



**Office of
Environment
& Heritage**

Your reference: SSD 5243
Our reference: DOC12/37147
Contact: Rachel Lonie, 9995 6837



Ms Heather Warton
Director Metropolitan and Regional Projects North
Department of Planning
GPO Box 39
Sydney NSW 2001

Attention: Brent Devine, Environmental Planner

Dear Ms Warton

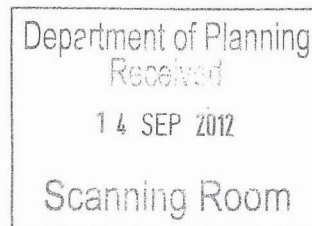
I refer to your letter received 7 August 2012 inviting the Office of Environment and Heritage (OEH) to provide comment on the Environmental Impact Statement for a Development Application for Stage 2A for the North Penrith Mixed Use Development (SSD 5243).

OEH comments are provided in Attachment 1. If you have any queries regarding this matter please contact Rachel Lonie on 9995 6837 (Monday or Wednesday only).

Yours sincerely

 11/9/12

LOU EWINS
Manager, Planning and Aboriginal Heritage
Conservation and Regulation, Metropolitan
Office of Environment and Heritage



ATTACHMENT 1

Office of Environment and Heritage Comment on Stage 2A North Penrith Mixed Use Development (SSD 5243)

1. Aboriginal Heritage

1.1 Assessment

The *Aboriginal Heritage Management Plan* (Jo McDonald Heritage Management, 28 October 2012) is for Site AHIMS #45-5-2491 and does not seem to extend to the whole of the development area. Previous comments from OEH recommended that an assessment of the whole of the development are be undertaken prior to determination of the proposal, in order to ensure the best management of Aboriginal cultural heritage values within the development area. OEH supports the management recommendations for AHIMS #45-5-2491, but cannot comment about the whole of the development area, as this information has not been provided. OEH recommends that if an archaeological assessment has been undertaken for the whole of the development area, this be provided and if this has not been taken place, that the assessment be undertaken as soon as practicable.

1.2 Consultation

Aboriginal Community Consultation has been undertaken for this project. The Director General's Requirements required that consultation was undertaken according to OEH's 2010 *Aboriginal Cultural Heritage Consultation Requirements For Proponents*. Previous comments from OEH stated that information had not been provided as to the date of advertisement, copies of all correspondence received in relation to Aboriginal community consultation and responses received from the Aboriginal community regarding the proposed management of AHIMS #45-5-2491. The date of advertisement has now been provided, however, information regarding all correspondence received in relation to Aboriginal community consultation and responses received from the Aboriginal community regarding the proposed management of AHIMS #45-5-2491 have not. Further, the provided report, dated 28 October 2010, states that responses from the Aboriginal community were expected by 28 September 2010 and would be included in the report. This has not happened. OEH recommends that the report be revised to include this information.

2. Cumberland Plain Woodland

The Concept Plan for North Penrith Mixed Use Development proposed protecting remnant Cumberland Plain Woodland (CPW) in the following ways:

Block C3

- via a Section 88b instrument

OS2

- retention of existing CPW,
- rehabilitation and bush regeneration of CPW understory;
- supplementary CPW tree planting; and
- a Bushland Plan of Management.

Appendix L Biodiversity Assessment Report by Eco Logical consultants contains recommendations for works "to achieve consistency with the Flora and Fauna Assessment" that have not been met by the proposed mitigation measures.

This includes that *"The placement of fill not occur within Section 88B instrument areas for Cumberland Plain Woodland, subject to any engineering or overland flow issues Department of Planning and Infrastructure may have in this part of the site"*:

OEH is concerned that the Site Regrading Plans (sheets 01 and 02) show fill and regrading for areas in both Block C3 and OS2 that are expected to have consequent impacts on CPW. Some of these areas are mapped as requiring consultation on Aboriginal and ecological issues. Other infill areas will also impact CPW and remnant trees in the southern part of C3 and in OS2 but have not been flagged as requiring consultation. For example the infill area is shown cutting across much of the CPW in OS2 that was indicated would be retained.

Proposed mitigation measures are that *"during the detailed design process and preparation of construction drawings, Landcom will consult with Penrith City Council and the Office of Environment and Heritage in relation to the quantum and extent of fill within the Thornton Park lot to ensure the ecological values of the Cumberland Plain Woodland are protected"*.

OEH does not consider this to be an adequate response.

The Statement of Commitments make reference to meeting the requirement for a Bushland Plan of Management via Appendix M (note this is incorrectly referenced, this should be Appendix L) and Section 6.6. This document does not contain a Plan of Management or Bushland Plan of Management but in fact makes a recommendation that one be prepared.

OEH Recommendations

- The areas of CPW in C3 and OS2 should be protected as per the commitments made at Concept Plan stage. There should be no regrading or fill works within at least a 3 metre radius of trees and shrubs that were identified in Figures 11 and 12 of the Flora and Fauna Assessment prepared by Lucas McKinnon for the Concept Plan as being either CPW *"Existing Trees to be retained"* and *"shaded Cumberland Plain Woodland with the C3 will be protected via section 88b instrument"* respectively.
- If the CPW vegetation cannot be protected as was committed to in the Concept Plan, an offset package should be developed in accordance with the OEH *Principles for the use of biodiversity offsets in NSW* (see <http://www.environment.nsw.gov.au/biocertification/offsets.htm>) to compensate for the losses.
- Should Stage 2A be approved that the conditions of approval specifically require a Plan of Management to be prepared for the CPW within OS2 (Thornton Park). This document should be forward to OEH for comment prior to finalising.
- As previously recommended the plan should include aims, timeframes, description of methods, monitoring requirements, key accountabilities and key milestones. The aims should include to protect and restore CPW vegetation in accordance with best practice guidelines (such as the DECCW *'Recovering bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland'* (available at <http://www.environment.nsw.gov.au/resources/nature/RecoveringCumberlandPlain.pdf>))