

Department of Planning and Environment

Our ref: DOC22/649398
Your Ref: SSD-37486043

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23 August 2022

Subject: EHG Comments on the Environmental Impact Statement for Oakdale East Industrial Estate (SSD-37486043)

Dear Ms Burn

Thank you for your e-mail received on 25 July 2022 requesting advice from the Environment and Heritage Group (EHG) on the Environmental Impact Statement (EIS) for the above project. EHG has reviewed the EIS and provides comments and recommendations relating to biodiversity and flooding at Attachment 1.

If you have any queries please contact Angela Taylor, Senior Conservation Planning Officer via angela.taylor@environment.nsw.gov.au or 02 9585 6146.

Yours sincerely



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Attachment 1: EHG Comments and recommendations - EIS for Oakdale East Industrial Estate SSD-37486043

Biodiversity

When State Significant Development Application (SSD)-37486043 was lodged it was reliant on an undetermined Earthworks and Rehabilitation DA on Lot 103 DP1268366 (DA347.1/2021) for much of the site preparation works required to facilitate development on part of the land to which the SSD applies. These works included the demolition of existing buildings, land remediation works, earthworks, stormwater management and the clearing of native vegetation.

EHG notes that DA 347.1/2021 was approved by Fairfield City Council on 2 August 2022 and as such assessment of the SSD can now proceed without consideration of the biodiversity impacts been approved under DA 347.1/2021.

Biodiversity Development Assessment Report

Please note that the review of the Biodiversity Development Assessment Report (BDAR) has been undertaken without access to the case in the BAM-C. When finalised, the assessor should submit the case in the BAM-C to 'Greater Sydney – Compliance and Regulation'.

Key issues

The following key issues are raised in relation to Appendix 16 Oakdale East Estate SSD-37486043 BDAR prepared by écologique environmental consulting dated 8 June 2022.

- The BDAR does not include any demonstration of the efforts taken to avoid impacts, it only includes discussion of why avoidance isn't required. The BDAR states impacts are unavoidable, without any justification for this. As such the requirements of Chapter 7 of BAM 2020 and Chapter 1 of the BAM Operational Manual – Stage 2 2019 have not been addressed. EHG considers that impacts to PCT 835, PCT 1800 and 1071 could be avoided (particularly in areas in close proximity to Reedy Creek) through a reduced development footprint.

Further to the above Figure 18 in the EIS prepared by Keylan dated 5 July 2022 shows the zoning of the site. It appears that some areas currently zoned C2 are proposed to be cleared which is inconsistent with the objectives of the C2 zone. All efforts should be made to avoid impacts, particularly areas of C2 zoned land.

- Table 1-1 advises that the Secretary's Environmental Assessment Requirements (SEARs) for a Vegetation Management Plan (VMP) for the Reedy Creek riparian corridor, and a Biosecurity Management Plan (BMP) are being addressed separately. However, the BDAR fails to identify what this separate process is and how the SEARs requirements will be met. Such statements also conflict with Section 7.1.2 (Page 53) of the BDAR which indicates that a VMP and BMP have been provided as Appendices C and D to the BDAR. However, there is no Appendix C or D and as such the SEARs requirement for a VMP and BMP have not been addressed.
- The BDAR does not acknowledge the SEARs requirement to undertake an assessment of the long-term impacts of detention basins and spill into Reedy Creek. Clarification is required in relation to how this is being addressed.
- Clarification is required as to whether additional impacts to native vegetation will result from the swale/drainage line associated with Detention Basin D.
- There is no justification in the BDAR for the selection of the PCTs. The BDAR should provide evidence in accordance with the Biodiversity Assessment Method (BAM) Subsection 4.2.3 to support the selection of the PCTs.

