



Office of
Environment
& Heritage

Your reference: MP 10-0139
Our reference: DOC12/38401; FIL12/7028
Contact: Robert Gibson, 4908 6851

Mr Chris Ritchie
Manager – Industry, Major Projects Assessment
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Attention: Christine Chapman

Dear Mr Ritchie

RE: AWABA LANDFILL EXPANSION PROJECT, AWABA (MP 10_0139)

Reference is made to your letter dated 11 September 2012 seeking comments on the public exhibition of the Environment Assessment (EA) titled 'Additions to Awaba Waste Management Facility: Environmental Assessment' dated 29 August 2012, for the Awaba Landfill Expansion Project at Awaba. The Office of Environment and Heritage (OEH) understands that this is a transitional Part 3A project under Schedule 6A of the *Environmental Planning and Assessment Act 1979*.

OEH has reviewed the EA and provided comments in **Attachment 1**.

If you have any questions concerning this advice, please contact Dr Robert Gibson, Regional Biodiversity Conservation Officer, on 4908 6851.

Yours sincerely

30 OCT 2012

RICHARD BATH
Head – Hunter Planning Unit
Regional Operations Group, North East

Enclosure: Attachment 1

ATTACHMENT 1: REVIEW OF ENVIRONMENTAL ASSESSMENT, AWABA LANDFILL EXPANSION PROJECT (MP 10_0139) WITH RECOMMENDED CONDITIONS OF APPROVAL FOR ABORIGINAL CULTURAL HERITAGE AND THREATENED BIODIVERSITY ISSUES

OEH has reviewed the EA for the Awaba Landfill Expansion Project with regards to Aboriginal cultural heritage and threatened biodiversity issues.

Aboriginal Cultural Heritage Assessment

OEH acknowledges that the Aboriginal cultural heritage assessment has been undertaken in accordance with the OEH's assessment guidelines. The results of the Aboriginal cultural heritage assessment indicate that Aboriginal cultural heritage values located within the project area will be impacted by the development proposal. It is noted that the proponent has developed a range of appropriate management and mitigation strategies in consultation with the registered Aboriginal parties to address these likely impacts. OEH has recommended conditions of approval in below to address these matters.

Conclusion

OEH has no additional concerns with the Aboriginal cultural heritage assessment for the project application and recommends that the following conditions of approval for Aboriginal cultural heritage are reflected in any approval conditions for the project.

RECOMMENDED CONDITIONS OF APPROVAL FOR ABORIGINAL CULTURAL HERITAGE

1. The proponent must consult with and involve all the registered Aboriginal parties for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the consent authority upon request.
2. The proponent must prepare a Cultural Heritage Management Plan (CHMP) to detail procedures for managing the Aboriginal cultural heritage values associated with the project area. The CHMP is to be implemented in consultation with the registered Aboriginal parties. The plan must also detail the involvement and responsibilities of the Aboriginal stakeholders in the implementation of all cultural heritage management actions; details of the responsibilities of all other stakeholders; details of all mitigation and management strategies (including monitoring program, further investigations, etc); procedures for the identification and management of previously unrecorded sites (including human remains); details of an appropriate keeping place agreement with local Aboriginal community representatives for any Aboriginal objects salvaged through the development process; details of the Aboriginal Cultural Heritage Education Induction Program for all contractors and personnel associated with construction activities; and compliance procedures in the unlikely event that non-compliance with the CHMP is identified. This process must be undertaken prior to commencing any ground disturbance or development works subject to the development.
3. The proponent is to provide fair and reasonable opportunities for the registered Aboriginal parties to monitor any initial ground disturbance activities associated with the project. In the event that additional Aboriginal objects are uncovered during the monitoring program, the objects are to be recorded and managed in accordance with the requirements of Sections 85A and 89A of the *National Parks and Wildlife Act 1974*.
4. All Aboriginal sites impacted by the project must have an Aboriginal Site Impact Recording (ASIR) form completed and be submitted to the AHIMS Registrar within three (3) months of being impacted.
5. If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are contacted immediately. No action is to be undertaken until the NSW Police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact the Environment Line on 131 555 and representatives of the local Aboriginal community. No works are to continue until the OEH provides written notification to the proponent.

6. An Aboriginal Cultural Education Induction Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the registered Aboriginal parties.

