



Office of Environment & Heritage

DOC15/443958-16
SSD 6835

Mr Chris Ritchie
Director
Industry Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Mr Ritchie

Lucas Heights Resource Recovery Project (SSD 6835) – Biodiversity Offset Strategy

Following the Office of Environment and Heritage's (OEH) submission on 18 December 2015 regarding the exhibition of the Lucas Heights Resource Recovery Project, OEH has received a request from the Applicant regarding the Biodiversity Offset Strategy (BOS). The Applicant's request (see email in Attachment 1), dated 22 January 2016, proposes to develop the BOS in parallel to preparation of the Response to Submissions (RTS) report, rather than address all of OEH's comments regarding the BOS within the RTS. The BOS would be submitted at a later, unspecified, time. The Applicant seeks OEH's advice on the proposed approach, and what level of detail would be required within the RTS to satisfy OEH.

The Department of Planning and Environment (DPE) sought OEH's input to the Secretary's environmental assessment requirements (SEARs) for SSD 6835 on 4 December 2014. OEH provided a response on 18 December 2014 which was appended to the SEARs issued by DPE on 3 February 2015. OEH's biodiversity requirements for the SEARs included implementation of the NSW Government's *Framework for Biodiversity Assessment* (FBA), which is the underlying assessment tool of the Government's *NSW Biodiversity Offsets Policy for Major Projects* (the Offset Policy).

Both the FBA and the Offset Policy require the BOS to be submitted to DPE with the environmental impact statement (EIS) to form part of the application for development consent. Section 89F of the *Environmental Planning and Assessment Act 1979* then requires DPE to "place the application and any accompanying information on public exhibition". As identified in OEH's response to the exhibition of SSD 6835, the draft BOS is inadequate and does not fully address the FBA requirements outlined in Table 22 of Appendix 7.

Further, OEH has concerns regarding the availability of species credits required to offset impacts for the *Allocasuarina diminuta* subsp. *mimica* endangered population (recorded on site), potentially for the *Prostanthera saxicola* endangered population (if considered likely to occur), and *Acacia bynoeana* (recorded on site). The *Allocasuarina diminuta* subsp. *mimica* endangered population has a very small area of occupancy with all recent records occurring within less than 5 km of the study area (two records,

both almost 30 years old, occur 7.5 km to the north and 9 km to the north-east). The *Prostanthera saxicola* endangered population, yet to be adequately assessed for presence/absence within the study area, also has a very small area of occupancy; although all the records are quite old (> 25 years), all occur within approximately 6.5 km of the study area. Both populations have been nominated as entities for further consideration in accordance with s.9.2 of the FBA and need to be sufficiently addressed. The threatened plant, *Acacia bynoeana*, is identified within the Threatened Species Profile Database as a species that cannot withstand further loss within the Sydney Metro CMA. In addition to the threatened plants, no evidence has been provided that the required species credits for threatened fauna (Eastern Pygmy-possum, Giant Burrowing Frog and Rosenberg's Goanna) will be available.

Given the above, and the high risk of the required credits not being available, OEH does not support the Applicant's request to submit a more developed BOS after the RTS. OEH expects that the Applicant will address the comments provided on 18 December 2015 within the RTS.

Another suggestion by the Applicant was to include a condition of consent that dictates no construction can commence prior to having the BOS approved by OEH. As above, due to the high risk of some required credits not being available (based on the information provided to date), OEH strongly recommends that the comments provided on 18 December 2015 be addressed within the RTS, and before determination of the project. Further, OEH does not agree to be appointed a post-consent consultation or approval role without its agreement.

If you have any queries regarding this matter please contact Jennifer Charlton, Conservation Planning Officer, on 8837 6311.

Yours sincerely

S. Harrison 04/02/16

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region

Cc. Carol Ng, Project Manager, SUEZ Recycling & Recovery Australia.

Attachment 1: Email from Carol Ng, Project Manager, SUEZ Recycling & Recovery Australia (aka SITA Australia) RE: Lucas Heights Resource Recovery Project (SSD 6835) – Biodiversity Offset Strategy

From: Ng, Carol [mailto:carol.ng@suez-env.com.au]

Sent: Friday, 22 January 2016 11:17 AM

To: Marnie Stewart

Cc: Deana Burn; [Drinnan@ssc.nsw.gov.au]; Carbins Phil

Subject: RE: Proposed meeting with OEH regarding Lucas Heights Resource Recovery Park Project (SSD 6835)

Hi Marnie

As discussed, some more context about our query prior to our meeting/ teleconference

Our main question is related to the requirements of the biodiversity offset strategy and the timeframe in relation to the Submissions Report

Our project has 2 components that require biodiversity offset – the GO facility and ARRT facility. We are looking to undertake detailed design prior to construction of both facilities.

As you could appreciate developing a biodiversity offset strategy requires significant thought. Sutherland Shire Council is a joint applicant to our project and the offset strategy needs to be determined collaboratively with Council, who has a few options available that we can investigate. We have in our draft offset strategy investigated SICTA land (within our boundary) as an offset potential but we also need to undertake more survey to confirm that.

We therefore suggest to develop the biodiversity offset strategy in parallel to the Submission Response in consultation with OEH and SSC. This will give us more time to develop the most effective strategy rather than rush to have the document prepared to not hold up the Submission Response. Perhaps a condition of consent that dictates we cannot construct prior to having our offset strategy approved by OEH will provide safeguard that offset could be achieved.

I understand the DPE is the consent authority but from discussions with DPE they will also seek feedback from OEH. We therefore was hoping to discuss the above with both the OEH and DPE, and our query being what is the level of detail required to address OEH concerns for the Submission Report

Look forward to speaking with you further on this matter

Best regards

Carol Ng
Project Manager – NSW Infrastructure
SUEZ Recycling & Recovery Australia

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SITA Australia is changing brand to SUEZ

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