- Section 3.1 states that the location of floristic and site integrity plots and transects are shown in Figure 3-1 but this figure doesn't show plots and transects. It is noted that plot locations are shown on Figure 4-1 but are not overlaid on PCTs, as is required by Appendix K Table 24 of the BAM.
- Section 3.1.1 (Page 19) advises that all future clearing was assessed including the future freight corridor. EHG advises that the proposed removal of vegetation within the freight corridor should not be included as part of this SSD unless such clearing is required for the Stage 2 works. Impacts within the freight corridor not associated with Stage 2 works should be assessed as part of the development application for the freight corridor itself.
- Section 3.1.6 advises that approximately 3 ha of the development footprint is covered by exotic ground cover species. However, no plots appear to have been undertaken in areas identified as exotic vegetation and no plot data has been provided to validate this statement. Further BAM plots in these areas are therefore required.
- Reference is made to Section 4.2 and associated subsections. The BAM requires assessors to check other databases to determine if species not autogenerated by the BAM-C have been recorded in the area and are likely to occur on the subject land. It appears that the assessor only relied on BAM-C as there are a number of species that have been recorded in the vicinity (i.e. within 5 km) but are not listed in Tables 4-1 or 4-3. These include *Scoteanax rueppellii*, *Pultenaea parviflora*, *Isotoma fluviatilis*, *Grevillea parviflora* subsp. *parviflora* and *Persoonia nutans*. It is acknowledged that all these species, apart from *P. parviflora*, are either an ecosystem species or were considered as part of the EPBC Act assessment.
- Reference is made to Section 4.3 and associated subsections. There is no demonstration that surveys were conducted at the required time of year, as is required by Section 5.3.2 of the BAM. Details relating to survey effort, survey weather conditions and survey limitations are also absent. As are details relating to the previous *Litoria aurea* surveys.
- *Chalinolobus dwyeri* was not excluded as a species credit species in Table 4-3. It is therefore assumed that the site is located within two kilometres of rocky areas containing caves, overhangs, escarpments, outcrops or crevices. Surveys for this species were undertaken outside of specified survey times identified in the TBDC being (November to January) and adequate justification to vary the survey timing has not been provided. It is unclear as to why this species was not assumed present and further justification is required in this regard.
- Section 4.3.2 Page 44 advises that the Gang-gang Cockatoo was assumed to present as appropriate surveys for this species were not undertaken. However, a species polygon has not been provided for this species as required under Subsection 5.2.5 of the BAM.
- Reference is made to Chapter 7. EHG considers it is likely that the planted vegetation on site was required as a condition of consent or such plantings were undertaken for aesthetic purposes. If so, this would change the decisions in Table 8-3. There is no explanation of how the assessor has made the decisions listed in Table 8-3.
- Table 6-2 advises that the proposal will not result in impacts to water quality, water bodies and hydrological processes that sustain threatened entities. Section 7.2 further advises that no prescribed impacts would result from the proposal. However, the proposed development site appears to contain hydrological processes (surface and groundwater) that are likely to interact with Reedy and Ropes Creek, as well as PCTs 835 and 1071 which are Ground Water Dependent Ecosystems.

The proposal involves increasing the existing area of hardstand on the site and the construction of permanent detention basins. In addition, the Civil Plans indicate that

retaining walls are to be constructed along the boundaries of Precincts 2 and 4 along the interface with Reedy Creek. The height of retaining wall RW05 adjacent to Precinct 2 will be up to 4.8m tall in places whilst retaining wall RW06 will be up to 12.7m tall in some areas. It is also understood that there will be some cut and fill to facilitate these retaining walls. In addition, the submitted civil plans and the landscape master plans indicate that the proposed road to the east of Precinct 4 will be raised compared to current levels. Such works may alter the hydrological processes in this area and therefore the condition, composition and structure of the adjacent threatened vegetation along Reedy Creek. Such potential impacts have not been discussed nor have the requirements of Section 6.1.4 and 8.3.4 of the BAM been addressed.

- The SAI assessment in Section 10.1 for PCT 849 does not address all criteria in Subsection 9.1.1 of the BAM nor does it justify why some of the criteria were not addressed.

Additional comments

The following additional comments are also provided in relation to the BDAR:

- There are inconsistencies between various sections of the BDAR (Sections 1.1, 8.1.1 and Table 8-1) as well as various sections of the EIS document (Pages xvi and 21) in relation to the amount of native vegetation being removed in association with the development application. With stated amounts including 2.05 ha, 2.28 ha and 2.58 ha. In addition, the Bushfire Assessment Report advises that 0.44ha of native vegetation will be removed. These inconsistencies need to be addressed.
- Section 3.1.4 (Page 25) advises that the subject land contains one artificially constructed detention basin, which is located in Precinct 5. It further advises that the dominance of *Typha orientalis* (broad leaf cumbungi) is most closely matched to *Phragmites australia* and *Typha orientalis* coastal freshwater wetlands of the Sydney Basin Bioregion (PCT 1071). A second area of PCT 1071 is shown in Photo 14 and mapped on Figures 3.1 and 3.3. However, the report is silent on whether this community is growing in an artificially constructed basin or whether this community is growing in a naturally occurring wetland.
- In Figures 3.1 and 3.3 there appears to be some additional areas of PCT 1071 around the edge of the detention basin that falls within Precinct 5 that have not been mapped as forming part of this PCT. Further clarification is therefore required in this regard.
- Reference is made to Section 3.3. A map of patch size locations for each native vegetation zone and table of patch size areas (as described in BAM Subsection 4.3.2) has not been provided.
- Reference is made to Section 4.3.1:
 - Surveys were not undertaken during the required survey period for *Dillwynia tenuifolia*. To address this the report advises that species habitat was not found during survey and that the species is not found from the locality. A lack of records for this species is not considered to be a valid reason to exclude this species. Further clarification is also required as to what habitat requirements were identified as missing during survey.
 - Surveys were not undertaken at an appropriate time of year for *Pultenaea pedunculata*. Again, the reasoning provided is habitat for this species was not found during survey but clarification is required as to what habitat elements were missing.
 - Insufficient information has been provided in relation to the weather conditions leading up to threatened flora surveys. In this regard, it is unclear if the area received

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at least 30mm of rainfall at least 4 weeks before *Pimelea spicata* surveys were undertaken.

