



Our ref:DOC19/835858

Your ref: SSD 9741

Mr Patrick Copas
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Copas

Subject: EES comments on amended Environmental Impact Statement and Response for Submissions for Lane Cove West Data Centre – SSD-9741 – 1 Sirius Road Lane Cove West

Thank you for your email of 13 September 2019 requesting advice on the amended Environmental Impact Statement (EIS) and Response to Submissions (RTS) for this State Significant Development (SSD). Please note, OEHS responsibilities and functions have been transferred to the Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment.

EES has reviewed the amended EIS and RTS and provides its recommendations and comments at Attachment A.

Please note, in relation to Aboriginal Cultural Heritage, EES has decided not to provide comments at this time. This does not represent EES support for the proposal and this matter may still need to be considered by the consent authority.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on [REDACTED] or at [REDACTED]

Yours sincerely

3/10/2019

Marnie Stewart

**A/Senior Team Leader Planning
Greater Sydney Branch
Climate Change and Sustainability**

Attachment A

Subject: EES comments on amended Environmental Impact Statement and Response to Submissions - Lane Cove West Data Centre – SSD-9741 – 1 Sirius Road Lane Cove West

The Environment, Energy and Science Group (EES) has reviewed the following documents:

- Amended Environmental Impact Statement (EIS) and Response to Submissions (RTS) – September 2019
- Amended Biodiversity Development Assessment Report (BDAR) – 27 August 2019
- Landscape Documentation – August 2019
- Landscape and Visual Impact Assessment report - 26 August 2019
- Summary of changes by Travers bushfire & ecology - 6 September 2019
- Bushfire Protection Assessment report (BPAR) – addendum – 6 September 2019
- Vegetation Management Plan (VMP) – 6 September 2019
- Watercourse Assessment Report (WAR) – 6 September 2019
- Tree Assessment Report (TAR) – 6 September 2019
- Flood Report (FR) – 10 December 2018

and provides the following comments.

Biodiversity

Avoid/minimise the clearing of native vegetation

The previous BDAR proposed to clear approximately 0.79 hectares (ha) of native vegetation (comprising 0.37 ha of complete clearing and 0.42 ha partial impact for the APZ) (see BDAR page 24) which amounted to 87% of the existing native vegetation on the site being impacted. OEH recommended in its submission that the development footprint be modified to avoid/minimise the clearing of native vegetation to be consistent with the *Biodiversity Conservation Act 2016* (BC Act) and the NSW Government Biodiversity Assessment Method 2017.

The amended BDAR now proposes to clear approximately 0.66ha of native vegetation (comprising 0.38 ha of complete clearing and 0.28 ha will be managed within the APZ) (section 3.3, page 22; table 3.3, page 24; section 5.1.2, page 39). The EIS indicates these avoidance measures have resulted in the retention of approximately 27.47 % of the native vegetation on the site and the retention of 25.77% of Smooth-barked Apple-Red Bloodwood open forest in an intact condition (page 227). While the amended EIS has reduced the area of vegetation to be removed it still proposes to impact:

- 72.5 % of the native vegetation area on the site, and
- 74.23% of Smooth-barked Apple-Red Bloodwood open forest in an intact condition

EES considers the development footprint needs to be further modified to avoid/minimise the clearing of native vegetation.

Tree removal

The previous TAR proposed removing 125 trees - 82 of these trees were to be removed regardless of their SULE rating as they were located within the impact area and a further 43 trees were recommended for removal due to poor condition (see page of TAR). The RTS notes the revised scheme has reduced the extent of tree removal (page 125) but EES does not consider it to be a significant reduction in the number of trees to be removed.

The revised reports contain inconsistent advice in relation to the number of trees that are proposed to be removed, for example:

- The EIS states the proposed development would account for the removal of 84 trees on the subject site (regardless of their SULE rating) (page 228)
- The RTS states the proposed development will account for the removal of 84 trees within the impact area regardless of their SULE rating but it also indicates the number of trees to be removed for poor SULE rating is 39 which amounts to a total of 123 trees being removed (page 119).
- the revised TAR indicates 83 trees are proposed for removal regardless of the SULE rating and in total 122 trees are proposed to be removed (see section 4.3, page 9 and section 6.1, page 18)
- the Summary of Changes indicates 114 trees are proposed to be removed.

The proponent needs to clarify the number of trees that are now proposed to be removed. It appears the total number of trees proposed to be removed is either 114 or 122-123 trees compared to 125 trees previously.

