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Dear Tim,

Response to submissions for Bringelly Rd, Business Hub

Eco Logical Australia Pty Ltd (ELA) was commissioned by Western Sydney Parklands Trust to prepare a response to the submissions for the exhibition of the planning application for the Bringelly Rd Business Hub (BRBH). It is understood that exhibition of the development application for the BRBH ended on 2 March 2015 and Western Sydney Parkland Trust (WSPT) have been issued the submissions from relevant authorities, in which some require ELA's assistance in addressing.

Please find below our response to submissions from the Office of Environment and Heritage (OEH) and Liverpool City Council, relevant to the Flora and Fauna Assessment (FFA) for the BRBH State Significant Development (SSD 6324), prepared for WSPT by ELA (ELA 2014).

Office of Environment and Heritage (OEH) Comments

Comments on the FFA for BRBH (ELA 2014) were received from OEH on 27 February 2015. Below is ELA's response their comments.

- 1. The field survey was not undertaken in accordance with the DGRs. The field survey did not follow the nominated guidelines and no vegetation plots or targeted surveys were carried out.*

ELA's response: A Biodiversity Offset Strategy (BOS) (ELA 2015) has been prepared as an addendum to the FFA for the BRBH, SSD (ELA 2014). The BOS was prepared following submission of the FFA. The BOS included biometric vegetation plots/transects and targeted flora surveys as part of this assessment which were in accordance with the Biobanking Assessment Methodology (BBAM) as per dot point 2 in OEHs submission. Refer to Section 2.2 and 2.3 of the BOS.

- 2. Notwithstanding the above, field surveys in accordance with BBAM need to be carried out in order to adequately determine the site value score. The one-day habitat assessment conducted in winter is not considered adequate by OEH to appropriately assess the site value score. For example, native grass species that flower in spring/summer may have been overlooked, leading to a lower site attribute score.*

ELA's response: Additional field surveys were undertaken by two ELA ecologists in January 2015 as part of the BOS (ELA 2015). Field surveys included vegetation plots/transect and targeted flora surveys in accordance

with the BBAM. The site value scores and impact assessment were undertaken in accordance with this new data Refer to Section 2.2 and 2.3 of the BOS (ELA 2015).

3. *The impact assessment has not been undertaken in accordance with the DGRs. Whilst the FFA acknowledges the limitations of conducting the field survey outside the peak flowering period for some species (eg. Pimelea spicata), it then justifies the assumed absence of these species being due to the “modified nature of the subject site, exotic dominated pastures and grazing history.” Yet the report acknowledges that P. spicata, for example, has been previously located in ‘disturbed’ areas.*

Further, a number of other threatened species, and one endangered population, are listed within the Final Determination of Cumberland Plain Woodland (CPW) as being previously recorded within the plant community. Despite CPW being identified onsite, and records occurring within 10 km of the subject site, all but one (P. spicata) are being reported as having no potential to occur on site.

No impact assessments have been conducted for these threatened species or endangered population. OEH therefore recommends further justification for the following species and endangered population’s assumed absence be provided (eg. expert report in accordance with BBAM) and/or appropriately timed surveys undertaken: Pimelea spicata (several records within locality dated between 1987 and 2014; closest record less than 1 km away), Marsdenia viridiflora subsp. viridiflora endangered population (recorded less than 200 m east of the subject site, in 2003 and known by OEH to occur in grazed habitat), Pultenaea pedunculata (the most recent records in 2005 occur less than 4 km east of the subject site; difficult to detect unless flowering in August to December) and Pterostylis saxicola (previously recorded approximately 8 km south-east of the subject site, in 2010 and 2011, only detectable when in flower, typically September to November).

ELA’s response: The identification of candidate species as per s 6.5.1.3. of BBAM, states if after carrying out an assessment of the habitat components an assessor determines that the habitat is substantially degraded such that a particular species is unlikely to utilise the development site, a species can be omitted from the list.

Random meander searches for threatened flora were undertaken in areas of potential habitat within the subject site on 8 July 2014 by ecologist Dr Rodney Armistead for total of six person hours, and targeted transect surveys were undertaken on 6 January 2015 by ecologist/botanist Rebecca Dwyer and Brian Towle, for a total of 14 person hours. In the latter survey, the ecologists/botanists traversed areas of potential habitat slowly on foot in parallel transects approximately five metres apart. Survey timing under the BBAM for the species of concern are shown in **Table 1**.

