NSW GOVERNMENT | Office of Environment & Heritage

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SSD9741

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SYDNEY NSW 2001

Attention: Patrick Copas

Dear Ms Morales

OEH comments on Notice of Exhibition – Lane Cove West Data Centre – 1 Sirius Road, Lane Cove West (SSD 9741)

Thank you for your letter of 10 April 2019 received by the Office of Environment and Heritage (OEH) requesting comments on the Environmental Impact Statement (EIS) for the above State Significant Development.

OEH appreciates the Department providing it with an extension in which to provide its comments. OEH provides its recommendations and comments in relation to biodiversity, flooding and sustainability at Attachment A.

Please note, in relation to Aboriginal cultural heritage, OEH has decided not to provide comments on Aboriginal cultural heritage matters at this time. This does not represent OEH 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 contact Janne Grose on 8837 6017 or janne.grose@environment.nsw.gov.au

Yours sincerely

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Attachment A

OEH comments on Notice of Exhibition – Lane Cove West Data Centre – 1 Sirius Road, Lane Cove West (SSD 9741)

Office of Environment and Heritage (OEH) has reviewed the following relevant reports for State Significant Development (SSD-9741):

- Environmental Impact Statement (EIS) – April 2019
- Survey Plan 9 – (Appendix 4)
- Architectural Plans - (Appendix 5)
- Landscape Plans - (Appendix 6)
- Landscape Design Report – 18 December 2018 - (Appendix 7)
- Flood Assessment Report – 10 December 2018 - (Appendix 10)
- Geotechnical Report – December 2018 - (Appendix 12)
- Phase 2 Acquisition Environmental Due Diligence Assessment (Appendix 14)
- Assessment Biodiversity Development Assessment Report (BDAR) – 20 December 2018 – (Appendix 23)
- Tree Assessment Report (TAR) – 18 December 2018 - (Appendix 24)
- Bushfire Protection Assessment (BPA) - February 2019 – (Appendix 28)
- Vegetation Management Plan (VMP) – 18 December 2018 – (Appendix 38)

and provides the following comments below.

Biodiversity

BDAR:
From the aerial photo of the site (Figure 1.2 of the EcoPlanning report), there appears to be some native vegetation mapped as 'exotic vegetation' on the north-western boundary of the site. OEH is aware that this vegetation may only appear to be on site because the cadastral boundary shown on Figure 1.2 is not the actual boundary. OEH assumes that the mapping of the extent of native vegetation on site is correct.

Section 5.1 of the report discusses how the proposal has avoided impacts on biodiversity, however the information in this section does not provide adequate detail as per the Biodiversity Assessment Method (BAM). In particular, information that specifically addresses sections 8.1.1.4, 8.1.1.5 and 8.1.2.1 of the BAM should have been included.

Avoid and minimise the impacts to native vegetation
The BDAR indicates a total of 0.91 ha of native vegetation occurs on the site and that the proposal would involve the clearing of approximately 0.79 ha of native vegetation (see sections 4.3.3 and section 5.1, page 36 and 38). This means 87% of the existing native vegetation on the site is proposed to be cleared and according to Figure 6.1 of the BDAR, all of the intact native vegetation would be impacted by the development/Asset Protection Zones (see page 42 of BDAR).

The development should first avoid impacts to native vegetation on the site. This is consistent with the *Biodiversity Conservation Act 2016* (BC Act) and the NSW Government Biodiversity Assessment Method 2017 (BAM) which is established under section 6.7 of the BC Act:

- The purpose of the BC Act requires impacts to biodiversity to be first avoided:
  (k) to establish a framework to avoid, minimise and offset the impacts of proposed development and land use change on biodiversity
- The BAM includes the guidelines and requirements that apply the avoid, minimise and offset hierarchy for assessing direct and indirect impacts.

It is recommended the footprint of the development is modified to avoid/minimise the clearing of native vegetation.

The TAR notes the proposed works will remove 82 trees within the impact area and the majority of the trees within the study area are commensurate with Plant Community Type (PCT) 1776 – Smooth-barked Apple – Red Bloodwood open forest on enriched sandstone slopes around Sydney and the Central Coast. In terms of assisting to mitigate the urban heat island effect at the site, impacts on biodiversity/habitat etc it is recommended any trees that are to be removed from the site are replaced at a ratio greater than 1:1.

