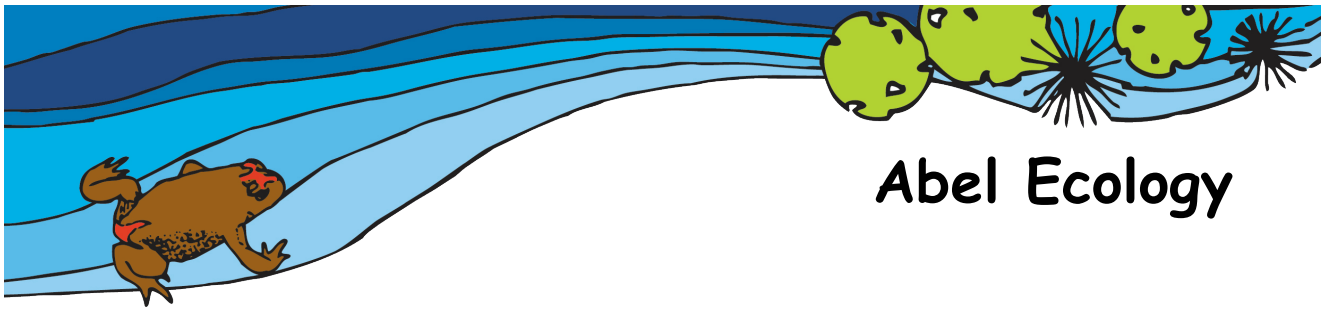

Abel Ecology

Document No: 1774-LET-465 – ISS 2
14 July 2017

Ian Malouf and Chris Biggs
The Next Generation
84-88 Burrows Road
Alexandria NSW 2015

Attention: Holly Patrick and Katie McCallum

Dear Ian and Chris,

Response to Letter from Office of Environment and Heritage (DOC 16/630090 SSD 6236 Amended EIS Exhibition) (28 February 2017)

Introduction

The Energy From Waste (EFW) proposal has been on public exhibition. This letter provides a response to the Letter from Office of Environment and Heritage (DOC 16/630090 SSD 6236 Amended EIS Exhibition) (28 February 2017) received as part of the public exhibition.

The Next Generation (TNG) proposes a reduction to the area of vegetation and habitat to be removed as part of the EFW proposal. This reduction and other changes are set out below. In a following section, a response is provided to the matters raised in the letter (DOC 16/630090).

Changes to the proposal

The previous area of River Flat Eucalypt Forest (RFEF) Endangered Ecological Community (EEC) proposed to be removed was approximately 2.89 ha. The footprint of the EFW proposal has been modified so that only 1.03 ha is proposed to be cleared (Appendix 1). This change has avoided the clearing of approximately 1.86 ha. This change meets the first objective of the "avoid, mitigate, offset" principle.

The total area of EECs proposed to be cleared is comprised of 0.27 ha of Cumberland Plain Woodland EEC and 1.03 ha of RFEF EEC giving a combined total of approximately 1.3 ha of EECs proposed to be cleared.

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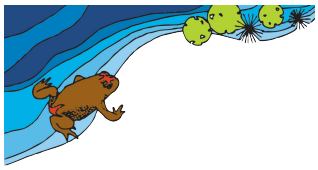

A 50 m riparian area consisting of a 40 m riparian zone and a 10 m buffer is displayed in Appendix 1. This area is proposed to be revegetated consistent with the guidelines of the NSW Office of Water document *Guidelines for vegetation management plans on waterfront land* (July 2012).

Planting will be undertaken on batters around the building platform and the bio-retention basin with suitable local native species. This planting will be undertaken to provide a benefit to local biodiversity. This planting is not proposed as a component of the offset requirements.

The offset requirements are based on approximately 1.3 ha proposed to be cleared. To determine the equivalent number of biodiversity (ecosystem) credits generated by clearing, a Western Sydney site with the same ecosystems has been used as an appropriate site with comparable habitat.