- The BDAR does not include a map of vegetation zones as required by Section 4.3.1 of the BAM. Further the size of each zone has not been identified to demonstrate that an adequate number of plots were conducted in each zone.
- The BDAR does not include a table of current vegetation integrity scores for each vegetation zone within the site that also shows composition condition score, structure condition score and function condition score as required by Chapter 4 and Appendix K Table 24 of the BAM.
- Reference is made to Table 4-2. Whilst the discounting of ecosystem credit species *Calidris ferruginea*, *Limicola falcinellus* and *Limosa limosa* from the BAM-C is supported the justification should be linked to the absence of important habitat mapping on the subject site noting this is the identified ecosystem credit species habitat constraint for these species in the Threatened Biodiversity Data Collection (TBDC).
- Table 4-1 identifies Koala as an ecosystem credit species but it is a full species credit species.
- A table identifying biodiversity risk weightings for species on the site has not been provided as per the requirements of Section 5.4 of the BAM.
- Reference is made to Table 8-4:
 - This Table states a number of times that provided mitigation measures identified in Appendix D are implemented the consequence is considered to be low risk. However as noted previously there is no Appendix D.
 - In relation to the indirect impact 'Introduction of weeds and pathogens', clarification is required as to whether stormwater discharging into reedy creek on an ongoing basis during the construction phase of the development is likely to contribute to weeds and pathogens dispersal.
 - In relation to indirect impact 'Trampling or other damage to remnant vegetation, including threatened species'. Clarification is required as to whether there is potential for trampling to occur when sediment and erosion control and boundary fences are being installed the locations of which are shown on Civil Plan Drawing 20-798-C1116 Erosion and Sediment Control Plan Sheets 6 and Civil Plan Drawing 20-798-C1117 Erosion and Sediment Control Plan Sheet 7 prepared by at&l dated 25 May 2022.
 - Reference is made to the indirect impacts rubbish dumping, wood collection, removal and disturbance of rocks including bush rocks. The dumping of construction material excess soil could be considered here, and demarcation of the development footprint and the implementation of the CEMP could be an appropriate mitigation measure.
 - The provided response for water bodies, water quality and hydrological process may be applicable to prescribed impacts pertaining to hydrology.
- There is no Table in the BDAR addressing the requirements of Section 8.4 (2) (a) – (c) of the BAM relating to proposed mitigation measures.
- Spatial data in the form of GIS files and report maps have not been provided as separate jpeg files as required by Appendix K Tables 24 and 25 of the BAM.

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- Reference is made to Section 10-3 Species Credit Species requiring offsets. This Table identifies 810 credits for the Gang-gang Cockatoo which based on the credit report provided in Appendix B only 10 credits should have been identified.

Vegetation Management Plan

As previously noted, the VMP as required by the SEARs has not been submitted and nor have any details been provided in relation to the extent of restoration works that may be proposed under the VMP. As such it is unclear as to what revegetation and restoration works are proposed, the extent and timing of such works and period of monitoring and reporting.

EHG recommends that as much existing cleared land within the riparian corridor/retained lot as possible is revegetated (subject to existing constraints such as the powerline easement that traverses the northeast corner of the site).

Asset Protection Zones

EHG recommends that required APZs are placed wholly within the development footprint.

The identified APZs are largely located adjacent to existing native vegetation in the south east of the site and adjacent to what appears to be a 30m required Vegetated Riparian Zone (VRZ) to Reedy Creek in the north east. The inclusion of APZs on the retained lot is not supported as it will provide an ongoing maintenance burden, will restrict the area that can be revegetated along and adjacent to Reedy Creek and could potentially become an ongoing source of invasion by weeds and exotics. In regard to the latter, it will also further compound edge effects already imposed by the existing powerline easement.

EHG recommends that the proponent investigate the use of the access road to Precinct 5 to provide the APZ for Precinct 4 and with a small change in the design of Precinct 2 (flipping the design of the most eastern side of Precinct 2) to utilise an access road and hardstand areas as part of the APZ for Precinct 2. It is also noted that some of the APZs mapped on Figure 7 of the Bushfire Assessment Report are unnecessary for example the APZ area in the south east section of the site along a swale associated with a previous detention basin between two vegetated areas.

The Bushfire Assessment Report will need to consider revegetation works proposed under the VMP and in this regard it appears to have taken into account a 30m Vegetated Riparian Zone along Reedy Creek in the north east. However, this should be confirmed as previously stated the extent of revegetation works that are proposed under the VMP is currently unclear.

Flooding

The development site is located between Ropes Creek and Reedy Creek upstream of Warragamba Pipeline at 2 Old Wallgrove Road, Horsley Park. The majority of the site drains to Reedy Creek located in the east, whilst a small portion drains to Ropes Creek located in the west.

Appendix 14 Flood Assessment for the Oakdale East Industrial Estate Masterplan and Stage 2 Works prepared by BMT dated 8 June 2022 of the EIS outlines the flooding characteristics under existing and developed conditions.

The impact of development on flooding is expected to be small and/or insignificant. As such, EHG does not have any specific flooding comments relating to SSD-37486043.

End of Submission