



Office of
Environment
& Heritage

Your reference SSI 13_5982
Our reference: DOC13/77128

Mr Chris Ritchie
A/Director, Industry, Social Projects and Key Sites
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Attention: Peter McManus

Dear Mr Ritchie

I refer to your letter received on 30 October 2013, notifying the Office of Environment and Heritage (OEH) that the proposed Northern Beaches Hospital, Frenchs Forest (SSI 13_5982) is on public exhibition. OEH has reviewed the available documentation and provides comments in relation to flooding, biodiversity and Aboriginal Cultural heritage at Attachment 1.

Please note that OEH has previously raised significant concern with the adequacy of the Biodiversity Offset Strategy for this proposal. OEH reviewed the draft Biodiversity Offset Strategy in July 2013 and raised a number of concerns with the adequacy of the proposed offsetting approach at a meeting with Health Infrastructure (HI), SMEC and the Department of Planning and Infrastructure (DP&I) on 6 August 2013 and in two subsequent emails (12 and 29 August 2013). Despite this the Biodiversity Offset Strategy on public exhibition has not addressed any of the matters raised.

This matter is of particular concern to OEH given the value of vegetation on site, being Duffys Forest Endangered Ecological Community, habitat for Powerful Owl and the site being located in a Priority 1 vegetation corridor as identified in the *Survey of the Duffy's Forest Vegetation Community* report to NSW NPWS and Warringah Council (2000). OEH therefore reiterates previous comments made in relation to the adequacy of the Biodiversity Offset Strategy and seeks DP&I's commitment to resolving this matter before the project is determined.

OEH would appreciate the opportunity to discuss the matters raised in this submission with you. I have arranged for Susan Harrison, Senior Team Leader, Planning to call you shortly to organise a meeting.

OEH also requests that, should the development be approved, the conditions of consent do not ascribe a role for OEH unless DP&I has the written agreement of OEH.

If you have any queries please contact Liz Peterson, Senior Regional Operations Officer on 9995 6841.

Yours sincerely



TOM GROSSKOPF
Director Metropolitan Branch
Regional Operations

Attachment 1: OEH comments on the Northern Beaches Hospital (SSI 5982)

Biodiversity

1) Assessment of biodiversity values on site

OEH considers that the Biobanking Assessment Report (Teresa James, July 2013) has adequately assessed the biodiversity values at the site. The development of the Northern Beaches Hospital site will result in the clearing of 5.1Ha (4.91Ha for the main hospital site and 0.2Ha for relocation of the transmission line) of Duffys Forest Endangered Ecological Community (DFEC), which is also habitat for Powerful Owl. The hospital site is located in a Priority 1 vegetation corridor as identified in the *Survey of the Duffy's Forest Vegetation Community* report to NSW NPWS and Warringah Council (2000).

The biobanking credit report identifies that 328 ecosystem credits (323 for the main hospital site + 5 for the transmission line in the road reserve) are required to offset the loss of DFEC and 127 species credits (121 for the main hospital site + 6 for the transmission line) to offset impacts on Powerful Owl.

2) NSW Interim Offsets Policy

The *Biodiversity Offset Strategy* (SMEC, 20 September 2013) recommends assessment of a suitable offset under Tier 3 of the *NSW Interim Offsets Policy* (**copy provided at Attachment 2**) because Health Infrastructure (HI) has determined that protection of DFEC on the hospital site is not an option and DFEC is a highly restricted community so obtaining the required credits could be difficult.

The *NSW Interim Offsets Policy* seeks to provide a consistent and transparent approach to impact assessment and offsetting for State Significant Development and State Significant Infrastructure projects. It acknowledges that these projects do not have to meet the 'improve and maintain' standard required under the Biobanking scheme and consequently it provides for various tiers of offsetting from 'improve or maintain' (Tier 1) to 'no net loss' (Tier 2) to 'mitigated net loss' (Tier 3). Tier 3 allows for a variation to the offset type, the partial protection of red flags (EECs or highly cleared vegetation types) and the partial offsetting of impacts as per the variation criteria in Attachment B to the policy. In determining whether Tier 3 is appropriate consideration is given to whether:

1. the credits required are available on the market;
2. alternative offset sites are available on the market; or
3. the overall cost of the offsets are reasonable given the circumstances.