The comparable Western Sydney site is the Fairway Drive, Kellyville locality. This locality has the same vegetation types, namely River Flat Eucalypt Forest and Cumberland Plain Woodland. Canopy trees found at the proposal site and the Fairway Drive Kellyville locality include:

- Red Forest Gum *Eucalyptus tereticornis* and,
- Grey Box *Eucalyptus molucanna.*

A Biodiversity Offset Strategy has been undertaken for Kellyville South Public School. The BioBanking Assessment Methodology calculated a requirement of 22.5 credits per hectare of clearing proposed of the Cumberland Plain Woodland (HN526) vegetation. For the current proposal, it is recommended that the offset requirement is 1.3 (ha) x 22.5 (credits/ha) = 29 credits. Thus, 29 credits is the offset requirement. Use of the Kellyville South Public School as a comparable site is supported by OEH.

To satisfy the offset requirement it is proposed to obtain the credits by a mix of the following methods.

1. Purchase HN528 and/or HN526 credits available publically for other sites, as available.
2. Use the published and accepted methods eg: *NSW Biodiversity Offsets Policy for Major Projects* (OEH September 2014) and *Biobanking Methodology* to generate offsets on the site in areas not proposed for development.

   All reasonable attempts will be made to secure offsets and document accordingly.

3. If these two methods above are not successful, any difference between 1. Offsets purchased and generated and 2. The offset requirement (29 credits), will be satisfied through the use of OEH policies and guidelines.

Letter from Office of Environment and Heritage (DOC 16/630090 SSD 6236 Amended EIS Exhibition) (28 February 2017)

3. Biodiversity

Exhibition comment

OEH notes that the impact of the proposal on biodiversity and the proposed offsets have not changed from the originally exhibited proposal. OEH still considers that the proposal will result in a net loss of biodiversity on the site, for the following reasons:

The proposed offsets are not 'additional' to existing requirements pursuant to SEPP59; and
Notwithstanding this, the proposed offsets are inadequate in terms of size, area to boundary ratios, location, nature and likely viability.

Response:
Both the proposed impact and the proposed offsets have been modified. The impact on River Flat Eucalypt Forest has been reduced by approximately 64% or 1.86 hectares. Previously proposed planting on the batters will be undertaken but is not proposed as a contribution directly towards offset requirements.

The proposed offset requirement is 29 credits. These credits will be either purchased as offsite credits or generated on-site using standard OEH policies eg: *NSW Biodiversity Offsets Policy for Major Projects* (OEH September 2014) and *Biobanking Methodology*. The application of these current policies will ensure that the offsets are satisfactory in terms of size, area to boundary ratios, location, nature and likely viability.

Existing requirements for protection

The proponent on Page 33 of App HH5 states that there is no requirement under SEPP (Western Sydney Employment Area) 2009 to protect and rehabilitate the River Flat Eucalypt Forest (RFEF) as proposed.

The proposed development is located on land identified as being with the SEPP 59 – Eastern Creek Precinct Plan (Blacktown City Council, 14 December 2005) which outlines the provisions relating to development of the Stage 3 release areas within the Eastern Creek Precinct identified in SEPP 59 – Central Western Sydney Economic and Employment Area. Clause 19(2) of Western Sydney Employment Area SEPP does require that development within the Precinct be consistent with the Precinct Plan prepared under the repealed SEPP59 (Refer to Figure 12, and Sections 5.3(b)(ii), 5.6.1 and 8.3.3 of the Precinct Plan). Specifically, the Precinct Plan requires a revegetated 40 m wide riparian zone plus a 10 m wide buffer to be established (measured from top of bank) along either side of Ropes Creek Tributary (refer to Section 8.3.5 of the Precinct Plan).

Accordingly, OEH considers that there is an existing requirement to protect and rehabilitate the RFEF in the riparian corridor.
OEH does not support the use of this riparian land, and the vegetation they contain, in the calculation of offsets for the proposal because this does not meet the basic principle that offsets must be additional to other legal obligations for conservation.

Response:
The area defined as the 40 m riparian zone and an additional 10 m buffer on both sides of the Ropes Creek Tributary within the site will be revegetated consistent with the NSW Office of Water document *Guidelines for vegetation management plans on waterfront land* (July 2012). These works will be consistent with the Office of Water Guidelines and are not proposed as a component of the offsets for the proposal.

