



Peachy Road Industrial Development

We were engaged to provide due diligence advice regarding the proposed acquisition of an approved (but unconstructed) 35 lot industrial development at Yatala.

We also provided advice on the need to seek approval under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) for clearing of the 30ha site, and to coordinate operational works stage management plans.

Statutory Context

We had earlier coordinated ecological assessment for the proposed development, and after the development application was refused, appeared as expert witness on ecology matters in Planning and Environment Court appeal 2481 of 2008. The appeal was upheld, and development approval was granted.

The court approval established reasonable certainty on the development footprint and permissible clearing, but was unclear on the need to provide offsets for the loss of endangered vegetation. Provision of the offset created logistical difficulties for the client, and we were requested to consider the validity of the offset requirement.

The court approval also required the provision of vegetation and fauna management plans that were intended to guide the project's clearing program. While the development had been approved by the Planning and Environment Court, this did not absolve the client's obligations under the EPBC Act. Baseline ecological survey had established that the site was in a landscape that supported koala (a MNES under the EPBC Act). More detailed assessment was required to address the EPBC Act Koala Referral Guideline, and determine the need to make a controlled action referral under the EPBC Act.

Challenges and Solutions

The vegetation offset obligation arose out of a *maintain the current extent* requirement in the State Development Assessment Provisions. However, we were able to overcome the offset obligation by demonstrating that the vegetation loss would not cause a Significant Residual Impact on the broader occurrence of the endangered community. Our investigations found that clearing for the proposed development would not give rise to a Significant Impact on koala, and that there was no requirement to submit a controlled action referral under the EPBC Act.

Operational works vegetation and fauna management plans were submitted and approved by Council without issue.

CLIENT

TURNERS ENGINEERING

LOCATION

YATALA
GOLD COAST
QLD

Outcome

The project has now advanced to the detailed design stage.

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