



Office of
Environment
& Heritage

Our Ref: DOC17/389156
Your Ref: MP06_0316 MOD 9

Ms Jane Flanagan
A/Team Leader Modifications Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Ms Flanagan

Re: Cobaki Residential Community Concept Plan Approval MP 06_0316 Modification 9 – Notification

Thank you for your letter dated 25 July 2017 seeking comments from the Office of Environment and Heritage (OEH) on proposed Modification 9 to the Cobaki Residential Community Concept Plan approval. I appreciate the opportunity to provide input.

We have reviewed the documents supplied, focusing on the Amended Biodiversity Assessment Report dated May 2017 prepared by JWA Ecological Consultants. The OEH has also reviewed the submitted biobanking calculations for the subject area.

The OEH notes that the amendments relate to:

- A reduction in the required offset requirement for Swamp Sclerophyll Endangered Ecological Community from approximately 22.77ha to approximately 14ha; and
- A name change from Lowland Rainforest on Floodplain to Lowland Rainforest and a reduction in rainforest offset by 0.36ha.

The proposed amendments and our comments are discussed in detail in **Attachment 1** to this letter.

In summary, the OEH recommends that the applicant should:

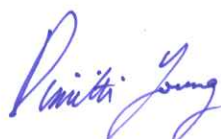
1. Determine the ecological integrity of the subject area and the surrounding land at the time of the initial assessment of the site, as far as practicable, and enter these estimated ecological values for that time into the biobanking calculator and the Biodiversity Assessment Report to determine the required ecosystem credits and species credits for the offset. Alternatively, the OEH would accept the current condition of consent, being the requirement of 192 ecosystem credits for the loss of 3.8ha of swamp sclerophyll forest, which does not require any species credits.

2. Explain and justify

- a. the reduction in the offset requirements for Lowland Rainforest on Floodplain.
- b. the reasons for the name change from Lowland Rainforest on Floodplain to Lowland Rainforest.

If you have any further questions about this issue, Mr Krister Waern, Senior Operations Officer, Regional Operations, OEH, can be contacted on 6640 2503 or at krister.waern@environment.nsw.gov.au.

Yours sincerely

 11 August 2017

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
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Enclosure: Detailed OEH comments - Concept Plan Approval MP 06_0316 Modification 9

Attachment 1: Detailed OEH Comments – Concept Plan Approval MP 06_0316 Modification 9

The Office of Environment and Heritage (OEH) notes that the Secretary's Environmental Assessment Requirements (SEAR's) specified that the biodiversity impacts associated with the proposed modification are to be documented in accordance with the OEH's Framework for Biodiversity Assessment (FBA).

Swamp Sclerophyll Forest offset

The Department of Planning & Infrastructure Director General's report for 06_0316 Mod 1 & 08_0200 Mod dated May 2013 (pg16) explains the reasoning behind the current condition C19 as follows:

The Revised Ecological Assessment (June 2010) submitted with the Preferred Project Report for the concept plan assessment stated that a total of 23.74ha of Swamp Sclerophyll EEC would be revegetated/regenerated on site to offset the loss of 3.80ha of this community. However, as the project application for the central open space area (MP08_0200) was being assessed at the same time the concept plan assessment was being finalised, further analysis of the offsetting arrangements across the entire site indicated that only 15.73ha of Swamp Sclerophyll EEC offsets could be provided on site, most of which was to be provided within the central open space area. This resulted due to additional Saltmarsh & Swamp Oak EEC restoration proposed by the Revised Saltmarsh Rehabilitation Plan (October 2010). It was accepted at this time [by the Department] that an offset of 15.73ha for the loss of 3.8ha was appropriate.

Following this, the Department approved modification 1 resulting in a further reduction of the on-site offset for Swamp Sclerophyll EEC from 15.73ha to 6.77ha, as offsets could no longer be provided through the central drainage corridor.

The Director General's report (p16) explains the reasoning behind this further reduction as follows:

To assist in its assessment of this issue, the department engaged a specialist ecological consultant (Umwelt) to undertake a biobanking assessment of the proposed onsite ecological offsets for Swamp Sclerophyll Forest Endangered Ecological Community (EEC). The biobanking assessment results indicated that a loss of 3.80ha of moderate/good condition Swamp Sclerophyll Forest EEC requires 192 ecosystem credits to offset this impact. The proposed offset of 6.77ha provides only 42 ecosystem credits, resulting in a net shortfall of 150 ecosystem credits. This translates to a total outstanding offset requirement of 16.1ha.

This advice led to the Department imposing the existing condition C19 (2) which states:

Total offsets for Swamp Sclerophyll on Coastal Floodplain must be as follows:

- a) 6.77ha on-site in accordance with the approved Revised Ecological Assessment, April 2013; plus*
- b) Additional lands either on-site and/or off-site to compensate for the loss of the offset (as a result of 06_0316 MOD1), of an area as agreed with OEH.*

Note: the department has noted that using the biobanking calculator, this offset could be in the order of 16 hectares.

