



**Office of
Environment
& Heritage**

Date: 28 January 2016
Your reference: SSD15_7264
Our reference: DOC16/48077
Contact: Calvin Houlison
4224 4179

Pamela Morales
Planning Officer, Industry Assessments
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001
E-mail: pamela.morales@planning.nsw.gov.au

Dear Ms Morales

**RE: PROPOSED BULK LIQUIDS FUEL TERMINAL, PORT KEMBLA (SSD15_7264)
EIS PUBLIC EXHIBITION**

Thank you for consulting the Office of Environment & Heritage with regard to the abovementioned State Significant Development (SSD) major project. We have reviewed those sections of the EIS relating to:

1. Biodiversity assessment and offsetting
2. Aboriginal cultural heritage

With regard to flood risk management, we are satisfied that this matter has been satisfactorily addressed and no further comments are provided.

Biodiversity assessment and offsetting

With regard to biodiversity and offsetting, we require a finalised Biodiversity Assessment Report (BAR) assessment and Biodiversity Offset Strategy (BOS) in accordance with the NSW Framework for Biodiversity Assessment (FBA) to complete our assessment.

We have previously provided the following correspondence on this major project to DPE:

- Suggested Secretary's Environmental Assessment Requirements (SEARs), dated 30 September 2015
- Confirmation that the Green & Golden Bell Frog (*Litoria aurea*) is no longer identified as a species requiring further consideration under Section 9.2 of the NSW Framework for Biodiversity Assessment (FBA), dated 22 December 2015

The SEARs require that biodiversity assessment and offsets be assessed in accordance with the NSW Biodiversity Offsets Policy for Major Projects and the FBA. Our suggested SEARs input also stated that impacts on the Green & Golden Bell Frog (*Litoria aurea*) require assessment as an Impact for Further Consideration (IFFC) under Section 9.2 of the FBA. IFFC are defined in this section as impacts that are "severe or complicated" and require a more rigorous assessment over and above the standard FBA assessment process.

Since this time, the proponent has provided an Expert Report which argues that impacts for further consideration are not required for this species under the FBA, as the proposal is unlikely to:

- Cause the extinction of the species or population within the Illawarra IBRA subregion

- Significantly reduce the viability of the species or population

Our December 2015 letter to DPE confirmed that we concur with the proponent's findings and are hence satisfied that *Litoria aurea* is no longer an IFFC species for this project (Attachment A). However, a Biodiversity Assessment Report (BAR) assessment and Biodiversity Offset Strategy (BOS) are still required in accordance with the FBA. To date a complete BAR and BOS have not been submitted, and this additional information is required for us to finalise our biodiversity assessment.

Aboriginal cultural heritage

The SEARs require that both tangible and intangible Aboriginal cultural heritage values are assessed.

To assess tangible values (i.e. Aboriginal objects and Places as defined under the National Parks and Wildlife Act 1974) Cardno conducted a due diligence assessment and concluded that Aboriginal objects will not be impacted as a result of the proposed works. Due diligence assessments are intended to identify whether a more detailed cultural heritage assessment is needed. Cardno determined that no further Aboriginal cultural heritage investigations are required.

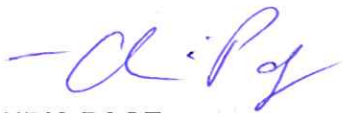
To address intangible values, Cardno refers to consultation with the Illawarra Local Aboriginal Land Council (ILALC) for the proposed Soybean Processing Facility in 2008. We have reviewed this report and acknowledge that does not identify any cultural constraints in the location of the present proposal. However, we also note that the EIS states that no Aboriginal community consultation in relation to the present proposal has occurred.

The EIS would be strengthened as a stand-alone document by more clearly stating the rationale for the assessment of intangible cultural values. Given that the advice from ILALC is now eight years old, and considering that Local Aboriginal Land Councils do not necessarily represent the views of the broader Aboriginal community, the assessment of intangible cultural heritage values could be improved by conducting Aboriginal community consultation. We note that the nearby North Beach, Hill 60 and Coomaditchy areas contain significant Aboriginal cultural values.

If Aboriginal objects are located as a result of the proposed works you must stop work immediately, not further harm the object and report the object to OEH by calling Environment Line on 131 555. You may need to apply for an Aboriginal Heritage Impact Permit. This process is reflected in item 10 of Table 11.1.

Please contact Calvin Houlison, Conservation Planning Officer on 4224 4179 or via e-mail calvin.houlison@environment.nsw.gov.au should you have any further queries.

Yours sincerely



CHRIS PAGE
Senior Team Leader, Planning (Illawarra)
South Branch

Enclosures:

Attachment A – OEH Letter to Department of Planning and Environment (22/12/15)



Date: 22 December 2015
Your reference: SSD15_7264
Our reference: DOC15/525702
Contact: Calvin Houlison
4224 4179

Pamela Morales
Planning Officer, Industry Assessments
Department of Planning & Environment
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SYDNEY NSW 2001
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Dear Ms Morales

**RE: PROPOSED BULK LIQUIDS FUEL TERMINAL, PORT KEMBLA (SSD15_7264)
IMPACTS FOR FURTHER CONSIDERATION**

I am writing with regard to the SEARs for Port Kembla Bulk Liquids Terminal major project, issued by Department of Planning of Environment (DPE).

Our letter to DPE containing SEARs input, dated 30 September 2015, stated that impacts on the Green & Golden Bell Frog (*Litoria aurea*) will require further consideration under Section 9.2 of the NSW Framework for Biodiversity Assessment (FBA). Since this time, the proponent has provided an Expert Report which argues that the species should not be considered as an Impact for Further Consideration (IFFC) under the FBA, as the proposal is unlikely to:

- Cause the extinction of the species or population within the Illawarra IBRA subregion
- Significantly reduce the viability of the species or population

We concur with the findings of this report and are hence satisfied that *Litoria aurea* is no longer an IFFC species for this project. The proponent should proceed to a biodiversity assessment with species impacts to be assessed in accordance with the relevant provisions of the FBA.

We suggest that you either reissue updated SEARs to reflect this change, or confirm the above advice with the proponent. Please contact me on 4224 4179 or via e-mail calvin.houlison@environment.nsw.gov.au should you have any further queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Houlison'.

CALVIN HOULISON
Conservation Planning Officer

cc: Lucas McKinnon, Director, EcoPlanning