Table 1: Survey timing for threatened flora under the BBAM (with survey months highlighted)

Species/ Population	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<i>Marsdenia viridiflora</i> subsp. <i>viridiflora</i> endangered population	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Pterostylis saxicola</i>	No	No	No	No	No	No	No	No	Yes	Yes	Yes	No
<i>Pimelea spicata</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<i>Pultenaea</i>	No	No	No	No	No	No	No	No	Yes	Yes	Yes	No

Species/ Population	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
<i>pedunculata</i>												

No threatened flora species were observed within the study area during field surveys. ELA feel that sufficient survey has been undertaken for all potential threatened flora species within the study area according to the BBAM, with the exception of *Pultenaea pedunculata*.

Although targeted surveys were also undertaken outside the recommended survey period for *Pterostylis saxicola*, the species is most commonly found growing in small pockets of shallow soil in depressions on sandstone rock shelves above cliff lines. There are no rock shelves or cliff lines within the study area, therefore, the *P. saxicola* is unlikely to occur. No further assessment is required.

Whilst there is potential habitat for *P. pedunculata* within areas mapped as Grey Box Forest Red Gum (GB-FRG) disturbed and Derived Native Shrubland (DNS) in the subject site, an intensive survey of the study area has been undertaken twice; in July (ELA 2014) and January (ELA 2015), and no prostrate shrub resembling *P. pedunculata* were recorded. Therefore, an expert report has been prepared for the assumed absence of *P. pedunculata* in accordance with Section 6.6.2 of BBAM 2014).

The expert report concluded that *P. pedunculata* is NOT considered to occur within the subject site for the following reasons:

- An intensive survey of the study area has been undertaken twice; in July and January.
 - All prostrate shrubs were identifiable to species level and none were *P. pedunculata*.
 - Two highly qualified and experienced ecologists/botanists, Rebecca Dwyer and Brian Towle undertook targeted surveys within the subject site.
 - The species is present year round, and is obvious by its habitat (growth form).
 - *P. pedunculata* appears to be a coloniser of disturbed areas, however requires open habitat conditions with limited development of the ground and shrub layers. The areas of potential habitat within the subject site are heavily shadowed by tall shrubs and/or exotic grasses.
4. *Identification of Biodiversity offsets has not been undertaken in accordance with the DGRs. The DGRs required that the NSW offset principles for major projects (SSD and SSI) (2013) be used in assessing and determining the adequacy of any offsets. The 2013 offsets principles for major projects included seven offset principles. The FFA has instead utilised OEH's offset principles intended for non-major projects (which consists of thirteen principles). Further to that, only two of the thirteen principles have been discussed; Principles 1 and 9. Regardless, Principle 1 of the thirteen directly relates to Principle 1 of the seven, and Principle 9 of the thirteen relates to aspects of Principle 2, 3 and 5 of the seven. Any approval should be in accordance with current best practice that offsets must be 'additional' to other legal requirements, which would address Principle 4 of the seven. Principle 6 (supplementary measures) and 7 (discounted offsets) of the seven have not been raised for consideration.*

Further to the above, OEH's advice to then Department of Planning and Infrastructure (DoPI) dated 15 January 2014 stated that a Biodiversity Offset Package is expected. However, the Flora and Fauna Assessment has not undertaken a site-specific assessment for this purpose and has instead made an estimate of offsetting requirements using data from a previous BBAM assessment undertaken for a proposal at Eastern Creek. OEH acknowledges that the Flora and Fauna Assessment states 'the offset ratio cannot be reliably calculated without the collection of site specific BBAM plot data from the

Bringelly Road Business Hub and a Biodiversity Offset Strategy will be prepared for the residual impacts of 1.82 ha of Cumberland Plain Woodland vegetation to more accurately quantify the appropriate offset requirements.’ However, OEH considers that this should have already occurred, during preparation of the EIS, in order to address the requirements of the DGRs. OEH’s advice to DoPI dated 15 January 2014 also recommended a specific Statement of Commitments relating to biodiversity; this has not been provided.

ELA’s response: Identification of Biodiversity offsets using the BBAM are detailed in the BOS (ELA 2015) which has used a quantitative assessment of the impacts using biometric plots data collected from the subject site. Based on this assessment, 35 ecosystem credits (HN526) are required and will be purchased and retired from an already registered WSPT Biobanking site within South West Growth Centre certification boundary. The proposed offset is equivalent to an improve or maintain outcome to meet the requirements of the NSW Offset Principles. Refer to Section 2.5 of the BOS (ELA 2015). The BioBank site has been registered in accordance with the BBAM and therefore has addressed Offset Principle 4 (additionality). Major Project Offset Principles 6 and 7 are not relevant to this proposal as supplementary measures are not being proposed and no discount to offset requirements is being requested.

