain Woodland update mapping (Tozer 2007). OEH considers there is the potential for vegetation connectivity to be maintained and enhanced on the site, particularly around the western and southern boundaries and along the smaller creekline in the south east of the site where there is also EEC.

The credits required for Forest Red Gum – Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Region are a small proportion of the credits required and regeneration of the biometric vegetation type on site (i.e. along Reedy Creek) could only provide a partial offset. OEH notes the area is already zoned E2 Environmental Protection and that the area is not proposed to be biobanked.

Also, the EIS states that BioBanking credits are proposed to be purchased and retired in relation to the Southern Myotis (*Myotis macropus*) as this species was recorded on the site around the western dam area which is considered to be foraging habitat. The EIS states that impacts on this species will be addressed through the restoration of Reedy Creek which is effectively using the same mitigation measure to offset two different environmental impacts.

While it is correct that varying offsets for SSD are accepted in principle, page 11 of the Draft NSW Biodiversity Offsets Policy for Major Projects provides that “*Offsets can [only] be discounted where*

significant social and economic benefits accrue to NSW as a consequence of the proposal." The policy also notes that this will only occur in "*certain rare circumstances*". The Biodiversity Offsets Policy is not yet government policy and the criteria for discounting of offsets are yet to be developed. OEH's position is that all significant impacts should be fully offset. The intention of the discounting principle is that it is to have a very limited application and would be only be applied where the offset requirements would have a perverse outcome and be so onerous as to prevent a project proceeding.

Given the clearing is over 11 hectares of CEEC CPW as well as 1.4 hectares of EEC RFEF, OEH considers the environmental impacts as highly significant. OEH does not accept that there should be any discounting for the required offsets. OEH therefore urges that greater consideration be given to avoiding and minimising the impacts of the proposal. Should it be determined that an offset strategy will be required as a condition of consent for this proposal, OEH would like the opportunity to be consulted in regard to this strategy, and in particular the credits required and the arrangements for securing them.

Finally, OEH does not agree with the EIA conclusion that the proposed development is not expected to have any significant impacts on matters of National Environmental Significance as listed under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. The CPW on the site would appear to meet the criteria for the CEEC under this legislation and it is recommended that a referral for a controlled action is made.

1.2 Riparian / E2 Environmental Conservation zone

The EIS states that a "*significant amount of new landscaping will be provided with the proposed development, including rehabilitation of vegetation within the E2-zoned Reedy Creek riparian corridor*". Reference is made to a separate Management Plan by Cumberland Ecology but this does not appear to have been included in the exhibition material.

Appendix S *Bushfire Assessment* indicated in Attachment A the defendable space widths to the west of the building on proposed Lot 10 (see Figure 1). This shows the defendable space is required within the riparian zone in order to provide suitable bushfire protection for the proposed building. This is unacceptable to OEH as it is entirely inconsistent with the intent of zoning the areas E2 Environment Conservation and the intent to retain and restore the riparian corridors. All asset protection areas should be entirely outside the riparian area. Reconfiguration of the building footprints is strongly recommended in order to ensure that no asset protection is required in the riparian / E2 zoned land.

There is also a smaller watercourse on the south eastern boundary. This is shown as proposed to be a hardstand area with associated earth shaping that will result in the removal of the watercourse. OEH considers this watercourse also requires protection and this should enable the retention of the Alluvial Woodland EEC.

1.3 Mitigation measures

Mitigation measures such as for the dam drainage decommissioning should be included as conditions of consent to ensure for example that native wildlife residing within dams are not adversely impacted during construction. Reference is also made to the proposed Riparian Management Plan for Reedy Creek. It is recommended that the management plan include clear and measurable conservation objectives, timeframes, milestones, and key management and reporting accountabilities. The ongoing responsibility for the management of the E2 land needs to be identified.

Landscaping of parts of the site with species that occur in the Cumberland Plain Woodland community is supported but is not considered to be a particularly effective conservation outcome to ameliorate the loss of endemic plant species and habitat for native fauna. This is due to the narrow width of landscape areas, the expected impacts on any native seedbank and remnant CPW on the site as a result of major earthworks to

create building platforms and associated infrastructure, and the need for many of the landscape areas to be maintained as groundcover only.

The proposed mitigation measures could be improved to strengthen for example the measures to protect the E2 zoned land, as well as minimise environmental impacts. Reference could also be made to the OEH *Recovering bushland on the Cumberland Plain Best practice guidelines*

<http://www.environment.nsw.gov.au/resources/nature/RecoveringCumberlandPlain.pdf>

Consideration could, for example, be given to stockpiling seed and plant material salvaged during the clearing works for the site in order to retain material that could be used to restore areas of CPW.

2. Flood Risk Management

Reference is made to Appendix R Flood Modelling report by BMT WBM. The consultants have utilised the latest hydraulic model from Fairfield Council's Rural Area Flood Study to determine the flooding impacts pre and post development which considered reasonable. The EIS identifies possible solutions to mitigate the flood hazard which need to be investigated during the concept and/or detail design phase, which is reasonable.

OEH considers it would be prudent for the consultants BMT WBM to consider the potential future impact from increased rainfall due to climate change. It is also recommended that at the appropriate time in the development of the proposal a detailed emergency response/preparedness plan be prepared in consultation with the Fairfield SES local controller - Mr Les Milne.

3. Aboriginal Cultural Heritage

OEH has reviewed the Aboriginal Cultural Heritage Assessment Report (ACHAR) and associated Aboriginal Community Consultation for the proposed Gazcorp development and is satisfied that these documents fulfil the requirements of the Department of Planning and Environment with regard Aboriginal Cultural Heritage.

OEH does however note that the methodology outlined in Recommendation 3 of the ACHAR should to be reconsidered to ensure that it is clear that where the test pit results indicate that further archaeological investigation is warranted, expansion of those test pits should occur within the areas of impact under a salvage methodology. Should an Archaeological Site be confirmed through test excavation of the area of archaeological sensitivity, an AHIMS site card should be prepared and registered with OEH for the remaining and undisturbed portion of the site.