

Anthony Savenkov
Project Manager–Tallawarra Lands
TRUenergy
Level 33, 385 Bourke St
Melbourne, VIC 3000

Ref/Job No: 11SYDECO-0112

22 February 2012

Dear Anthony,

RE: Tallawarra Concept Plan Exhibition – OEH Comments

This letter addresses the comments by the Office of Environment and Heritage (OEH) in their letter dated 7 November 2011 in regard to the Part 3A Concept Plan for Tallawarra Lands – Major Project Number #MP09_0131.

OEH have requested prior to determination, additional legal measures to secure biodiversity outcomes achieved by the proposal in perpetuity. This request is supported by the Department of Planning and Infrastructure (DoPI) in their letter to you dated 23 December 2011.

In perpetuity security of environmental outcomes achieved by the Tallawarra Lands Concept Plan

As recognised by OEH, the Tallawarra Lands Concept Plan achieves major environmental outcomes including:

- 117ha from a total of 122ha (or 96%) of the EECs onsite will be retained, enhanced and protected
- This represents a protection ratio of 27:1 (i.e. for each one hectare impacted - 27ha will be protected)
- Of the small impact to EECs (approximately 4.37ha), the majority is vegetation that is in small fragmented patches, often heavily disturbed by weed invasion or previous landuse related disturbances (clearing, grazing, and soil disturbances).
- The vast majority of these EECs on site are retained are within land zoned as E2–environmental protection.
- A Vegetation Management Plan funded to \$3.8M will implement restoration works in these areas over a 5 year period.

DoPI and OEH have further requested that TRUenergy secure these biodiversity outcomes via an appropriate legal instrument on title above and beyond the E2 zoning controls and Wollongong Council's tree management controls. At this stage of the Part 3A planning process, TRUenergy have commenced discussions with relevant public authorities whom will ultimately own and/or manage the E2 corridors on site. As such, it would be premature to define the appropriate legal instrument (as identified in OEH's letter) to ensure in perpetuity protection. In order to satisfy DoPI's and OEH request in this regard, we recommend altering the current Statement of Commitments to (see overleaf):

NO#	Subject	Commitment	Timing	Responsible monitoring body / authority
18a	In perpetuity security of biodiversity outcomes on E2 lands	<p>TRUenergy commits to entering into discussions with relevant authorities, or recognised private conservation land managers such as Bush Heritage Australia, to arrange for transfer of ownership of the areas of retained vegetation; and/or;</p> <p>dedicating the conservation lands to Wollongong City Council as reserves to be administered under the Local Government Act; and/or;</p> <p>establishing an in-perpetuity Property Vegetation Plan under the Native Vegetation Act 2003; and/or</p> <p>applying for Conservation Agreement under the National Parks and Wildlife Act 1974; and/or</p> <p>establishing a conservation covenant under Nature Conservation Trust Act; and/or</p> <p>securing in perpetuity the biodiversity outcomes of the retained vegetation of the E2 lands through other appropriate legal mechanism(s).</p>	Prior to completion of relevant works under the Vegetation Management Plan.	<p>Relevant consent authority / recognised conservation land manager</p> <p>Relevant consent authority</p> <p>Catchment Management Authority</p> <p>NPWS/DECCW</p> <p>Nature Conservation Trust of NSW.</p> <p>Relevant consent authority</p>

Other biodiversity matters raised by OEH addressed include:

- Impacts on Illawarra Lowlands Grassy Box Woodlands
- Measures to avoid impacts (predominately on *Chorizema parviflorum*)
- Licensing

Impacts on Illawarra Lowlands Grassy Box Woodlands

OEH re-iterate legal status of the Illawarra Grassy Box Woodlands as EPBC listed. A referral (2011/6002) submitted under the EPBC Act has been determined by SEWPaC that the Concept Plan is a 'non-controlled action'.

The proposal includes the removal of approximately 3.28 ha of ILGW also listed under the TSC Act. This loss is spread across a number of small stands in the west and north east of the study area. This represents 11.07 % of the ILGW present within the study area. The remaining ILGW (26.35 ha) will be preserved along Duck Creek and incorporated into an environmental reserve. Other woodland vegetation that will be preserved and consists of a small stand of LWMF in the south west and a stand of CGRF / MBRGFF in the north east both of which are outside the proposed conservation areas (ie: additional to zoning controls).

The placement of a road through the lower portion of the most consolidated stand of ILGW along Duck Creek will isolate a small portion of this stand of vegetation. However, the connectivity along the Duck Creek corridor is likely to be enhanced as a consequence of the proposal and the utilisation of the existing road disturbances. Further a VMP will be implemented across the site that includes revegetation works within the Duck Creek corridor. The VMP is also likely to reduce the current weed infestations in and increase the quality of this community within study area.

Measures to avoid impacts

OEH are also concerned with the location of the access road into the Lakeside Precinct business park isolating the most easterly local population of *Chorizema parviflorum* within the LGA from other areas of potential habitat for this species. In response to this, we have previously outlined the rationale for the location of the road (see Test of adequacy response dated 29 August 2011; outlining the best fit between low quality vegetation, following the alignment of the existing road, and meeting RTA on-ramp distance requirements). Further, areas of suitable habitat have been extensively searched for the presence of this species and it has not been located. Despite this, the suitable habitat is being reserved and protected by the creation of E2 lands along the western boundary i.e.: supporting habitat connections to the west where the remainder of the population exists (keeping in mind that the Princess Highway already is a major barrier).

Utilisation of the existing road corridor and lower value habitats and vegetation condition avoids direct impacts on *Chorizema parviflorum*. Further, the site chosen for the access road is currently more fragmented than the surrounds due to the presence of a transmission line easement. Furthermore, this area has undergone past disturbances resulting in degraded vegetation and modified soil profiles meaning that habitat connectivity for this species has already been reduced. In our opinion, alternative access to the site from the east would result in a greater threatened species and EEC impacts.

With regard to the zoning of the land as E2, it is our understanding that the Infrastructure SEPP allows for roads to be permitted on *any* land if constructed by or on behalf of a public authority.

OEH also briefly request evaluation of alternatives to the proposed precinct boundaries in the south-western edge of the Northside Precinct where the proposal will result in a very small impact to Illawarra Lowlands Grassy Woodland EEC. In our response to matters raised by OEH for the Test of Adequacy (dated 29 August 2011) we outlined that the precinct boundaries are consistent with the zoning established by the Wollongong Council LEP 2009. The intent of conservation in this western corridor is to consolidate vegetation into retained lands to be improved and protected.

Measures to Offset

The matters raised are addressed at the head of this letter.

Licensing

We note and agree that if seed collection utilises EECs offsite, a section 91 Licence under the *Threatened Species Conservation Act* will be required.

If you have any queries, please contact Mark Adams (02) 8536 8650 or marka@ecoaus.com.au.

Regards



Mark Adams
Director