

ASSESSMENT REPORT

Wagga Wagga Water Treatment Plant Upgrade — Modification 1 SSD 6284 MOD 1

1. INTRODUCTION

This report is an assessment of an application seeking to modify the State Significant Development (SSD) approval for a water treatment plant at Wagga Wagga in the Wagga Wagga local government area. The application has been lodged by UGL (the Applicant) pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to amend the conditions of approval to allow construction of pump infrastructure in the Murrumbidgee between November and March.

2. SUBJECT SITE

The subject site is located at East Wagga Wagga, south of the Murrumbidgee River, on the site of the existing Wagga Wagga water treatment plant. An existing Grey-headed flying fox colony is located approximately 100 metres north east of the site, on the north bank of the river and on 'Bear Island' (see **Figure 1**)



Figure 1: Site Location

[Sources: *Modification Application – Water Treatment Plant Pump Infrastructure* (ngh environmental, 2017), *Riverina Water County Council Wagga Wagga Water Treatment Plant Replacement Environmental Impact Statement* (Hunter Water Australia Pty Limited, 2014)]

3. APPROVAL HISTORY

On 15 July 2015, the Acting Executive Director, Infrastructure and Industry Assessments, as delegate for the Minister for Planning granted SSD consent for an upgrade of the Wagga Wagga Water Treatment Plan with a 55 megalitre per day clarification and dual media filtration process.

4. PROPOSED MODIFICATION

On 7 September 2017, the Applicant lodged an application (SSD 6284 MOD 1) seeking approval to allow construction of the pump infrastructure within the Murrumbidgee River to occur between November and March.

Under the conditions of approval for SSD 6284, construction of the pump infrastructure is not allowed within the Murrumbidgee River to occur between November and March 'in order to minimise impacts to the Grey-headed flying fox' (*Pteropus poliocephalus*), which is listed as Vulnerable under the *Biodiversity Conservation Act 2016* and the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

This modification is requested on the basis that works in the Murrumbidgee River can be undertaken during this period, while also minimising impacts to the population of the site. Work during this period would allow the proponent to address delays in its construction program.

5. STATUTORY CONSIDERATION

5.1 Modification of approval

Section 96(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Section 96(1A) matters for consideration	Comment
That the proposed modification is of minimal environmental impact	Section 7 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.
That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	The proposed modification seeks approval for changes to the timing of construction works and assesses potential for changes to environmental impacts. On this basis, the proposal would result in development that is substantially the same as the originally approved development.
The application has been notified in accordance with the regulations	The modification application has been notified in accordance with the regulations. Details of the notification are provided in Section 6 of this report.
Any submission made concerning the proposed modification has been considered.	The Department received no submissions on the proposal.

5.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No 33 - Hazardous and Offensive Development;
- State Environmental Planning Policy No. 44 - Koala Habitat Protection; and
- Wagga Wagga Local Environmental Plan 2010

The Department undertook a comprehensive assessment of the redevelopment against the above-mentioned EPIs in its original assessment. The Department has considered the above EPIs and is satisfied that the modification is generally consistent with the EPIs.

5.3 Approval Authority

The Minister for Planning is the consent authority for the application. However, the Director, Social and Other Infrastructure Assessments may determine the application under delegation as:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

6. CONSULTATION

The application was notified in accordance with the *Environmental Planning and Assessment Regulation 2000*. The modification application was made publicly available on the Department's website and the Department consulted with the Office of Environment and Heritage. Due to the minor nature of the proposed modification, the modification application was not exhibited by any other means. There were no public submissions received on the proposal. The Department consulted with the Office of Environment and Heritage on the recommended condition B11, and OEH indicated support for the approach.

7. ASSESSMENT

The Department considers the key issue associated with the proposed modification is potential impact on the Grey-headed flying fox population near the site.

7.1 Biodiversity — Grey-headed flying fox

The Applicant seeks to conduct work on the pump infrastructure between November 2017 and March 2018, to make up time in its construction schedule. Construction on the project is currently underway, following approval of the CEMP, but delays have occurred and the project is running behind schedule. Work within the river for the river water intake requires the establishment of a coffer dam. However, issues with establishment of that dam restricted work throughout Autumn and Spring of 2017.

Work between November and March is not permitted under the conditions of approval, 'in order to minimise impacts to the Grey-headed flying fox'. Survey conducted for the Applicant's Flora and Fauna Assessment in the approved EIS indicated the area indicated in **Figure 1** is a roost site, used during these months by approximately 350 individuals.

The noise effects of construction work were considered the key potential impact on the population, as high noise is a deterrent that could lead to individuals permanently leaving the site. The Flora and Fauna Assessment in the EIS concluded that '[n]o pile driving or high noise generating construction works are to occur during the breeding months of the Grey-headed Flying-fox to ensure construction noise does not disturb breeding.'

The Department subsequently concluded that 'all construction works associated with the river intake be undertaken between April to October, to the greatest extent practicable, to avoid adverse impacts on the flying-fox population'. Mitigation of impacts throughout the remainder of the year is required to be in accordance with the approved CEMP.

