



Office of
Environment
& Heritage



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Contact: Adrian Deville: (02) 6640 2509

Nick Hall
Senior Planner, Major Projects Assessment
Department of Planning and Infrastructure
GPO Box 39
Sydney NSW 2001

12 OCT 2012

Dear Mr Hall,

Re: Environ Road Quarry Landfill – Draft project approval

The Environment Protection Authority (EPA) has recently advised the Office of Environment and Heritage (OEH) of an email received from you on 28 September 2012 inviting comments on the above matter.

It is noted that this project is being assessed by the Department of Planning and Infrastructure (DP&I) as a Major Project application in accordance with the provisions of Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Whilst OEH does not have a statutory role in this proposal, we would appreciate the opportunity to provide input in relation to the biodiversity and Aboriginal Cultural Heritage aspects.

We have reviewed the documentation forwarded to the EPA and offer the following comments:

Biodiversity

OEH has reviewed the documentation provided and considered its previous correspondence with DP&I and Tweed Shire Council. While the overall approach to providing a biodiversity offset strategy is supported, it is not clear overall if the strategy will achieve a 'maintain or improve' outcome in terms of specific native vegetation and habitat losses and gains. The Biodiversity Offset Strategy should provide more quantitative and qualitative detail on residual biodiversity impacts resulting from the proposal and the means by which these will be offset on the site. It is recognised that to a large extent, future vegetation management plans may provide this information, but prior to their completion, it is difficult to determine the adequacy of the offset strategy in terms of 'like for like' and relative quantities.

In relation to the available information assessed, there are several elements that may require clarification before OEH recommends that approval is granted. These relate to the significance of the Brush Box – Bennett's Ash community in the West Valley footprint, the provision of low density planting of Koala food trees to the north of the central drainage line (to be rehabilitated) and to details of nest box provision and (as per above) revegetation across the site more broadly.

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Lowland Rainforest and the Brush Box – Bennett's Ash Community

An area mapped as Vegetation Type 7 – Brush Box – Bennetts Ash (*Lophostemon confertus* – *Flindersia bennettiana*) Open Forest, which is to be cleared from within the West Valley footprint, does not appear to have been given any consideration in terms of the Biodiversity Offset Strategy. This community (about 0.368 Ha) is described in the Tweed Shire Council Report for Eviron Road Quarry and Landfill Ecological Assessment (November 2010 pp68-9) as having moderate to high levels of disturbance. Referring to the Tweed Vegetation Management Strategy, the report suggests that this patch of 'brush box open forest' could be an intermediate stage that may eventually revert to rainforest, but that with high levels of disturbance, lack of structural attributes and a relatively low number of "characteristic lowland rainforest species at this location", it is "not considered to meet the Scientific Committee determination for the lowland rainforest EEC".

OEH has considered the listed species found from the site at upper, mid and lower strata of this disturbed patch of forest. Of the four main species found in each strata (see pp68-9), three are species characteristic of Lowland Rainforest EEC¹. OEH acknowledges that disturbance and structural qualities are important components of EEC description, however, the floristic composition, the existence of patches of Lowland Rainforest elsewhere on the site² and the likelihood that this community is considered likely to revert to rainforest, suggests that this patch of vegetation should be treated as regenerating Lowland Rainforest EEC.

Furthermore, Brush Box is also known to be a secondary Koala food tree in some areas.

Though it will apparently not be clear until final design stage whether or how much of this vegetation will need to be cleared (pp. 9-118-119 of the EA Vol 1), OEH recommends that the offset strategy should nevertheless be revised to address the above concerns.

Low Density Planting of Koala Food Trees on the flood plain

The origin and rationale for the proposed low density planting of Koala food trees on the coastal floodplain is unclear, as is the meaning of 'low density'. It is recommended that further information be provided before approval is granted. Subject to that, Koala food tree offsetting should be undertaken strategically in relation to this area in a manner likely to yield a self-sustaining natural ecosystem on the floodplain while maximising Koala movement and habitat value in the context of the broader site and landscape.

Nest Boxes

It is not clear from the information provided how many nest boxes would be provided and where they would be located. OEH recommends that these details be provided before approval is granted.

Area 1

Prior to approval, further information should be sought as to whether the proposed habitat retention and management areas (including those for translocation of threatened flora) are (or will be) designated as 'Operational' or 'Community' land under the Local Government Act 1993. Both classifications seem to be suggested by documentation provided, which may be contradictory in terms of the purpose of that act, with some implications for the long term security of the offset.

¹ <http://www.environment.nsw.gov.au/determinations/LowlandRainforestEndCom.htm>

² pp. 3-24 and 9-117 of the EA Vol 1, Nov 2010.

Aboriginal Cultural Heritage

A review of the documentation has been undertaken by OEH in accordance with OEH's Aboriginal cultural heritage assessment guidelines and the requirements of Part 6 of the *National Parks and Wildlife Act 1974* (NPW Act).

Concept Plan Approval

OEH acknowledges that the proponent will be required to undertake additional environmental assessments of the project area to support any future development applications. It is also noted that an Aboriginal cultural heritage assessment would form a component of this assessment. OEH recommends that the Aboriginal cultural heritage assessment should be undertaken in accordance with OEH's Aboriginal cultural heritage assessment guidelines and the requirements of the NPW Act.

Project Approval

OEH has reviewed the content of the conditions of approval drafted to manage the Aboriginal cultural heritage values associated with the project area. It is noted that separate Heritage Management Plans (HMPs) are to be prepared for the Quirks Quarry Landfill (draft Condition 35) and the West Valley Quarry (draft Condition 33). OEH supports the development and (if approved) the implementation of these plans.

However, OEH recommends an amendment to the draft conditions to remove draft conditions 35(c) and 33(c) of the HMPs, being the requirement to detail a targeted sub-surface archaeological investigation program. OEH is concerned that these requirements are unnecessary for the project. The conditions have been drafted contrary to the results of the Aboriginal cultural heritage assessment, contrary to the cultural heritage management and recommendations prepared by the proponent's archaeological consultant in Section 5.0 of the *'Cultural Heritage Assessment for the Proposed Eviron Road Quarry and Landfill Site – Tweed Shire'* (updated on 21 March 2009) and contrary to the mitigation measures outlined in Section 9.9.3 of the exhibited Environmental Assessment for the project application entitled: *'Report for Eviron Road Quarry and Landfill Proposal Part 3A Environmental Assessment'* (dated November 2011).

It is also recommended that the HMPs are amended to include a requirement to detail an Aboriginal Cultural Education Induction Program for each project to be developed for the induction of all personnel and contractors involved in the construction activities on site. The program should also be developed and implemented in collaboration with the registered Aboriginal parties.

We hope these comments of assistance. Should you have any further inquiries regarding biodiversity issues, please telephone Adrian Deville on 6640 2513. Should you have any further inquiries regarding Aboriginal Cultural Heritage issues please telephone Nick Pulver on 6659 8225.

Yours sincerely,



Jon Keats

**Manager, Biodiversity Management Unit North East
Conservation and Regulation
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