



Office of Environment & Heritage

DOC18/675268

Kate Graham cc Erin White

Division of Priority Projects Assessments

NSW Planning and Environment

Kate.graham@planning.nsw.gov.au

Cc Erin.white@planning.nsw.gov.au

Dear Ms Graham

RE: Eurobodalla Southern Storage Project SSD 7089 – Notice of Exhibition

Thank you for providing the Office of Environment and Heritage (OEH) with the opportunity to comment on the Eurobodalla Southern Storage Project.

Our advice is provided in the context of the Secretary's Environmental Assessment Requirements (SEARS). Detailed comments are provided in Attachments A and B to this letter and summarised below.

Biodiversity

The primary method required by the SEARs to offset the impacts on biodiversity, is the acquisition of biodiversity credits calculated through the Framework for Biodiversity Assessment (FBA). However, our review of the biodiversity assessment suggests that the Framework for Biodiversity Assessment (FBA) has not been adequately applied.

There are several omissions and inconsistencies in the *Biodiversity Assessment Report* prepared by SMEC that indicate that the biodiversity credit requirement has not been calculated correctly in accordance with the FBA. Details are provided in Attachment A. We are seeking further information and clarification from SMEC. We will also suggest to them that we undertake a joint site visit to resolve these issues and ensure that the biodiversity impacts and offset requirements are correctly quantified. We will write to you and advise on the outcomes of this discussion.

Aboriginal Cultural Heritage

Our review of the Aboriginal Cultural Heritage Assessment Report prepared by Navin Officer Heritage Consultants (NOHC) indicates that the Aboriginal Heritage requirements within the SEARs have been met. Some additional mitigation work is required as recommended by NOHC. However, no further archaeological investigation is needed unless the impact footprint changes and the recorded areas of Potential Archaeological Deposit will be affected.

We recommend that the protocols developed by NOHC for long term artefact management and surface collection are followed. If unanticipated Aboriginal objects are found or suspected human remains are found, the 'Unanticipated discovery protocols' (NOHC 2018) need to be followed.

If you would like to discuss the above comments further, please contact Michael Pennay on 02 6229 7960 for biodiversity and Sarah Robertson on 02 6229 7088 for Aboriginal Cultural Heritage.

Yours sincerely



11/10/2018

MICHAEL SAXON
Director - South East Branch
Conservation and Regional Delivery Division
OFFICE OF ENVIRONMENT AND HERITAGE

Attachment A – Detailed comments on Biodiversity matters

Attachment B – Detailed comments on Aboriginal cultural heritage matters

Attachment A - Detailed comments on the application of the FBA

Location and number of plots needed to calculate ecosystem credits

The number of plots used to determine site value described in the SMEC *Biodiversity Assessment Report* does not meet the minimum required by the FBA. This means that the number of ecosystem credits needed to offset this development may be more than what has been calculated in the SMEC *Biodiversity Assessment Report*.

We have identified at least one area likely to be endangered ecological community that has not had any survey or credits calculated.

Consideration and survey for species credit species

A key component of the FBA is that it establishes a systematic process to identify threatened plant and animal species that cannot be reliably predicted to use an area of land based on habitat surrogates. It also prescribes a method for calculating 'species credits' required to offset the impacts of a development on these species.

The SMEC *Biodiversity Assessment Report* (BAR) does not identify any species credits required to offset impacts of the proposed development. This may be a serious omission.

The BAR does not appropriately follow several FBA procedures in the assessment of species impacts and the calculation of species credits, specifically:

Candidate species The FBA requires the assessor make list of 'candidate (threatened) species' that may be on the site based on geographic distribution, landscape features on the site and past survey data.

- There appear to be candidate threatened species missing from the candidate list. In particular riparian dependent species. Further clarification of past survey data used and identification/attribution of landscape features present on the site (particularly riparian features) is required to determine if the FBA has been applied correctly.
- The FBA requires candidate species be considered for further assessment, either by survey, expert report or assumed present unless the site is degraded, the species is vagrant, or the records are over 20 years old. Some species appear to have been removed from further consideration by the assessor without an explanation as to why.
- The additional species recommended for consideration by OEH should have been treated as additional 'candidate species' for the purpose of this assessment.

Survey Surveys to determine if candidate threatened species are present on a development site are required by the FBA to calculate the impacts of the development on the species and to determine the offset credits required.

The FBA requires surveys to follow *OEH threatened species survey guidelines* which advise that surveys use robust stratification and sample with each (vegetation) zone.

The following problems with the threatened species surveys detailed in the BAR have been identified:

- The location of targeted flora and fauna survey sites do not appear stratified, and appear to fall primarily outside of the main impact site. This means that threatened species that may be present would not have been detected in the impact area and will therefore not be offset.
- The frog and pygmy possum surveys that were completed are described in the SMEC *Biodiversity Assessment Report* as having been conducted in sub-optimal conditions and cannot therefore be relied upon.

The impact of the above limitations will be better known following the proposed site inspection with SMEC.

Attachment B – Detailed comments on Aboriginal cultural heritage matters

Detailed comments on how the SEARs have been addressed are below;

SEARS project specific requirement 1: an Aboriginal heritage assessment must be completed. This must include a surface survey.

Navin Officer Heritage Consultants (NOHC) completed a surface survey of the impact area in February 2017. The survey did not record any Aboriginal objects, however, three areas with potential to contain subsurface Aboriginal deposits were recorded. In their assessment, NOHC re-surveyed the two previously identified Potential Archaeological Deposits (PADs 1 and 2) and identified a new area, called PAD 3. The proposed development does not impact the three PADs. As such, NOHC did not test excavate these areas. This approach meets the requirements of the SEARs

Test excavation was conducted in an area between PADs 1 and 2 and three stone artefacts were recovered. Surface artefacts were also identified on PAD 1, which consisted of five stone artefacts.

We recommend a condition of consent requiring that NOHC implement the surface collection in accordance with their methodology in Appendix 4 of the Aboriginal Heritage Assessment.

SEARS Requirement 2: Aboriginal community consultation

Consultation with Aboriginal people was undertaken in accordance with OEH guidelines. The Consultation occurred between 24 Nov 2016 and 15 Jan 2018. All feedback received from the Aboriginal community was supportive.

The consultation process substantially complied with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW, 2010) as required under the SEARs.

SEARS Requirement 3: the assessment must demonstrate attempts to avoid impact upon Aboriginal cultural heritage values and identify conservation outcomes; outline mitigation measures where impacts are unavoidable; detail procedures to be followed if Aboriginal objects are found at any stage of the life of the project; and detail procedures to be followed in the event Aboriginal burials or skeletal material is uncovered during construction.

The Aboriginal cultural heritage assessment (NOHC 2018) complies with this requirement. Impact to Aboriginal heritage values has been minimised through the design of the project, with no development occurring on the identified PADs. The procedures for finds and unexpected finds and the protocols for the unanticipated discovery of archaeological material and suspected human remains are included in the protocols developed by NOHC (2018).

The proponent must ensure that ongoing maintenance activities do not disturb the PADs. If they do, further archaeological assessment including test excavation is required. Additional archaeological investigation must be completed in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010) and with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* (DECCW, 2010). We recommend that this is written as a condition of consent.