



Office of  
Environment  
& Heritage

DOC16/580877-3  
SSD 6518

Ms Emma Barnet  
Planning Officer, Key Sites & Industry Assessment  
Department of Planning and Environment  
emma.barnet@planning.nsw.gov.au

Dear Ms Barnet

**Waste and Resource Management Facility - Frazer Park Quarry, Frazer Park (SSD 6518)**

I refer to your letter dated 15 November 2016, seeking comments on the proposed Waste and Resource Management Facility Environmental Impact Statement (EIS); located at Frazer Park Quarry, 800-900 Pacific Highway Frazer Park (Lots 1 and 2, DP 549905 and Lot 465, DP 755266) within the Lake Macquarie local government area. The Office of Environment and Heritage (OEH) understands the proposal is to construct and operate a resource recovery facility within an existing quarry operation. This facility would have the capacity to process up to 200,000 tonnes per annum of building and construction waste for crushing and blending with quarry material won from the site. The proposal is a State Significant Development under the *Environmental Planning and Assessment Act 1979*.

OEH has undertaken a review of the EIS titled *Volume 1 – Environmental Impact Statement, Waste and Resource Management Facility – SSD 6518, Hodgson Quarry Products, 800-900 Pacific Highway, Frazer Park* (prepared for Hodgson Quarry Products Ltd by Nexus Environmental Planning Pty Ltd, dated 28 October 2016) in relation to threatened biodiversity, Aboriginal cultural heritage and flooding / floodplain issues. Although the EIS states that it has considered the Framework for Biodiversity Assessment, OEH notes that there is no Biodiversity Assessment Report provided with the EIS. Similarly, the EIS has failed to address potential impacts on Aboriginal cultural heritage. OEH requests that these matters are adequately addressed prior to any development consent being granted. Detailed comments are provided in **Attachment A**.

If you require any further information regarding this matter please contact Steve Lewer, Regional Biodiversity Conservation Officer, on 4927 3158.

Yours sincerely



16 DEC 2016

**RICHARD BATH**  
**Senior Team Leader Planning, Hunter Central Coast Region**  
**Regional Operations**

Enclosure: Attachment A



## **ATTACHMENT A: OEH REVIEW - ENVIRONMENTAL IMPACT STATEMENT FOR PROPOSED WASTE AND RESOURCE MANAGEMENT FACILITY, FRAZER PARK (SSD 6518)**

### **THREATENED BIODIVERSITY**

The revised Secretary's Environmental Assessment Requirements (SEARs) for the biodiversity / threatened species aspects of the project permitted it to be assessed either under (i) the previous SEARs requirements or (ii) under the NSW Biodiversity Offsets Policy for Major Projects, which includes the Framework for Biodiversity Assessment (FBA). Based on a review of the EIS, it appears the proponent has chosen the FBA pathway as outlined in Section 3.4.7.

As stated in OEH's revised SEARs advice (dated 19 April 2016 to Nexus Environmental Planning Pty Ltd), the proponent will need to ensure that the biodiversity assessment is fully consistent with requirements of the FBA guidelines (OEH 2014) and must be conducted by a person accredited in accordance with section 142B(1)(c) of the *Threatened Species Conservation Act 1995* (TSC Act). As part of this process the EIS must include a Biodiversity Assessment Report (BAR), which assesses the impacts on threatened biodiversity. No such document exists within the EIS. Furthermore, it appears the assessment was not undertaken by an accredited assessor, as required under Section 2.2.1 of the guidelines (OEH 2014). As such OEH is of the opinion that the FBA assessment detailed in Section 3.4.7 of the EIS is not compliant with the FBA guidelines (OEH 2014).

OEH acknowledges and concurs with the EIS that the site is disturbed and is an operational quarry, and possibly would provide limited habitat for threatened species. However, there is a specific process under the FBA (OEH 2014) which would halt further assessment. Section 3.3.1 of the FBA outlines when an assessment (based on a 'vegetation zone') does not require further assessment. This process must be undertaken by an accredited assessor and will require assessment of on-site attributes to determine if the site does not contain native vegetation or the site value of the vegetation has a score of 17 or less. However, under this pathway it does not preclude the provision of these details which need to be detailed within a BAR. The inclusion of such a document (either as a specific chapter or an appendix) in the EIS will show that due process has been followed and that an appropriate assessment has been undertaken following the FBA (as required under the revised SEARs). This process will indicate if the subject site is devoid of any biodiversity values. OEH acknowledges that the subject site likely provides minimal habitat for threatened species; however, there is still the potential for certain threatened species to utilise the site, particularly those known to utilise modified landscapes, such as disturbance obligates (e.g. certain threatened flora) and/or transient bird species. As such the appropriate assessment should have been undertaken in accordance with the FBA. The FBA does not provide an exemption for removal of the BAR where projects are deemed to have no alleged values due to current disturbance.