The TAR recommends using tree species for replanting at the site that are derived from PCT 1776 – Smooth-barked Apple – Red Bloodwood open forest on enriched sandstone slopes around Sydney and the Central Coast but notes the landscape plantings also need to be species suitable for the intended use of the site (section 6.4, page 19). The EIS notes the Landscape Plan and the Landscape Design Report include a range of endemic and exotic species (page 85). Rather than plant exotic species, it is recommended that only local provenance native plant species are utilised to mitigate the impacts on biodiversity/habitat.

Figure 3.3 in the BDAR shows there is an existing tree canopy on the site which is mapped as "cleared land/ exotic grassland". The Survey Plan (sheet 1 of 9) shows these areas as existing tree canopy line over site. Clarification is required as to whether the tree canopy is native vegetation or exotic.

Cliffs, crevices and other geological areas

The EIS notes the site contains areas of cliffs, crevices, rocks and other geological areas of significance (see Table 6, page 39 and Figure 5.1 and Figure 5.2 of the BDAR, page 40). The Geotechnical Report indicates there is a north-east trending cliff line on the south and south-eastern parts of the site (including adjacent to the main access track) which has exposed rock outcrops and overhangs / caves (section 2. Page 1 and Photos 5, 6 and 9). It indicates excavation is proposed near the cliff lines both above and below the cliff (sections 8.2.1 and 8.5, pages 11 and 14). The BDAR notes these features do not support threatened species (Table 5.1, page 39) but they are likely to provide habitat for native fauna and it is unclear if these features will be impacted by the proposed development (see Site and Test Location Plan, Appendix C of Geotechnical Report). Further details need to be provided on this including a scaled map which locates:

- the site boundary
- the cliff line, crevices, rocks and other geological areas of significance
- the development footprint

Coastal Wetlands

The EIS notes the site is adjacent to an area mapped as containing 'Coastal Wetlands', It indicates the wetland would remain undisturbed and that setbacks would mitigate impacts associated with the adjoining development (see pages 44 and 45). A scaled map needs to be provided which clearly locates:

- the site boundary
- the development footprint
- the Lane Cove River, Stringybark Creek
- the wetlands
- the proposed setback widths between the wetlands and the development

Lane Cove River and Stringybark Creek

The reports accompanying the EIS provide conflicting information in relation to the riparian corridors along the Lane Cove River and Stringybark Creek, for example:

- The BDAR shows that part of the riparian corridors of the Lane Cove River and Stringybark Creek are located within the site (see section 2.1.3, page 6 and Figure 1.2).
- The Landscape Masterplan shows a larger area of the riparian corridor along Stringybark Creek occurs within the site than shown in the BDAR (Figure 1.2)
- Schedule 1 (Bushfire Protection Measures) in the BPA shows a larger area of the riparian corridors along the Lane Cove River and Stringybark Creek occurs within the site than shown in the BDAR
- the BDAR indicates the riparian corridor along Stringybark Creek within the site is proposed to be used as an Asset Protection Zone (APZ) (see Figure 1.3 and pages 4, 5 and 6)

- Schedule 1 (Bushfire Protection Measures) in the BPA shows the APZ and fire trail are located outside the riparian corridor of Stringybark Creek
- The Architectural Plan – Master Plan – Hydrant Point and the Landscape Masterplan show part of the fire trail is proposed to be located within the riparian corridor along Stringybark Creek
- Schedule 1 (Bushfire Protection Measures) in the BPA shows the riparian buffer of Lane Cove River within the site as an APZ
- Schedule 1 (Vegetation Management Works Plan) in the VMP shows the riparian buffer of Lane Cove River within the site is to be planted with fully structured revegetation Smooth-barked Apple – Red Bloodwood Open Forest

It is recommended the inconsistencies are amended and the proponent clarifies if APZs are proposed to be located within the riparian corridors as it is unclear.

The Natural Resource Access Regulator (2018) Guidelines for controlled activities on Waterfront Land – Riparian Corridors allow non-riparian corridor uses (including APZs) within the outer riparian corridor so long as the average width of the vegetated riparian zone can be achieved over the length of the watercourse within the development site. Where appropriate, 50 per cent of the outer vegetated riparian zone width may be used for APZ uses but an equivalent area connected to the riparian corridor must be offset on the site and the inner 50 per cent of the vegetated riparian zone must be fully protected and vegetated with native, endemic, riparian plant species.

The proposal should provide an equivalent area connected to the riparian corridor to offset any encroachment of the APZ. Figure 1.3 in the BDAR does not indicate an equivalent offset area connected to the riparian corridor has been provided (page 5).