The Applicant considers that the work can be conducted outside the April to October period without harm to the colony, and that the practicalities of construction necessitate work during that period. The Applicant has reviewed its construction methodology, and proposes to conduct the following work during November to March:

- detailed earthworks and minor excavation
- concrete formwork

- concrete pouring
- revetment rock placement and landscaping
- installation of pipes and mechanical infrastructure
- removing scaffolding
- removal of sheet piling.

To support this, the Applicant has reviewed the monitoring conducted at the colony site since development consent. The Grey-headed flying fox has been recorded on the site throughout the year, and counts indicate numbers fluctuate between approximately 50 and 1000 individuals. The Applicant's analysis concluded:

- high levels of noise were generated by other existing industrial land uses and rail movements
- some individuals were disturbed by periodic noisy work in the area, but appeared to become 'accustomed to this noise within a few hours'.

The Applicant's monitoring and observations also indicated there was no evidence of breeding on the site.

The Department and the Office of Environment and Heritage visited the site on 21 August 2017 to discuss the proposal. The potential for impacts from noisy sheet pile works was discussed. Following the meeting, the Applicant conducted noise monitoring during permitted pile driving activities on 23-24 August, and recorded observations of the species during the works. The Applicant's additional analysis concluded:

- sheet piling works would exceed the noise management levels for the receivers — against the NML at receiver 1 (the caravan park) of 54dBA, recorded noise levels at the colony were:
 - up to 61dBA during piling through sand
 - up to 70dBA during piling through cobbles
- those works would not however exceed the highly affected noise level of 75dBA
- there was a 'low level of disturbance' during piling through sand
- there was a 'high level of disturbance initially' during piling through cobbles, but a 'low level of disturbance during same activity later in the day'.

Overall, the Applicant concluded that the observations indicate the Grey-headed flying fox is unlikely to be highly disturbed by the works, and may adjust to the noise environment as observed during the noisiest pile driving.

The Applicant proposes to manage and minimise the effect of construction in accordance with the Construction Environmental Management Plan (CEMP) for the project. As the approved CEMP has been prepared to manage the approved project and comply with the conditions of approval, it needs to be updated to include controls on works during November and March that have the express purpose of minimising impacts on the flying fox.

The Applicant proposes that revised CEMP would contain detail how it would manage the works to minimise impacts to the Grey-headed flying fox. A draft CEMP submitted to the Department following submission, and in support, of the modification application includes:

- monitoring for maternity behaviour in late October 2017, with ongoing monitoring if this is observed, and commitment to stop work if parental abandonment observed
- monitoring during hot weather (over 40°C) and/or higher relative humidity (over 40%), with work to stop if signs of distress observed.

Consideration

The Department considers that the proposal for work between November and March is acceptable, provided that a revised CEMP is implemented which includes acceptable and appropriate monitoring requirements, and adaptive management measures.

Impact on the Grey-headed flying fox is a key issue for the project, and adaptive management that protects the population is critical to the proposal. At the same time, the Department acknowledges the strategic need for the Applicant to deliver the project in a timely manner, and that the delays to establishment of the coffer dam have restricted this.

The Department's consideration of the original development application identified a clear need to minimise adverse impacts on the flying-fox population north east of the site. Consequently, the development consent indicated that—to the greatest extent practicable—construction works associated with the river intake should be undertaken between April to October. However, the Department considers that works can be permitted if the impacts on the flying-fox population are minimised.

The Department's assessment has considered the results of recent monitoring that suggest works would not result in a disbanding of the colony, as past noisy works in the local area have not triggered such a response in the camp. These conclusions will need to be verified during the construction works. To this end, the Applicant has committed to monitoring once works commence, and ongoing monitoring where maternity behaviour is observed at the start of construction and during hot or humid weather. Critically, the Applicant will stop work where distress to the flying-fox population is observed.

The Department considers that a revised CEMP is the most appropriate document to contain the revised protocols and procedures for monitoring and stop work, as it is the document the Secretary has approved to govern construction work for the project. The proposed approach to mitigation is generally acceptable; however, the Department considers that the Secretary must separately review the revised CEMP, and that her approval for its revision is required as a post-determination matter before it can be implemented. This approach would allow the consideration of the CEMP to follow the same post-determination processes provided for in the development consent, rather than being tied to this modification application.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that the proposed changes would allow the Applicant to maintain progress in construction of the project, while also providing for adaptive monitoring and management to minimise impacts to the Grey-headed flying fox.

Consequently, it is recommended that the modification be approved subject to the recommended condition.

9. RECOMMENDATION

It is recommended that the Director, Social and Other Infrastructure Assessments, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report;
- **determine** that the application falls within the scope of section 96(1A) of the EP&A Act;
- **approve** the modification application (SSD 6284 MOD 1) subject to conditions; and
- **sign** the attached instrument of modification (**Appendix A**).

Recommended by:




25/10/17

Dominic Crinnion
Team Leader
Ports and Water Assessments

DECISION

The recommendation is: Approved by:



25/10/2017

Karen Harragon
Director
Social and Other Infrastructure Assessments
as delegate of the Minister for Planning

APPENDIX A: MODIFICATION CONSENT

A copy of the modified consent can be found on the Departments website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6284

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification application

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6284