Threatened Biodiversity Assessment

The main issues with regards to threatened biodiversity pertain to the provision of biodiversity offsets and the pre-clearing surveys and any translocation of threatened fauna found. These are discussed below:

Biodiversity offsets

The proposed development has a footprint of 8.55 hectares on Lot 372 in Deposited Plan (DP) 723259, of which 7.2 hectares has been identified as native vegetation (2.16 hectares of Smooth-barked Apple – Red Bloodwood open Forest and 5.04 hectares of Scribbly Gum – Red Bloodwood heath woodland), and a further one hectare to connect a sewer line from the site to the nearby sewage treatment works. The native vegetation to be cleared contains 2302 plants of the Black-eyed Susan (*Tetralochea juncea*) which is listed as 'Vulnerable' under the *Threatened Species Conservation Act 1995*.

The proponent has used the BioBanking Credit Calculator (Version 2.0) and determined that the development generates 392 Ecosystem Credits and 33,853 Species Credits. In order to retire these credits the proponent is considering using 34.46 hectare of remnant vegetation to be retained on the southern part of Lot 372 and also part of the adjacent Lot 373 DP 723259, which provide 69,792 Species credits (for 11,623 *Tetralochea juncea* plants) and 153 ecosystem credits in the required vegetation types. To make up for the shortfall in ecosystem credits the proponent has committed to purchasing additional suitable land, and then develop a BioBank Site Management Plan and commit to using BioBanking to providing then securing the required biodiversity offset for this proposal. OEH acknowledges that the proposed BioBank Agreement site contains additional threatened species and vegetation communities not found in the development footprint, and these extra credits may be retired as needed for other development projects in accordance to the rules of BioBanking.

Pre-clearing Surveys and translocation of threatened fauna

Section 6.5.4.3 of the Main Report of the EA recommends that a Fauna Management Plan is prepared for the project that includes protocols for the detection and relocation of native fauna present in trees, hollows and logs within the development footprint. OEH notes that the EA lacks specific details on who would be involved in any pre-clearance surveys and where any captured fauna found during such surveys will be released. Although OEH generally does not normally support translocation of threatened fauna due to impacts on resources, potential disease implications, and social disruption of other animals already utilising available habitat, we acknowledge the 'good intentions' of such a measure.

Any translocation of wildlife must be done in accordance with OEH policy – 'Policy for the Translocation of Threatened Fauna in NSW' (NPWS 2001), and translocation of threatened species will likely require a license (e.g. Section 132 under the *National Parks and Wildlife Act 1974* and/or Section 91 under the *Threatened Species Conservation Act 1995* if species are being relocated to areas outside the approved development consent area).

Conclusions

OEH supports this proposed use of BioBanking to provide and secure biodiversity offsets for this proposal and recommends that this process is formalised in recommended conditions of approval. OEH does not normally support translocation of threatened species, however, if this is contemplated it must be conducted in line with OEH guidelines (see below).

RECOMMENDED CONDITIONS OF APPROVAL FOR THREATENED BIODIVERSITY

1. That prior to expansion of the Awaba Waste Management Facility the proponent must establish a BioBanking Site over the proposed development footprint, as described in the Environmental Assessment 'Additions to Awaba Waste Management Facility' ('the EA'), dated 29 August 2012, on Lot 372. The BioBanking Site must be established in accordance with the BioBanking Scheme (as defined in Part 7A of the *Threatened Species Conservation Act 1995*);
2. That prior to the establishment of the Awaba Waste Management Facility the proponent must provide an offset ('the BioBanking Agreement Site'). This BioBanking Agreement Site must include parts of Lots 372 and 373 on DP 723259, as described in the EA, and may include additional land. The BioBanking Agreement Site must be assessed using the BioBanking Assessment Methodology (as defined in Section 127B of the *Threatened Species Conservation Act 1995*) and it must generate the same number of ecosystem and species credits as the BioBanking Site (described in Condition 1, above);
3. That prior to the expansion of the Awaba Waste Management Facility the proponent must ensure that a BioBanking Agreement, as per Part 7A of the *Threatened Species Conservation Act 1995*, is established over the BioBanking Agreement Site in accordance with the BioBanking scheme;
4. That pre-clearing surveys are conducted by a suitably qualified and experienced ecologist (as per DEC, 2004); and
5. That the translocation of any threatened fauna found in the development site are conducted in line with OEH policy - *Policy for the Translocation of Threatened Fauna in NSW* (NPWS 2001).

References:

DEC (2004) *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities*. Working Draft. November 2004. Department of Environment and Conservation (NSW)
www.environment.nsw.gov.au/resources/nature/TBSAGuidelinesDraft.pdf

NPWS (2001) *Policy for the Translocation of Threatened Fauna in NSW*. Policy and Procedure Statement No. 9, Threatened Species Management, NSW NPWS, Hurstville, NSW www.environment.nsw.gov.au/resources/nature/policyFaunaTranslocation.pdf