Nature of offsets

The offsets proposed comprise compensatory planting with the Ropes Creek Tributary riparian corridor to offset the loss of RFEF and Cumberland Plain Woodland (CPW) vegetation. A number of OEH's previous concerns with the proposal remain unresolved:

- *OEH previously raised concern that a large proportion of the offset area will be on batters around the building platform and bio-retention basin. The proponent has responded in AppHH5 and suggested they will 'sculpt a series of terraces each side of the creek' (page 48). OEH still considers that the likelihood of recreating and maintaining RFEF on batters or terraces is low, given this community naturally occurs on flat, damp or waterlogged floodplains.*
- *The offset ratios are too low. Adequate offsetting ratios for replanting should be much greater in the order of 10:1 – 20:1, given the time required to recreate ecosystems and the risk of failure. Adding to this is the fact that some of land for the offsets is within waterfront land, and includes proposed bio-retention basins with the riparian habitat.*
- *The areas proposed for regeneration and revegetation have no long term protection, such as appropriate zoning or covenants.*

Response:
The batters around the building platforms are proposed to be planted with suitable local indigenous species. However, these plantings are not proposed as a component of the offset requirements.

The offset requirement has been calculated by using the same method as a comparable site within the The Hills Shire Council to calculate offset credit requirements. OEH has agreed that this is an acceptable method.

Long-term protection for the offsets will be achieved through the use of River Flat Eucalypt Forest (HN528) and/or Cumberland Plain Woodland (HN526) credits. These credits will be acquired through a mix of purchasing off-site credits and the generation of on-site credits using OEH policies, such as *NSW Biodiversity Offsets Policy for Major Projects* (OEH September 2014) and *Biobanking Methodology* in areas not proposed for development to the satisfaction of the relevant authorities.

OEH Recommendation

OEH recommends that additional land containing endangered ecological communities be retained with the development footprint and/or offsite offsets provided. App HH5 provides project design justifications for not providing further on site offsetting, and in relation to offsite offsets, it states that "water supplied, flood prone wetland suitable for an offset in the Sydney metropolitan area cannot be easily procured" (page 41). OEH considers that if options for onsite offsetting are limited or not feasible, then an effort to secure offsite offsets should be made and documented. DPE should be satisfied that all reasonable attempts have been made to procure offsite offsets.

Response:

The proposed development footprint has been modified so that an additional area of the Endangered Ecological Community River Flat Eucalypt Forest has been retained. Offsite requirements will be achieved by a mix of the following methods:

1. Purchase HN528 and/or HN526 credits available publically for other sites as available.
2. Use the published and accepted methods eg: *NSW Biodiversity Offsets Policy for Major Projects* (OEH September 2014) and *Biobanking Methodology* to generate offsets on the site in areas not proposed for development.

   The areas on-site that are available for offsetting include some of the components of the land south of the development footprint line (Edge of laydown pads, Figure 1). This area is made of four portions:

   1. The Bio-retention basin and sides. A constructed feature – not suitable as an offset (red "A")
   2. The portion of RFEF outside the Riparian area – 40 m + 10 m. (red "B")
   3. The Riparian area – 40m + 10m (excluding the Bio-retention basin and sides); (red "C")
   4. The portion south of the Riparian area; (red "D")

   It is proposed that portions B, C and D are Biobanked to provide protection and management in perpetuity. If area C is unavailable for Biobanking as some biodiversity conservation measures are already proposed (revegetation work consistent with NSW Office of Water guidelines) then this area will be protected through a positive covenant. OEH will provide advice on whether the Riparian area can be "Biobanked" and what discounting of credits will be applied to the Biobanking Methodology for the calculation of credits within area C.

All reasonable attempts will be made to secure offsets and document accordingly.

3. If these two methods above are not successful, any difference between 1. Offsets purchased and generated and 2. The offset requirement (29 credits) will be satisfied through the use of OEH policies and guidelines.