OEH notes that the EIS states in its FBA appraisal (Section 3.4.7) that there is no vegetation on the subject site nor will any vegetation be removed. However, Figure 3.2 of the EIS clearly shows vegetation is present on the subject site (based on the polygon shaded in yellow on the figure) and this will likely be cleared for the 'Raw Recycled Products Storage Area' (as shown in Figure 3.1). Furthermore, photographs 3.1 and 3.2 clearly show vegetation present, albeit a mixture of exotic (e.g. Pampas Grass) and likely native shrubs / groundcover species. Furthermore, the EIS contradicts previous statements stating that scrub has grown on the overburden since it was deposited. OEH understands that this vegetation has regrown on overburden stockpiles. As such this vegetation would need to be assessed for any biodiversity values, including potential habitat of threatened species.

To clarify the above issues, OEH contacted Nexus Environmental Planning Pty Ltd (Mr. Neil Kennan, on 7 December 2016), with respect to the FBA being non-compliant and that any biodiversity assessment would require an appraisal of the vegetation to be removed. Nexus Environmental suggested that this vegetation could be removed under current approval consents for the quarry operations, and as such recommended OEH review Section 1.3 of the EIS (Operational History of the Site). OEH has reviewed this section and acknowledges that this provides a good chronology of the development approval history for the site; it does not provide the 'conditions of approval' or details on how the vegetation would be permitted to be cleared. OEH is unclear whether or not these approvals



would permit the removal of vegetation for this particular project, given this is a separate development to the quarry operations that have been approved.

In light of the above concerns, OEH recommends one of the following:

- The proponent clearly shows how the current development approvals (consents) permit the clearing of vegetation and associated biodiversity values within the context of the current State Significant Development application. OEH would expect that this would include copies of the relevant consents and the appropriate 'condition(s) of consent' that permits this activity. Furthermore, this would need to be done to the satisfaction of the Department of Planning and Environment (DPE), who are the consent authority for this development. If DPE are satisfied that the current development consents for the quarry permit the vegetation to be removed without further assessment under the SSD process and/or the issued SEARs, then OEH will have no further comment on biodiversity.
- If the development consents do not permit the clearing then the biodiversity values (including threatened species) will need to be adequately assessed in accordance with the SEARs issued to date. This can be either under the FBA or the original methodologies outlined in the original SEARs (as per correspondence dated 30 May 2014). OEH has no particular preference for which method the proponent chooses; however, it must be done in consultation with DPE who are the consent authority. If the FBA is used, the assessment must be conducted by a person accredited in accordance with section 142B(1)(c) of the TSC Act, and it must include a BAR (and a Biodiversity Offset Strategy [BOS] if required). Regardless of the methodology chosen, the proponent will need to ensure that the biodiversity assessment is fully consistent with the requirements of the SEARs (revised or original).

Given that the FBA is a relatively new state wide policy, the consultant is welcome to contact OEH with any questions they may have regarding the application of this policy, including the methodologies it employs or the BioBanking Assessment Methodology in general (which is incorporated into the FBA).

#### References:

OEH (2014) *Framework for Biodiversity Assessment*. September 2014. NSW Office of Environment and Heritage, Sydney. [www.environment.nsw.gov.au/resources/biodiversity/140675fba.pdf](http://www.environment.nsw.gov.au/resources/biodiversity/140675fba.pdf)

### **ABORIGINAL CULTURAL HERITAGE**

OEH has reviewed the EIS and notes that it does not include any consideration of Aboriginal cultural heritage. Specific requirements for the assessment of Aboriginal cultural heritage were detailed by OEH in correspondence to DPE on 30 May 2014 (DOC14/84165-1) and included within the Secretary's Environmental Assessment Requirements (SEARs). This includes requirements for the identification and assessment of potential Aboriginal cultural heritage values and for effective consultation with Aboriginal communities. None of these requirements have been met and the EIS fails to assess potential impacts of the project on Aboriginal cultural heritage. As such, OEH does not endorse the EIS for the proposal on Aboriginal cultural heritage grounds.

### **FLOODING AND FLOODPLAIN MANAGEMENT**

OEH has reviewed the flooding / floodplain management component of the EIS. The proposal relies on existing sediment dams to protect the SEPP 14 coastal wetland downstream of the site. The spillway design used approximate methods (Blue Book calculations) more suited to temporary basins. As the basins on the site are intended to function in the long term and the downstream environment is a sensitive one, the spillway design should be confirmed by a specialist hydrologist/hydraulic engineer. The design should also examine the performance of the spillways in flood events greater than the 1% annual exceedance probability (AEP) and the consequences of failure. The engineer should also certify that the spillways have been constructed and maintained according to the design.

