



Office of
Environment
& Heritage

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SSD 6835

Mr Chris Ritchie
Director
Industry Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Mr Ritchie

Lucas Heights Resource Recovery Park Project Environmental Impact Statement (SSD 6835)

I refer to your letter dated 3 November 2015 inviting the Office of Environment and Heritage (OEH) to comment on the exhibited environmental impact statement (EIS) for the Lucas Heights Resource Recovery Park Project Environmental Impact Statement (SSD 6835)

OEH provides comments on the project EIS in relation to biodiversity in Attachment 1.

If you have any queries regarding this matter please contact Marnie Stewart, Senior Operations Officer, on 9995 6868.

Yours sincerely

S. Harrison 18/12/15

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region

Attachment 1: Office of Environment and Heritage comments on the Lucas Heights Resource Recovery Park Project Environmental Impact Statement (SSD 6835)

Biodiversity

OEH has reviewed the *Lucas Heights Resource Recovery Park Project Biodiversity Assessment Report* by GHD (September 2015) against the *Framework for Biodiversity Assessment (FBA)* and the biodiversity SEARs (signed 3 February 2015).

OEH's input into the SEARs included that impacts on the following threatened populations and ecological community would require further consideration and provision of the information specified in s9.2 of the FBA:

Threatened Ecological Communities
Shale Sandstone Transition Forest
Endangered Populations
<i>Allocasuarina diminuta</i> subsp. <i>mimica</i> L.A.S.Johnson population in the Sutherland and Liverpool local government areas
<i>Prostanthera saxicola</i> population in Sutherland and Liverpool local government areas

OEH considers that the Biodiversity Assessment Report (BAR) adequately demonstrates that direct and indirect impacts Shale Sandstone Transition Forest are unlikely.

The BAR reports the presence of the *Allocasuarina diminuta* subsp. *mimica* endangered population within the study area as a number of 'ramets' (the stems of *Allocasuarina diminuta* subsp. *mimica* are described as ramets because it is possible that many of the stems have reproduced apomictically after damage to the roots and stems of the original plants). However, the BAR inconsistently reports the number of ramets to be directly impacted as 58 and 82. The BAR, and in particular s7.4.3 (impacts requiring further consideration in accordance with s9.2 of the FBA), needs to be updated to accurately report the number of ramets (or individuals if this can be identified) to be impacted. OEH would then need to review this information again against s 9.2.5.2 of the FBA.

Further, as the *Allocasuarina diminuta* subsp. *mimica* endangered population is not currently available within the credit calculator, the BAR does not provide the number of species credits that would be required to offset the impact. Until the calculator is updated, OEH recommends that the BAR include an estimate of the likely number of credits to be required using Equation 6 of the FBA and the Tg value of 0.125.

The BAR states that the *Prostanthera saxicola* population in Sutherland and Liverpool local government areas is "unlikely" to occur within the proposal footprint as no suitable sandstone rock habitat is present and that it was not recorded during the November 2012/January 2015/March 2015 searches. OEH requires further justification as the BAR considers there to be suitable habitat on sandstone outcrops within the wider study area (Appendix B); all but one of the flora species this population is known to associate with (OEH threatened species profile) were recorded within the study area; two rock outcrops are proposed for removal; and, surveys were conducted outside of the optimal detection period for this endangered population (July-October). Specifically, OEH recommends that targeted searches be undertaken during July-October (and/or when a nearby reference sub-population is known to be flowering); or an Expert Report be prepared in accordance with s6.6.2 of the FBA to demonstrate that the endangered population is unlikely to occur and be impacted by the proposed works; or assume that the endangered population is present and assess further in accordance with the FBA.

OEH makes the following additional comments on the BAR:

- The BAR identifies one Plant Community Type (PCT) within the development footprint: 'Red Bloodwood - scribbly gum heathy woodland on sandstone plateaux'. Plot/transect data was compared with Tozer (2010) diagnostic plant species lists to help confirm the identity of the PCT.

However, the BAR does not include evidence of this as required by FBA 5.2.1.8. Raw data has since been provided directly to OEH by the proponent and it is understood that the final BAR will include a summary of the data from this comparison to provide further evidence of how PCTs were derived for the development site in accordance with section 5.2.1.8 of the FBA.