The OEH understands that the proponent has now undertaken recent (2016) biobanking plots, prepared a Biodiversity Assessment Report (BAR), and provided biobanking calculations for the 3.8ha of swamp sclerophyll forest. The submitted biobanking calculations require 132 ecosystem credits of swamp sclerophyll forest (i.e. 60 ecosystem credits less than previously required), and an additional 49 species credits for the Little Bentwing-bat and 49 species credits for the Wallum Froglet.

The submitted biobanking calculations are inconsistent with the JWA BAR which states that 128 ecosystems credits are required in addition to the species credits.

The BAR has then converted the 128 ecosystem credits to hectares using the biodiversity certification credit converter. This has been determined by the applicant to be 14ha in total.

The OEH understands that the credit converter was used by Umwelt to provide a guide as to the number of hectares required for the offsets, but the credit converter is a tool developed for biodiversity certification and uses a lower offset ratio than biobanking for offset calculations due to the strategic nature of biodiversity certification projects. The OEH Biocertification website states that *'When there is a shortfall of credits for conservation measures in a biodiversity certification proposal, the biodiversity certification **credit converter** may be used to convert the quantity of ecosystem or species credits into hectares of land and then into an amount for a financial contribution'*.

The credit converter does not need to be used for the Cobaki proposal, as a credit requirement will be sufficient to identify a suitable offset.

The current modification proposes an on-site offset of 5.31ha (reduced from 6.77ha) along with an off-site offset such that the total offset is not more than 14ha as calculated by the credit converter (i.e. 8.69ha off-site offset). The proposed modification would reduce the on-site offset by 1.46ha and reduce the off-site offset by 7.31ha.

The OEH is concerned that the ecological integrity of the subject area and surrounds has been sampled in 2016 for these new calculations and this is partly why the ecosystem credit requirement has been reduced by 64 credits. The management regime of the subject area (i.e. slashing) and general development activity within and surrounding the swamp sclerophyll forest, is likely to have reduced the ecological integrity of the subject area and surrounding areas and by default the credits required to offset the loss of swamp sclerophyll forest.

The subject area was originally assessed to be removed approximately 10 years ago, but the swamp sclerophyll forest and the immediately surrounding area have had a decline in ecological integrity over that period. The biobanking calculator is sensitive to the ecological values that are entered for the subject area (i.e. benchmark values) as well as the immediately surrounding area (i.e. connectivity and patch size).

The biobanking calculations and the BAR should be redone to reflect the ecological integrity of the subject area and surrounding land at the time of the original assessment, when the area to be removed was sampled and offsets were required.

The applicant should provide further information to determine the ecological integrity of the subject area and the surrounding land at the time of the initial assessment of the site as far as practicable. The OEH understands that there may need to be some estimates in trying to redo an ecological assessment retrospectively, however all reasonable effort should be undertaken to review previous ecological reports and previous air photos as part of this process.

The applicant should then enter these estimated ecological values for that time into the biobanking calculator and the BAR to determine the offsets required. The OEH would be happy to assist in defining some of these ecological elements in an updated assessment.

Alternatively, for simplicity and to move this matter forward quickly, the OEH would accept the current condition of consent, being the requirement of 192 ecosystem credits for the loss of 3.8ha of swamp sclerophyll forest, which does not require any species credits.

The OEH would prefer that the 6.77ha on-site offset is accommodated within the development site. However, if this cannot be achieved, the proposed 5.31ha that could be used as an on-site offset would proportionally be equivalent to 33 ecosystem credits.

As such, after providing an on-site offset of 5.31ha the applicant would be required to retire a further 159 ecosystem credits in accordance with the FBA to fully meet the offset requirements for impacts on swamp sclerophyll forest.

Littoral Rainforest offset

As part of the proposed modification, the applicant has updated the Site Revegetation and Rehabilitation Plan, prepared by JWA dated June 2017. The OEH has not reviewed this updated Plan, however we note that in the letter from Leda dated 6 April 2017 to DPE, there is one sentence stating that the revised Plan will reduce the offsets for impacts on Lowland Rainforest by 0.36ha.

The proposed modification has no discussion to explain or justify this reduction. The letter states that this reduction is inconsequential. The.

The proposed modification is also seeking a name change from Lowland Rainforest on Floodplain to Lowland Rainforest. There is no discussion or justification regarding this proposed change either.

Recommendations:

The OEH recommends that the applicant should:

1. Determine the ecological integrity of the subject area and the surrounding land at the time of the initial assessment of the site, as far as practicable, and enter these estimated ecological values for that time into the biobanking calculator and the Biodiversity Assessment Report to determine the required ecosystem credits and species credits for the offset. Alternatively, the OEH would accept the current condition of consent, being the requirement of 192 ecosystem credits for the loss of 3.8ha of swamp sclerophyll forest, which does not require any species credits.
2. Explain and justify
 - a. the reduction in the offset requirements for Lowland Rainforest on Floodplain.
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