Retention of Trees

EES notes Drawing No. LDA-05 in the landscape documentation proposes to retain a number of invasive exotic trees at the site including:

- 6 x Camphor Laurel (*Cinnamomum camphora*)
- 3 x Large-leaved Privet (*Ligustrum lucidum*)
- 1 x Small-leaved Privet (*Ligustrum sinense*) and
- 1 x Black Locust *Gleditsia triacanthos*.

It is unclear why Drawing No. LDA-05 proposes to retain these invasive trees. EES notes that none of these exotic species are hollow-bearing trees comprise so it appears they are not being retained to provide native fauna tree hollow habitat (see page 24-25 of VMP). The proposed retention of these invasive trees is not consistent with the VMP which notes invasive species such as Camphor Laurel, Large-leaved Privet and Small-leaved Privet require intensive weed control and ongoing eradication (see section 3.2, page 13 of VMP) and it lists these species as target weed species with very high priority (see Appendix 2).

Prior to approving the landscape documentation, it is suggested the Department considers information relating to these exotic trees available for example on the NSW Department of Primary Industries website (DPI NSW Weedwise) which indicates:

- Camphor Laurel is a highly invasive exotic species. It has prolific seed production, birds and other fauna readily eat the fruit and disperse the seeds and it has a tendency to form single species communities and exclude most other tree species, including native vegetation - see DPI Weedwise link: <https://weeds.dpi.nsw.gov.au/Weeds/CamphorLaurel>
- Privets (*Ligustrum lucidum* and *Ligustrum sinense*) are considered to be a serious environmental weed throughout Australia. Infestations threaten biodiversity, including endangered plant and animal species and ecological communities. Dense stands of privet prevent other vegetation surviving or establishing - see DPI Weedwise links: <https://weeds.dpi.nsw.gov.au/Weeds/PrivetBroadleaf> and <https://weeds.dpi.nsw.gov.au/Weeds/PrivetNarrowleaf>
- *Gleditsia triacanthos* spreads rapidly from seed; it is capable of out-competing and replacing native vegetation; it can form dense thickets particularly along waterways as it spreads by the seed being washed downstream and the sharp thorns can also injure wildlife - see DPI Weedwise link: <https://weeds.dpi.nsw.gov.au/Weeds/HoneyLocust>

The Greater Sydney Regional Strategic Weed Management Plan 2017 – 2022 published by Greater Sydney Local Land Services and developed in partnership with the Greater Sydney

Regional Weed Committee lists Camphor Laurel, *Ligustrum lucidum*, *Ligustrum sinense* and *Gleditsia triacanthos* under Appendix 2 (other weeds of regional concern) and it notes that for all of these tree species one of the assets/values at risk is the environment.

The spread of seed from these invasive trees from the site is a concern as the Lane Cove National Park is located to the west of the site.

The removal of these additional 11 trees from the site will add to the total number of trees being removed and EES recommends:

- the Department clarifies with the proponent if the proposed retention of these invasive exotic trees in Drawing No. LDA-05 is a typing error.
- the landscape documentation is amended to remove (and not retain) these invasive tree species from the site
- the invasive exotic trees are replaced with local native provenance tree species.

Hollow Bearing Trees

The previous TAR indicated 10 hollow-bearing trees were required to be removed (section 4.3, Page 9). The revised TAR notes "the proposal will require the removal of eight hollow-bearing trees which collectively have 23 hollows of varying sizes (section 3.4, page 6). OEH previously recommended the tree hollows are replaced at a ratio greater than 1:1. The TAR confirms 24 compensatory nest boxes are to be installed (page 6)

Mitigation Measures

EES notes the revised EIS has not amended mitigation measure (18) to include the text in italicised bold as previously recommended by OEH:

- (18) Greenbox would mark ***on site with temporary fencing***, the clearance boundaries prior to commencement of ***any*** construction to ensure that there is no unnecessary removal of vegetation. ***The fencing must be regularly checked and maintained throughout construction***

OEH previously recommended the Mitigation Measures are amended to include the following:

