

Department of Planning and Environment

Our ref: DOC23/335889

Your ref: IRF23/1033 & IRF23/962

Marcus Ray
Deputy Secretary, Planning Group
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

16 May 2023

Subject: Consultation under section 3.25 of the Environmental Planning and Assessment Act 1979 for the Gilead Stage 2 State Assessed Planning Proposal

Dear Mr Ray,

Thank you for the letter received 21 April 2023 consulting Environment and Heritage Group (EHG) pursuant to section 3.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) regarding the Gilead Stage 2 State Assessed Planning Proposal (proposal).

I understand our comment is sought because DPE Planning has formed the opinion that ‘critical habitat or threatened species, populations or ecological communities, or their habitats, will or may be adversely affected’ by the Gilead Stage 2 proposal (s.3.25(2) EP&A Act).

Pursuant to s.3.25(3) of the EP&A Act, on 26 April 2023 EHG requested additional information to enable it to understand the impact of the proposal and requested additional time to consider that information.

I refer to your letter dated 28 April 2023, providing additional information to assist in EHG’s review of the proposal and seeking consultation under s.3.36(1) of the EP&A Act. EHG does not have a role under s.3.36(1) of the EP&A Act and therefore no comments are provided in this regard.

As you are aware, EHG provided a submission on the exhibited planning proposal dated 19 December 2022 (our ref DOC22/1024259). In this submission it was noted that the proposal is informed by, and relies on, Mt Gilead Stage 2 Biodiversity Certification Assessment Report and Biocertification Strategy (Eco Logical Australia, November 2022). On 11 April 2023, Campbelltown City Council, the applicant for the biodiversity certification, resolved to submit the application. The Minister for the Environment has not yet received the application.

Impacts on biodiversity

EHG has reviewed the information provided by DPE Planning up to and including the letter dated 28 April 2023, as well as email advice dated 9 May 2023. This information included a *Mt Gilead Stage 2 Biodiversity Certification Assessment Report and Biocertification Strategy*, which is not confirmed to be the final biodiversity certification strategy, and some but not all the requested data. As such, EHG considers that there remains some uncertainty as to the adequacy of the biodiversity assessment to support the proposal’s land use planning outcomes.

The information provided indicates that the proposal:

- is likely to impact a minimum of 53.5 hectares of native vegetation as zones for Urban Development contain the critically endangered Cumberland Plain Woodland and Shale Sandstone Transition Forest, and habitat for threatened species including the Koala, Squirrel Glider, Southern Myotis, Cumberland Plain Land Snail and Brown Pomaderris
- may overestimate the area suitable for development, since the condition of most of the native vegetation proposed for certification is unclear and needs to be reviewed
- appears to be inconsistent with the recommendations of the Office of Chief Scientist and Engineer for the protection of the Campbelltown Koalas because the proposed corridors contain gaps, do not incorporate buffers, and may not achieve required minimum corridor widths. I understand you have sought confirmation from the Office of Chief Scientist and Engineer to confirm that the proposed corridors are consistent with their recommendations.
- may not adequately protect biodiversity in that:
 - the C2 Environmental Conservation zone boundary does not apply to some land with biodiversity values which should be conserved
 - the Additional Permitted Uses clause allows development in the C2 zone that is inconsistent with the zone objectives 'to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values' and 'to prevent development that could destroy, damage or otherwise have an adverse effect on those values'.

We would be happy to collaborate on the Additional Permitted Uses clause to identify what uses could be consistent with the zone objectives.

EHG considers the best practice approach would be to consider the full biodiversity impacts before rezoning takes place. As such, we consider that the biodiversity certification application for the site should be considered before the proposal is finalised, to reduce uncertainty around the biodiversity impacts of the proposal.

If this is not possible, expansion of the areas zoned C2 Environmental Conservation to protect critically endangered communities and threatened species habitat would provide protection to those values until the biodiversity certification is finalised. This would provide certainty for the proponent and would reduce the chance of land being zoned for development and then not being certified.

Department of Planning and Environment

If you have any queries regarding this advice, please contact Louisa Clark, Director Greater Sydney on (02) 9585 6001 or via Louisa.Clark@environment.nsw.gov.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Brendan Bruce".

Brendan Bruce

A/Deputy Secretary
Biodiversity Conservation and Science