The VMP indicates the revegetation of the riparian corridor along Stringybark Creek only involves the planting of small shrubs and groundcovers due to it being contaminated land (see Schedule 1 Vegetation Management Works Plan). However, OEH notes that the Phase 2 Acquisition Environmental Due Diligence Assessment recommends remediation of contamination in this area via a Remediation Action Plan (RAP). Therefore, OEH considers there may be an opportunity to revegetate the riparian corridor with plantings other than shrubs and groundcovers. OEH recommends the VMP be updated once the RAP has been finalised, to ensure revegetation opportunities of the riparian corridor are maximised.

For clarity, the proponent needs to provide a scaled plan which locates:

- the site boundary
- the development footprint
- the top of highest bank of the Lane Cove River and Stringybark Creek
- the boundary of the inner riparian protection zone and the outer riparian protection zone
- the riparian corridor width along Lane Cove River and Stringybark Creek (measured from the top of the highest bank)
- Asset Protection Zones
- existing native vegetation

Asset Protection Zones

The BPA indicates the APZ encroaches on land with slopes greater than 18 degrees and it recommends a geo-technical report is prepared for the steep APZ areas to ensure site stability (section 3.1, page 23). A scaled map needs to be provided which shows the location of the steep APZ areas and an assessment should be undertaken as to whether locating APZs on land with slopes greater than 18 degrees has the potential to erode and impact/degrade native vegetation/habitat downslope of the APZ.

Clarification is required as to when the geo-technical report is proposed to be prepared. As native vegetation surrounds the western and northern boundaries of the site, it is recommended the geo-technical report is prepared prior to approving the proposal to ensure there are no stability issues with clearing the steep slopes and the potential impacts on any adjoining native vegetation can be adequately mitigated.

Hollow Bearing Trees
The BDAR notes the subject land contains 11 hollow bearing trees (section 4.3.3, page 36) while the TAR states "twelve hollow-bearing trees were observed within the study area" and that ten of these trees are required to be removed (section 4.3, Page 9). The TAR recommends retaining hollow bearing trees of good condition wherever possible (section 6.2, page 18) but the proposal only proposes to retain one hollow bearing tree.

To compensate for the removal of the hollow bearing trees, the VMP proposes to install 10 nest boxes. It also proposes relocating the existing hollows but it is unclear if all of the 10 existing hollows to be removed will be suitable for relocation (see Section 3.5, page 20). It is recommended the tree hollows are replaced at a ratio greater than 1:1.

Mitigation Measures
The EIS includes mitigation measure (18) for the protection of native vegetation. OEH recommends it is amended to include the text in italicised bold:

(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 recommends the Mitigation Measures are amended to include the following:

- 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
- 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,
- 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
- 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
- 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
- seed from any native plants to be removed shall be collected and used in the revegetation and regeneration areas landscape areas
- 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
- any trees that are to be removed from the site are replaced at a ratio greater than 1:1
- any tree hollows to be removed are to be replaced at a ratio greater than 1:1

If consent is granted to this SSD, OEH recommends conditions of consent are included which require the implementation of the above mitigation measures.

Flooding
OEH has previously provided Secretary's Environmental Assessment Requirements (SEARs) for this development dated 14 December 2018. The floodplain management Assessment requirements are addressed in Attachment (A) items 14 to 18.

The site is impacted by flooding in its existing condition. The consultant, grc Hydro, provides a brief flood report dated 10 December 2018, which indicates the use of WBNM hydrologic modelling and TUFLOW hydraulic modelling to identify existing flood extent and level in the vicinity of the project. However, grc's assessment is limited to existing condition of the site.

Accordingly, the flood study should address the following issues for post development scenario:

- The effect of the development incorporating proposed bulk earthworks, on the current flood behaviour and on adjacent, upstream and downstream properties.
- The impact of climate change due to an increase of rainfall intensity by modelling the 0.5% and 0.2% AEP flood events as proxies.
- The impact of Sea Level Rise on the development.

Sustainable building design

OEH recommends the development incorporates Green Roofs and Cool Roofs into the design of the buildings where possible. The numerous benefits of Green Roofs and Cool Roofs are outlined in the OEH (2015) Urban Green Cover in NSW Technical Guidelines which can be found at the following link:
http://climatechange.environment.nsw.gov.au//Adapting-to-climate-change/Green-Cover

In addition to regulating the temperature of roofs and building interiors, reducing the energy needed for cooling and the impact of the UHI effect, the provision of Intensive Green roofs would provide additional recreational areas at the site for staff.

(END OF SUBMISSION)