- 5. Neither the EIS nor Flora and Fauna Assessment specifically address the DGRs relating to assessment of the impacts of the proposal in regard to the Biodiversity Certification Order for the Sydney Region Growth Centres. However, Figure 3 of the Flora and Fauna Assessment identified existing native vegetation (ENV) as defined by the Order; OEH notes that no ENV would be removed by the proposed project.*

ELA’s response: The impacts of the proposal in regard to the Biodiversity Certification Order for the Sydney Region Growth Centres have been addressed in the BOS (ELA 2015). The subject site is located within both certified and non-certified land. The proposal will impact on 17.182 ha of non-certified land (for which the BBAM assessment has calculated 35 credits are required) and 3.878 ha of biodiversity certified land (which does not require any offsets as the land is certified). Although Figure 3 of the Flora and Fauna Assessment (ELA 2014) identified ENV to the north of the subject site, the ENV is located outside the study area, and no ENV will be impacted as a result of the proposal. Refer to Section 1.1 and Figure 1 of the BOS (ELA 2015).

Liverpool City Council (LCC) comments

Comments on the FFA for BRBH (ELA 2014) were received from Liverpool City Council on 18 March 2015. Below is ELA’s response their relevant comments.

- 1. It appears that the water bodies within Bedwell Park are proposed to form a component of the stormwater treatment system for the proposed development. However, this portion of land appears to be beyond the area encompasses by the Flora and Fauna Assessment as submitted by the applicant. It is recommended that the Flora and Fauna Assessment is revised to consider this associated impact.*

ELA’s response: WSPT have stated that “Bedwell Park is an existing approved facility with capacity to meet the requirement of the project and does not require any upgrading or enlarging to meet the projects needs hence no impacts at this locality have been included in the assessment.” The existing approval for Bedwell Park includes the construction, operation and maintenance of the facility. Therefore, the operation and maintenance for any stormwater treatment that may take part at Bedwell Park as part of the BRBH proposed development should be undertaken under the existing approval for the facility, and does not require approval under this project.

- 2. It is recommended that the Cumberland Plain Recovery Plan is considered as part of the assessment of the proposal.*

The Cumberland Plain Recovery Plan (DECCW 2010) identifies “priority lands” for conservation, which does not include the study area. The recovery plan also contains an action which states:

Action 1.5 In circumstances where impacts on the Cumberland Plain’s threatened biodiversity are unavoidable, as part of any consent, approval or license that is issued, ensure that offset measures are undertaken within the priority conservation lands where practicable

The subject site does not include “priority lands” as defined by the CPW recovery plan. Impacts on biodiversity (i.e. areas mapped as GB-FRG) will occur as a result of the proposed development, specifically the removal of 1.096 ha of CPW within non-certified land. However, 35 ecosystem credits (HN526) will be purchased and retired under BBAM to offset the impacts to CPW for this project. ..

ELA’s response: The Cumberland Plain Recovery Plan has been considered in ‘Appendix D’ of the Flora and Fauna Assessment (ELA 2014), under the Cumberland Plain Woodland Assessment of Significance. A *BOS and Addendum to the FFA for the BRBH, SSD* (ELA 2015) has been prepared following submission of the FFA, and the Cumberland Plain Recovery Plan has also been considered in ‘Appendix C’ of this report.

If you have any further queries please do not hesitate to contact me.

Kind Regards,



Rebecca Dwyer

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References

Department of Environment and Conservation (DEC) 2004. *Threatened Species Survey and Assessment Guidelines*. NSW Department of Environment and Conservation, Sydney.

Department of Environment and Climate Change (DECC) 2008b. *Biobanking Assessment Methodology*. Department of Environment and Climate Change, Sydney.

Eco Logical Australia (ELA) 2014. *Flora and Fauna Assessment for the Bringelly Road Business Hub State Significant Development (SSD 6324)*. Prepared for Western Sydney Parklands Trust by Eco Logical Australia, Sutherland.

ELA 2015 *Biodiversity Offset Strategy and Addendum to the Flora and Fauna Assessment for the Bringelly Road Business Hub State Significant Development (SSD 6324)*. Prepared for Western Sydney Parklands Trust by Eco Logical Australia, Sutherland.

Office of Environment and Heritage 2014 Framework for Biodiversity Assessment - NSW Biodiversity Offsets Policy for Major Projects NSW Office of Environment and Heritage.