



Office of
Environment
& Heritage

Your reference : SSD 6603
Our reference : DOC14/277813
Contact : Rachel Lonie 9995 6837

Mr Ben Lusher
Manager Key Sites
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Attention: Peter McManus

Dear Mr Lusher

I refer to your invitation to the Office of Environment and Heritage (OEH) to comment on exhibition of a development application for Site 68 Mixed Use Development, Sydney Olympic Park (SSD 6603).

OEH provides comments on biodiversity issues in Attachment 1.

Should you have any queries in regard to this correspondence please contact Rachel Lonie, Senior Operations Officer, on 9995 6837 or by email at rachel.lonie@environment.nsw.gov.au.

Yours sincerely,

S. Harrison 15/12/14

SUSAN HARRISON
Senior Team Leader Planning
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ATTACHMENT 1. Public Exhibition of the Environmental Impact Statement (EIS) for the Development Application for Site 68 Mixed Use Development, Sydney Olympic Park (SSD 6603)

The public exhibition documents include Appendix P1 to the EIS which is titled *Flora and Fauna Assessment Report. Decommissioning Site 68 Stormwater Basin (SOPA)* (Applied Ecology September 2014) and an *Interim Biodiversity Offset Strategy (BOS)* (EcoLogical November 2014).

1. Offset Strategy

The BOS calculates the offset requirement in accordance with the Office of Environment and Heritage (OEH) advice (i.e. using the relevant equations from the *Framework for Biodiversity Assessment (FBA)* and suggests that the preferred means of delivering the offset is Option 3 which is to commit to purchasing/protecting an offset area of around 3 hectares within the Homebush Bay precinct. This area would include habitat creation measures aligned with ongoing management costs of the offset site. The BOS suggests that this option requires agreement from the Sydney Olympic Park Authority (SOPA) who would have to make a suitable area of land available.

OEH supports this proposed offset however the BOS and the EIS do not address the other offset requirements which are as follows.

Achieving the offset requirement

The EIS should document the Offset Strategy that is proposed, demonstrating achievement of the offset being like-for-like (as per FBA offset rules), or a species with a higher conservation status. It should set out the species credits required by the FBA and how these species credits will be secured and obtained.

The offset must be additional to other legal requirements

The Offset Strategy must demonstrate that the proposed offset site is not subject to a requirement to implement existing conservation obligations, or, that it will adhere to the 'additionality' rules within FBA.

Offsets must be enduring

The Offset Strategy must identify the legal mechanism that will be used to secure the offset site. While biobanking agreements are the preferred mechanism for securing offsets, other conservation mechanisms may also be acceptable prior to formal commencement of the FBA. Interim mechanisms for securing offsets include (listed in order of preference):

- biobanking agreement (preferred)
- purchase and retirement of the appropriate biodiversity credits from a third party biobank site
- dedication of land under the *National Parks and Wildlife Act 1974* (NPW Act)
- Trust Agreements under the *Nature Conservation Trust Act 2001*
- a Property Vegetation Plan registered on title under the *Native Vegetation Act 2003*
- a Planning Agreement under s 93F of the *Environmental Planning and Assessment Act 1979*.

Use of Supplementary measures

If a suitable offset cannot be located, the Offset Strategy included in the EIS must demonstrate, that all endeavours were undertaken to identify a suitable offset site, and how suitable sites were attempted to be located. In the event that it is agreed that a suitable offset site cannot be located, supplementary measures may be used. Any proposal for the use of supplementary measures must be discussed with OEH prior to the EIS being submitted for exhibition.

2. Mitigation Measures

OEH previously commented that mitigation measures should be identified such as procedures for the salvage and relocation of native fauna that may be using the detention pond and the fringing vegetation. These mitigation measures have not been provided.

Instead the draft statement of commitments states that the recommendations in Appendix P1 will be implemented. These are to:

- Conduct surveys of the aquatic zone to ensure that *Zannichellia palustris* is not present
- Conduct additional surveys of the SWQCP in spring and summer to gain a more clear understanding of the species that use the pond, and the level of usage to ensure that offsets are able to more accurately compensate for the loss of habitat; include microbat surveys in subsequent surveys
- Locate and improve habitat areas nearby for Green and Golden Bell Frog
- Locate and improve habitat areas nearby for Latham's Snipe and Cattle Egret
- Include dog and cat proof fencing around offset areas designated as substitute habitat for threatened and migratory species affected by the loss of habitat at Site 68's SWQCP
- Ensure all offsets meet all the statutory requirements detailed in the Biobanking Assessment Methodology and Credit Calculator Operational Manual (DECCW, 2008), as outlined in "Attachment 1: Biodiversity offsetting for Major Projects – Interim Arrangements for assessing and offsetting impacts" included in OEH's letter dated 30/7/14

Of the recommendations above, OEH supports further surveys for the threatened aquatic plant *Zannichellia palustris*, given the species is known from sites nearby. However, OEH notes that any such surveys for the species should not be conducted in summer given it is an annual and dies back over this period.

OEH does not support the other recommendations as listed in Appendix P1. Recommended conditions of consent are included below.

3. Water quality treatment

OEH notes that the stormwater treatment systems on the site have been sized to ensure that waters received from the upstream catchment area will be treated as well and the treatment systems have been sized to exceed SOPA's best practice targets for the whole catchment. This will ensure that the removal of the existing water quality control pond will not have an adverse impact on the downstream receiving waters.

4. Suggested conditions of consent

OEH recommends the following requirements be considered as conditions of consent:

- A revised BOS which addresses the offset requirements 1-4 above.
- The implementation of the BOS (i.e. establishment of the offset site) within a strict timeframe, with implementation of the BOS monitored and enforced by the consent authority. OEH considers the offset site should be established prior to the impacts occurring from the proposal.
- The BOS include requirements for habitat creation and ongoing management of the offset site for GGBF. It should demonstrate how the waterbody in the offset area will be maintained as gambusia free and how the fringing areas will be landscaped. Other measures may include specific requirements for managing public access and dog/cat proof fencing depending on the offset location. These requirements should be developed in accordance with OEH's GGBF recovery plan and associated guidelines and be prepared by a suitably qualified and experienced herpetologist.
- The habitat should also be suitable for migratory species, such as Latham's Snipe and Cattle Egret, to offset any potential impacts on these species.
- Mitigation measures for the salvage and relocation of native fauna during decommissioning of the detention pond and associated clearing works.
- Mitigation measures for managing the site during construction to avoid impacts on threatened fauna and migratory species such as inhibiting GGBFs from the work site during the construction phase, ensuring excavation areas and pits are routinely monitored for GGBFs and that measures are in place for their relocation to suitable habitat if required. Note: there may be standard SOPA guidelines for these mitigation measures already available.

(END OF SUBMISSION)