It must be noted that the term 'where available on the market' in relation to species/ecosystem credits (see Tier 3 negotiating a mitigated net loss outcome points a) and b) on p. 5) does not refer to only those credits that are available on the Biobanking Public Register or Expression of Interest Register on the OEH website. OEH would expect the proponent to make a reasonable effort to locate and secure an offset site beyond simply looking at what is on these registers i.e. investigate properties that would be suitable as an offset site which may be available for purchase or identify public land that with active management could be used as an offset site.

3) Adequacy of proposed offset

The *Biodiversity Offset Strategy*, proposes to offset the ecosystem credits for DFEC and the species credits for Powerful Owl habitat at the Northern Beaches Hospital site with 77 ecosystem credits and 46 species credits generated by Biobank agreement #55. This falls far short of the credits required for the clearing of the hospital site. In addition, only 30 of the ecosystem credits generated by Biobank agreement #55 are for a DFEC equivalent vegetation type (Red-bloodwood-Smooth-barked Apple shrubby forest on shale or ironstone of coastal plateaux, Sydney Basin) and the species credits are generated by two vulnerable reptiles (Red-crowned Toadlet and Rosenberg's Goanna).

The *Biodiversity Offset Strategy* argues that Biobank agreement #55 secures 10Ha of the same vegetation formation in the same IBRA region as the hospital site which exceeds the 2:1 vegetated to cleared ratio required under Tier 3 of the *NSW Interim Offsets Policy*. It proposes to adopt this minimum 2:1 offset ratio because:

- other suitable offsets site have not been identified in the region;
- the high value of land in Warringah would result in an unreasonable cost to secure an appropriate offset; and
- the average cost per credit (\$6098) to retire all of the credits for Biobank agreement #55 is in the higher market average range.

The Offset Strategy also argues that Red-crown Toadlet and Rosenberg's Goanna are of greater conservation priority than the Powerful Owl in Pittwater and that the additional 75 species credits for the Powerful Owl should be waived as per the variation criteria in Attachment B to the *NSW Interim Offsets Policy*.

OEH considers that the offsetting option proposed in the *Biodiversity Offset Strategy* is inadequate and does not meet the following Tier 3 variation criteria in Attachment B to the *NSW Interim Offsets Policy*:

- a) The vegetation types in Biobank agreement #55 only partially match the vegetation types at the Northern Beaches Hospital site (see above) and some, such as the Hairpin Banksia-Kunzea ambigua – Allocasuarina distyla heath on coastal sandstone plateau and Hairpin Banksia – Slender Tea-tree heath on coastal sandstone plateau are different vegetation formations. Consequently Biobank agreement #55 only generates 59 ecosystems credits to offset the 328 ecosystem credits lost as a result of clearing of DFEC at the Northern Beaches Hospital site. This criteria requires that the number of ecosystem credits should be the same.
- b) Powerful Owl species credits at the Northern Beaches Hospital site are converted into Red-crowned Toadlet and Rosenberg's Goanna species credits at Biobank agreement #55. These species all have the same vulnerable conservation status. This option is appropriate when a species credit is not available and the matching species credits are considered a higher conservation priority. It is arguable whether Red-crowned Toadlet and Rosenberg's Goanna (which are both sandstone species) are of higher conservation priority in the Pittwater/Warringah area than Powerful Owl given the large expanses of sandstone country protected in national parks north of Sydney Harbour. This criteria requires that the number of species credits should be the same, which is not the case (see above).