1. the revegetation areas of contaminated land including the riparian corridor of Stringybark Creek; the fire trail and the vegetated areas of the APZ are to be planted with a diversity of appropriate local native plant species from the native vegetation community (or communities) that occur, or once occurred, on the site
2. the revegetation areas and landscaped areas must use a diversity of local provenance species (trees, shrubs and groundcovers) from the native vegetation community (or communities) that occurs, or once occurred, on the site,
3. Any native trees that are required to be cleared from the site shall be salvaged (for example tree hollows and tree trunks which are greater than approximately 25-30cm in diameter and 3 m in length) and placed in the revegetation and regeneration areas to enhance habitat
4. Remnant native vegetation that is required be removed from the site, especially juvenile plants shall be translocated to the revegetation and regeneration and landscape areas
5. the topsoil from areas of native vegetation that are to be cleared for the development shall be collected and used in the revegetation and regeneration areas on the site
6. seed from any native plants to be removed shall be collected and used in the revegetation and regeneration areas landscape areas
7. Any trees that are to be planted at the site shall use advanced and established local native species from the relevant vegetation communities which occur on the site,

preferably with a minimum tree height of 2-2.5 metres and /or plant container pot size of 50-75 litres to mitigate the removal of trees and the habitat they provide

8. any trees that are to be removed from the site are replaced at a ratio greater than 1:1
9. any tree hollows to be removed are to be replaced at a ratio greater than 1:1

The revised EIS and BDAR refer to the mitigation measures recommended by OEH and indicate that mitigation measures 2, 3, 4, 5, 6 and 9 as listed above should be implemented as part of the proposal (see section 6.11, page 227 of EIS and section 6.3, page 45 of BDAR). While the EIS and BDAR note these additional measures should be implemented, it is unclear why Part G of the EIS (Draft Management and Mitigation Measures) has not been amended to include these measures (see pages 250-255 of EIS).

The RTS does not agree to inclusion of the OEH mitigation measure (6) and no explanation is provided in the RTS as to why seed from native plants that are to be removed can't be collected and used in the revegetation and regeneration areas (see page 127 of RTS). As the EIS and BDAR indicate this mitigation measure should be implemented, EES recommends it is included as a condition of consent to avoid any confusion.

The RTS does not agree with mitigation (7) to use advanced and established local native trees (minimum tree height of 2-2.5 metres and /or plant container pot size of 50-75 litres) to assist mitigate the removal of existing trees (page 127). It indicates sourcing this type of advanced stock in a timely manner is impractical but does not include details on the minimum size of the trees that are proposed to be planted (page 127 of EIS). The RTS also notes the use of advanced trees would place a substantial limitation on the revegetation of the site. If this is so, it is recommended the proponent commences sourcing local native provenance trees and/or growing local provenance trees as soon as possible, so the trees to be planted are more established in size to assist mitigate the loss of existing trees and improve the urban tree canopy at the site.

The RTS also disagrees with the OEH mitigation measure (8) to replace any trees removed from the site at a ratio greater than 1:1. The RTS states "it would not be possible to replace all trees proposed for removal at a ratio equal or greater than 1:1" (page 127). The Summary of Changes, however notes it is proposed to plant 120 trees for the 114 trees to be removed (page 5). As noted above the proponent needs to clarify the number of trees that are now proposed to be removed as the Summary of Changes notes the revegetation works is replacing the trees lost. If 122-123 trees are proposed to be removed and 120 trees are to be planted, it is unclear why it is not possible to replace the removed trees at a ratio greater than 1:1.

If consent is granted to this SSD, EES recommends conditions of consent are included which require the implementation of the above mitigation measures 1, 2, 3, 4, 5, 6, 8 and 9. In relation to mitigation measure (7) it is recommended the Department clarifies with the proponent what size local native provenance trees can be provided for planting at the site.

Flood

The former OEH previous comments, dated 3 June 2019, advised the consultant to address post development scenario to determine the effect of the development on flooding behaviour and on adjacent, upstream and downstream properties. The amended EIS has not addressed this requirement, rather, it states in page 102 '*As the lowest proposed building level is 11 m AHD, it is reasonable to suggest that the Proposed Development is unaffected by flooding*'. This statement is not accurate, as setting up floor levels above the probable maximum flood will merely eliminate

above floor flooding within the building, however, it won't eliminate ground inundation at the vicinity of the site, neither it suggests that the proposed development has no impacts on flood behaviour.

From a flood risk management perspective, the Flood Impact Assessment should not only be limited to identify flood planning level, but to address the impact of the development on flood behaviour and on adjacent existing properties as well as address the emergency management aspects of the site. Accordingly, EES consider that, the flood assessment did not satisfy the requirement of the SEARs. Therefore, the previous OEH comments are still relevant.

Sustainable Building

EES notes its recommendation for green roofs and cool roofs to be integrated into the proposed design is considered to be impractical and unfeasible, due to the requirement for mechanical plant to be located on the roof area of the proposed Data Centre (see page 128 of RTS).