Yours faithfully,

Dr Daniel McDonald

Abel Ecology Pty Ltd

Appendix 1

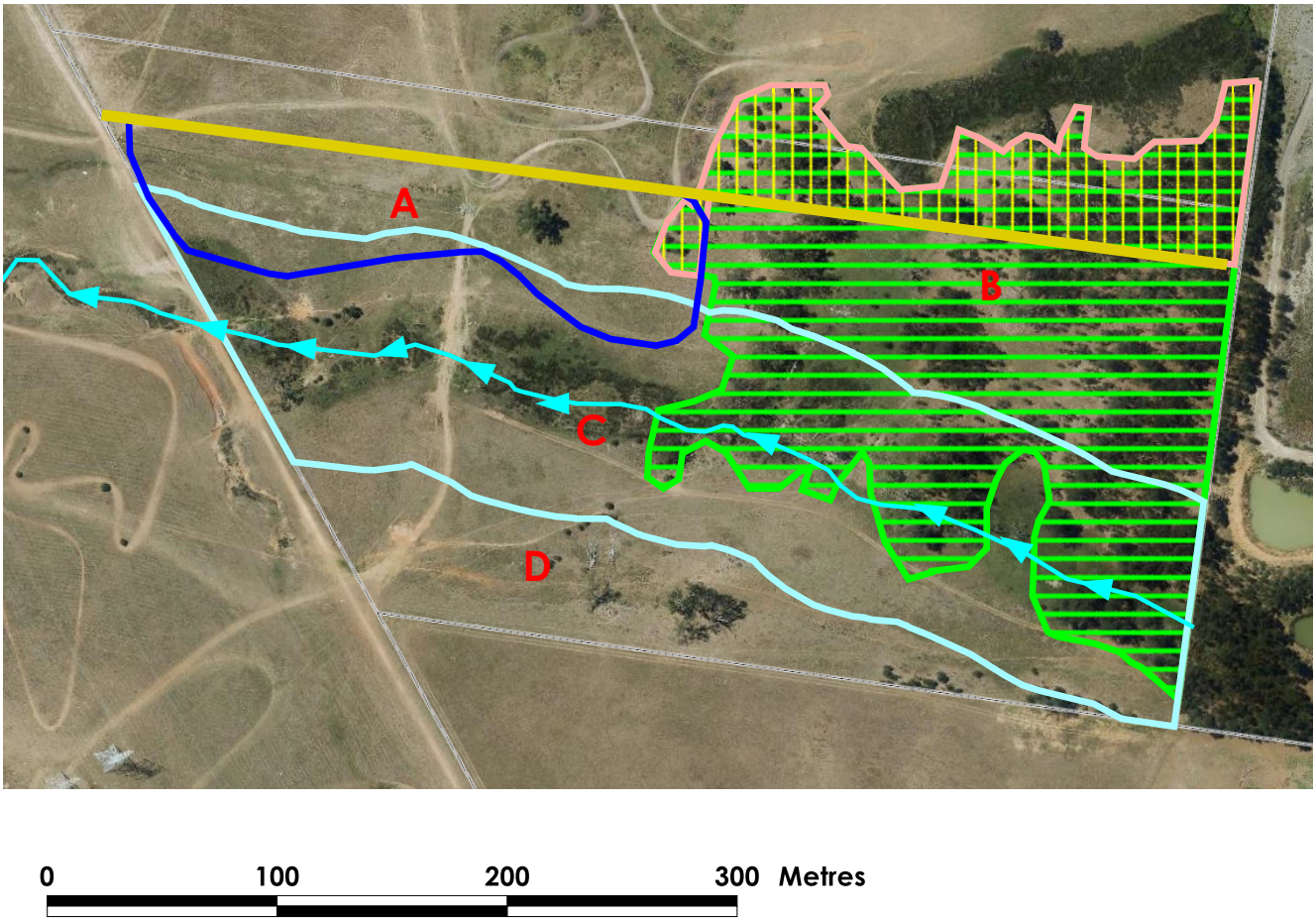

Figure 1. Ropes Creek Tributary illustrating existing and amended proposal features

- Ropes Creek Tributary
- Edge of laydown pads
- Bio-retention basin and sides
- Riparian area - 40m + 10 m
- Area of RFEF proposed for removal
- River Flat Eucalypt Forest RFEF

NB:

1. The area of Cumberland Plains Woodland proposed to be removed is to the north of the area displayed in Figure 1.

2. The Riparian area consists of a 40 m riparian zone and 10 m buffer on both sides of the Ropes Creek Tributary. The total width of the Riparian area is 100 m.