



Office of
Environment
& Heritage

DOC17/484158
SSD 8448

Ms Bianca Thornton
Planning Officer
Industry Assessments
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Dear Ms Thornton

New LPG Storage Facility, 130 Cormorant Road, Kooragang (Part Lot 1 DP 1195449) (SSD 8448)

I refer to your email dated 12 September 2017, seeking comments on the exhibited *New LPG Storage Facility, 130 Cormorant Road, Kooragang (Part Lot 1 in Deposited Plan 1195449) Environmental Impact Statement (EIS)* located in the Newcastle local government area. The Office of Environment and Heritage (OEH) understands that the EIS is on public exhibition from 14 September 2017 to 16 October 2017.

OEH has reviewed the EIS in relation to threatened biodiversity, Aboriginal cultural heritage, and flooding/floodplain issues. OEH's recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**.

If you require any further information regarding this matter, please contact Steve Lewer, Regional Biodiversity Conservation Officer, on 4927 3158.

Yours sincerely

 16/10/2017

SHARON MOLLOY
Director
Hunter Central Coast Branch
Regional Operations Division

Enclosure: Attachment A

Attachment A

OEH's Recommendations

New LPG Storage Facility, 130 Cormorant Road, Kooragang (Part Lot 1 DP 1195449)

Recommendations

- i. OEH recommends that biodiversity impacts related to the proposed development should be assessed and documented in accordance with the Framework for Biodiversity Assessment, by a person accredited in accordance with s142B(1)(c) of the *Threatened Species Conservation Act 1995*.
- ii. The EIS must identify and describe the Aboriginal cultural heritage values that exist across the whole area that will be affected by the project and document these in an Aboriginal Cultural Heritage Assessment Report (ACHAR). This may include the need for surface survey and test excavation. The identification of cultural heritage values should be guided by the [*Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW \(DECCW, 2011\)*](#) and consultation with OEH regional branch officers.
- iii. Consultation with Aboriginal people must be undertaken and documented in accordance with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW). The significance of cultural heritage values for Aboriginal people who have a cultural association with the land must be documented in the ACHAR.
- iv. Impacts on Aboriginal cultural heritage values are to be assessed and documented in the ACHAR. The ACHAR must demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, the ACHAR must outline measures proposed to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to OEH.

Attachment B

OEH's detailed comments

New LPG Storage Facility, 130 Cormorant Road, Kooragang (Part Lot 1 DP 1195449)

OEH has conducted a review of the report titled *New LPG Storage Facility, 130 Cormorant Road, Kooragang (Part Lot 1 DP 1195449) Environmental Impact Statement (EIS)*. OEH has reviewed this report in relation to threatened biodiversity, Aboriginal cultural heritage, and flooding/floodplain matters, and provides the following comments.

The biodiversity impacts of the project should be assessed in accordance with the Framework for Biodiversity Assessment

OEH was not invited to provide input into the Secretary's Environmental Assessment Requirements (SEARs) to the Department of Planning and Environment for this project. As such our standard major project requirement for the assessment to be undertaken according to the Framework for Biodiversity Assessment (FBA) was not included in the SEARs. As such the proponent's EIS has not assessed the impacts of the proposal in accordance with the FBA.

As an FBA assessment has not been provided for the project, OEH is unable to assess the level of impact the project is likely to have on threatened biodiversity. Although OEH concurs that the proposed site has been disturbed, it still contains some areas of potentially native vegetation and threatened species habitat which require assessment. As such, in accordance with other major project assessments OEH requests that biodiversity impacts related to the proposed development are to be assessed and documented in accordance with the Framework for Biodiversity Assessment, by a person accredited in accordance with s142B(1)(c) of the *Threatened Species Conservation Act 1995*.

Recommendation

- i. OEH recommends that biodiversity impacts related to the proposed development should be assessed and documented in accordance with the Framework for Biodiversity Assessment, by a person accredited in accordance with s142B(1)(c) of the *Threatened Species Conservation Act 1995*.

Further assessment is required of the project's potential impacts on Aboriginal cultural heritage

OEH understands that RPS Australia undertook a search of the Aboriginal Heritage Information Management System (AHIMS) database on 5 July 2017 that was provided to support the findings contained within the EIS. OEH also notes that the Aboriginal cultural heritage assessment supplied for review was prepared in 2006. This assessment is significantly outside the timeframes that OEH considers for an assessment to be valid, and does not comply with current best practise guidelines. OEH also notes that there is no evidence supplied that a survey of the project area to determine the presence or absence of Aboriginal objects was undertaken.

The SEARs clearly stipulate that the EIS must assess Aboriginal cultural heritage values, and OEH is of the view that this requirement has not been satisfied by the information that has been provided. OEH notes that no evidence of consultation with the Aboriginal community has been supplied. In order to identify Aboriginal cultural heritage values, which may include intangible values, as required by the SEARs, consultation should be undertaken with Aboriginal people and be documented in accordance with the *Aboriginal cultural heritage consultation requirements for proponents 2010* (DECCW 2010). The identification of Aboriginal cultural heritage values should be guided by the *Guide to Investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (DECCW 2011).

OEH is unable to access the potential impact of the project on Aboriginal cultural heritage until an assessment is provided that follows OEH's current guidelines which are outlined below.

Recommendations

- i. The EIS must identify and describe the Aboriginal cultural heritage values that exist across the whole area that will be affected by the project and document these in an Aboriginal Cultural Heritage Assessment Report (ACHAR). This may include the need for surface survey and test excavation. The identification of cultural heritage values should be guided by the [Guide to investigating, assessing and reporting on Aboriginal Cultural Heritage in NSW \(DECCW, 2011\)](#) and consultation with OEH regional branch officers.
- ii. Consultation with Aboriginal people must be undertaken and documented in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010 (DECCW). The significance of cultural heritage values for Aboriginal people who have a cultural association with the land must be documented in the ACHAR.
- iii. Impacts on Aboriginal cultural heritage values are to be assessed and documented in the ACHAR. The ACHAR must demonstrate attempts to avoid impact upon cultural heritage values and identify any conservation outcomes. Where impacts are unavoidable, the ACHAR must outline measures proposed to mitigate impacts. Any objects recorded as part of the assessment must be documented and notified to OEH.

OEH is satisfied with the findings of the flooding assessment

OEH has reviewed the flooding / floodplain management component of the EIS and notes there are no flood related issues associated with this proposed development, as the land is above the 1% Annual Exceedance Probability (AEP) and within the Life Hazard Category L1 of the Probable Maximum Flood (PMF) flood extents as per Councils DCP controls, which can be managed through evacuation from the site during extreme flood events.