- c) This does not apply because the clearing is not minimal (<4Ha) and the vegetation impacted is an EEC.
- d) Ecosystem credits can be converted to Ha via the credit to Ha converter and the equivalent land value estimated where suitable offset sites are known to exist but they cannot be secured prior to a decision being made or where a 3rd party provider is retained to secure a suitable offset site. This criteria has only partly been met. The Biobanking Assessment Report has calculated that 35Ha of a suitable offset site would be required to offset ecosystem credits lost at the Northern Beaches Hospital site, but the Biodiversity Offset Strategy argues that other suitable offset sites have not been identified and that the high value of land in the Pittwater-Warringah area would make this option too costly. Consequently, this criteria was not applied.
- e) This criteria allows the requirement for species credits to be waived where no matching credits are available and all ecosystem credits have been obtained. This is not the case because there is a substantial shortfall in the ecosystem credits required (see above).
- f) This allows ecosystem credits to be converted to another regional conservation priority when no matching credits are available and variation criteria a) is not feasible. This criteria has not been applied.

OEH reiterates its earlier advice that it is recommended that the Proponent undertake further work to identify additional offset options in the Sydney Basin which, together with Biobank agreement # 55, would provide a better conservation outcome to offset the losses at the Northern Beaches Hospital site to at least a Tier 3 level.

Please note that OEH has already provided information to the Proponent to guide them in undertaking the further work to identify other potential offset sites which support large remnants of the Duffy's Forest endangered community. The Proponent has also been advised that Warringah Council may be able to provide additional information about suitable offset sites based on the information in its draft Biodiversity Conservation Study and other related studies.

The Proponent also has the option of placing an expression of interest on the biobanking public register to inform current and future credit holders (such as landowners and local councils) of the type, location and number of credits that they require. The register is available at the following link:

<http://www.environment.nsw.gov.au/biobanking/listwantedcredits.htm>

Despite the advice provided to the Proponent on the *Draft Biodiversity Offset Strategy* and further guidance on how to address the lowest tier of the *NSW Interim Offsets Policy*, the Proponent has undertaken no further additional work to provide adequate offsets for the impacts on the biodiversity values identified on the Northern Beaches Hospital site.

Aboriginal Cultural Heritage

OEH concurs with the recommendations of the *Aboriginal Heritage Impact Assessment prepared by AMBS (2012)*. Should the subject proposal be approved, OEH recommends the DP&I include conditions of consent that requires the recommendations of the AMBS report be implemented. These recommendations include:

1. Should any impact be proposed to the currently obscured sandstone outcrops in the north eastern section of the Bantry Bay Road study area, pre-construction vegetation and soil clearing should be undertaken in this area to allow an appropriate level of archaeological inspection for any art/engraving sites. Vegetation and soil clearance should be undertaken with care, to limit any disturbance to any unidentified Aboriginal art/engraving sites that may be present. Once cleared, this area should be inspected for Aboriginal art/engraving sites by an archaeologist, in conjunction with registered Aboriginal stakeholder representatives. If any Aboriginal sites are identified during this inspection, they should be recorded, and an appropriate course of action for the mitigation of construction impacts should be determined, prior to any disturbance of the sandstone outcrops.
2. Should any Aboriginal objects be exposed during construction works, then excavation or disturbance of the area should cease and OEH should be informed in accordance with Section 89A of the *National Parks and Wildlife Act, 1974*.

OEH also recommends that signage or some other appropriate form of recognition (developed in consultation with the registered Aboriginal stakeholders) of the cultural significance of the study area identified by registered Aboriginal stakeholder Dennis Foley (see form dated 15 August 2012 at Appendix A to the AMBS report) be included in the final development.

Flooding

OEH notes that flooding as required by Section 6 and 13 of the Director Generals Environmental Assessment Requirements at the site is not addressed in the Northern Beaches Hospital Environmental Impact Statement (EIS) for Stage 1 dated October 2013 or its Appendix I Stormwater Management Strategy & Plan. As the hospital site is located on a ridge line it is unlikely to be impacted by overland flooding from outside the site. On this basis it is considered that a detailed hydrological and hydraulic assessment is not necessary for this site.

The EIS and Stormwater Management Plan do acknowledge that the localised flooding from increased stormwater runoff from the hospital site and the impact on access to the site from flooding of Wakehurst Parkway still need to be addressed. OEH recommends this be addressed prior to any works being undertaken on site.