- OEH understands an error has been made on Figure 7.1 of the BAR where 'Red Bloodwood - scribbly gum heathy woodland on sandstone plateaux – regenerating and planted' has not been mapped as native vegetation within the assessment circles and some areas of Exotic Grassland have been mapped as native vegetation. Please update Figure 7.1 to correctly show the areas of native vegetation cover and update the '% native vegetation cover' values within Table 7.1 of the BAR and the credit calculator if required.
- The draft Biodiversity Offset Strategy (BOS) within the BAR is inadequate as it does not address the FBA requirements outlined in Table 22 of Appendix 7. OEH understands that the proponent is considering using the land currently leased by SICTA to establish a biobank site to help offset the proposed works. Initial investigations have determined that the matching vegetation for ecosystem credit requirements is present and that ramets of the *Allocasuarina diminuta* subsp. *mimica* endangered population occur. The following information needs to be considered and included in the draft BOS as a minimum:
 - How many matching ecosystem credits would be generated should a biobanking application be successful? If additional ecosystem credits are required to be purchased, where will these be bought and retired from?
 - How many species credits for the *Allocasuarina diminuta* subsp. *mimica* endangered population would be generated should a Biobanking application be successful? If additional species credits are required, are these available within the endangered population's distribution?
 - BBAM 6.5.1.9 states that species that require species credits cannot be assumed to be present on a biobank site. Therefore, the suggestion within the draft BOS to assume the presence of Eastern Pygmy-possum, Giant Burrowing Frog and Rosenberg's Goanna on the proposed Biobank site is not supported.
 - How many, if any, species credits for *Acacia bynoeana* would be generated should a Biobanking application be successful? If additional species credits are required to be purchased, where will these be bought and retired from?
 - If a biobanking application for the SICTA land is unsuccessful or not pursued, where will all the required credits be bought and retired from?
 - How will the potential impacts of the already accumulated lead shot on flora and fauna be assessed and managed when considering the suitability of the site for biobanking?
 - Will the SICTA lease be terminated to pursue a biobanking application?
 - If multiple parties have an interest in the SICTA lands, have they all expressed an interest in establishing a biobank site?
 - Are there any existing agreements over the SICTA site for managing vegetation for conservation?
 - Section 10.5 of the FBA and s2 of Appendix A of the *NSW Biodiversity Offsets Policy for Major Projects* outline the steps required to be undertaken should a variation to the offset rules and/or supplementary measures be applied for. This includes being able to demonstrate that all reasonable steps have been taken to secure the number and types of credits impacted on at the development site, including: consideration of any feasible sites known to the proponent; checking the biobanking public register and having an

expression of interest for credits on it for at least six months; liaising with an OEH office and relevant local councils to obtain a list of potential sites that meet the requirements for offsetting; considering properties for sale in the required area; and, providing evidence of the unwillingness of a landowner to sell or establish a Biobank site. OEH advises that the proponent may want to consider starting this process to minimise any future delay to applying for an offset rule variation and/or supplementary measure (if required), given that implementing all of the steps would take at least six months.

- The FBA requires that it be determined whether candidate species are likely or unlikely to occur, or use habitat, on a development site (s6.5). Only when it has been determined that a species is unlikely to occur, or unlikely to use habitat, may it be removed from further assessment (s 6.5.1.11). The BAR (Appendix B) states that the Koala (a species credit species) is likely to occur within the study area and that it "may forage in the proposal footprint on occasion when moving between other areas of better quality habitat". The BAR does not include credit calculations for the Koala. OEH understands the habitat within the development footprint is of low value to the Koala, based on the information provided in the BAR. OEH requests however, that either the BAR be updated to exclude the Koala from further consideration in accordance with s6.5.1.11 of the FBA, or that the Koala be considered further and species credits be calculated.
- The BAR also states (in Appendix B) that the Squirrel Glider (a species credit species) may possibly forage within the proposal footprint on occasion, and that limited suitable den habitat is present. Despite this, no credits have been generated for this species and no justification for exclusion has been provided in the BAR. OEH requests that either the BAR be updated to exclude the Squirrel Glider from further consideration in accordance with s6.5.1.11 of the FBA, or that the Squirrel Glider be considered further and species credits be calculated.
- No species polygons, as required by s 6.5.1.17 and Appendix 7 of the FBA, have been included in the BAR.
- Plot/transect data for Plot 2 within the BAR indicates "0" for 'Number of trees with hollows' yet a value of "1" has been entered in the credit calculator. Please confirm which is correct.
- The BAR reports that 459 ecosystem credits are required yet the credit summary report (Appendix A) states that 460 are required.
- The BAR reports the distance between the Coastal Upland Swamp (Needlebush - banksia wet heath) and the proposed GO (garden organics) storage dam sometimes as 40 m and sometimes as 6 m. The BAR should be updated to report the correct distance and consider whether the discussion on indirect impacts to the Coastal Upland Swamp requires updating as a result.
- Lot 2 DP 605077 has not been identified in the 'land title details' section of the credit calculator.

OEH makes the following additional comments on the Operational Environmental Management Plans (OEMPs):

- OEH recommends that "Monitoring of revegetation of realigned Mill Creek to ensure planted individuals are thriving" (Table 6.2 of the BAR) is included in the relevant OEMP(s).
- The post-closure mitigation measures in Table 6.3 of the BAR should be included in the post-closure OEMP.
- The 'flora and fauna' sections of the OEMPs should be updated to reflect the recent recording of threatened biota as well as the current TSC Act listings for those species, populations and ecological communities.

(END OF SUBMISSION)