



Office of
Environment
& Heritage

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SSD 6917

Ms Kate MacDonald
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Department of Planning and Environment
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Attention: Thomas Piovesan

Dear Ms MacDonald

Oakdale South Industrial Estate, Erskine Park, Penrith LGA (SSD 6917) Notice of Exhibition

Reference is made to your correspondence to the Office of Environment and Heritage (OEH) received 13 November 2015 regarding the public exhibition of Oakdale South Industrial Estate, Erskine Park, Penrith LGA (SSD 6917).

Comments are provided in Attachment 1. Importantly in relation to biodiversity, OEH recommends that the land zoned E2 on the subject site be protected from all impacts from the development.

If you have any questions regarding this advice please contact Rachel Lonie, Senior Operations Officer on 9996837 or by email at rachel.lonie@environment.nsw.gov.au.

Yours sincerely

S. Harrison 17/12/15

SUSAN HARRISON
Senior Team Leader, Planning
Greater Sydney

ATTACHMENT 1 Office of Environment and Heritage Comment on public exhibition of Oakdale South Industrial Estate, Erskine Park, Penrith LGA (SSD 6917).

The site is zoned IN1 General Industrial and E2 Environmental Conservation under the State Environmental Planning Policy (Western Sydney Employment Area) (WSEA) 2009. The E2 land encompasses a section of Ropes Creek and one of its tributaries.

1. Biodiversity

The project has been assessed in accordance with the NSW Biodiversity Offsets Policy for Major Projects and the Framework for Biodiversity Assessment (FBA). The FBA assessment calculates the project will involve the removal of 2.11 ha of HN526 River-Flat Eucalypt Forest and 1.16 ha of HN594 Swamp Oak Floodplain Forest. The credit requirement for these will be 104 credits for HN526 and 43 for H13 credits for HN594. In addition, 13 credits were calculated for the loss of 0.31 ha of HN528 Cumberland Plain Woodland.

1.1 Avoid and minimising impacts

The FBA requires the applicant to demonstrate how impacts on biodiversity have been avoided and minimised in accordance with Section 8. Vegetation along the Ropes Creek tributary and within the E2 land is identified in Figure 7.1 as an 'area of unavoidable impact'.

The E2 zoning has been applied to the high conservation value lands, including critically endangered and endangered vegetation communities, found across the WSEA including the subject site. The E2 areas include a number of relatively narrow riparian corridors that are intended to be protected, managed and restored as fully vegetated and naturally functioning waterways. OEH is concerned that the development has not satisfactorily avoided impacts on the area zoned E2.

The only map that shows the E2 zoning is Figure 16 of the EIS and the permissibility and conformance with zone objectives is not discussed. The indicative layout of the development site Figure 1.3 in the Cumberland Ecology report shows the road, services lot and batter within E2 land. The proposal would entirely remove the eastern section of the tributary and require the realignment of a section of it to accommodate the road layout.

The E2 zone objectives include "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 these values". Although roads, artificial waterbodies and flood mitigation works are permitted with consent in the E2 zoning, OEH does not consider these components of the development would meet the zone objectives or that the impacts have been adequately avoided or minimised.

OEH recommends: that all impacts on the E2 land should be avoided.

1.2 Securing offsets

An Offset Strategy has been prepared that proposes an onsite offset area and purchase and retirement of the remaining required credits. The on-site offset is proposed on land that has already been primarily zoned E2 (p4.6 BOS) through the WSEA rezoning process.

Principle 4 of the *NSW Biodiversity Offsets Policy for Major Projects* states that offsets must be additional to other legal requirements. Offsets must provide an actual addition to biodiversity rather than something that was going to occur anyway. To ensure this, the policy applies the principle that improvements to biodiversity made through undertaking management actions must be in addition to other legal obligations for conservation that are attached to the land.

Given the conservation zoning that already applies to this land, any biobanking of credits for an onsite offset is expected to be subject to additionality provisions and will require further detailed consideration

by the OEH Biobanking Team. This would have to consider any other issues such as easements, ownership and future impacts such as the proposed Southern Link Road. Under the Offsets Policy, proponents generally need to secure offsets before the development commences.

2. Flood Risk Management

The Oakdale South Industrial Estate proposal involves filling in a creek that drains the southern portion of the development site, re-grading the site and draining the site through roadways and piped flow into retention basins that flow into Ropes Creek. The modelling detailed in the report titled *Flood Impact Assessment Oakdale South Industrial Estate* (Cardno, 16 September 2015) shows the proposed works would result in minor localised increases and decreases of 100yr ARI flood levels along Ropes Creek and local flood levels increases within the power line easement adjacent to the proposed development.

The *Flood Impact Assessment* report identifies an increase in flood levels in a 100yr ARI flood from this development of up to 0.1m on adjacent lands that are currently un-developed. The acceptability of this flood impact on adjacent lands is a matter for the Department of Planning and Environment in consultation with Penrith Council to determine.

