

Council Comment (Wendy Connell, Assessing Officer, email 08.04.19)	Response
<p><i>Flooding – Not supported</i></p> <p><i>The subject land is flood affected. Flood safe access for each proposed lot must be demonstrated. Flood information can be obtained through Council's Flood Information Application form, which is available on our website.</i></p>	<p>Flood assessment was been undertaken by Cardno ("Flood Impact Assessment – Oakdale West Estate, dated 27 March 2017") and included in the Oakdale West Estate (OWE) assessment, SSD7348. (Appendix X). This assessment, reviewed and approved by DPE, concluded:</p> <p><i>"...the proposed development will have a minor impact on 100 yr ARI flooding on the Ropes Creek floodplain which will not adversely impact on any adjoining property subject to the target peak outflows at Locations A, B, C, D and E note exceeding the designated 2 yr ARI and 100 yr ARI peak flows (refer Section 2.2)."</i></p> <p>The assessment also concluded that the proposed development on site would not be unacceptably flood impacted. There is therefore no flood affectation which should preclude the proposed subdivision of the site.</p>
<p><i>Environmental Management – Not supported.</i></p> <p><i>It is important to note that usually on review of this type of application, where large scale industrial lots are being created, consideration of the broader noise impacts and air quality impacts to neighbouring sensitive receivers would be required. However, this land is subject to a State Significant Development Proposal (SSD 7348) which addresses the development of the Oakdale West Industrial Estate, including earthworks and the staged development of the lots for warehousing and distribution activities.</i></p> <p><i>Should this proposal not be approved, then these aspects can also be addressed through individual assessments as development applications are submitted for the use of each land parcel.</i></p>	<p>A cumulative noise (Appendix X) and air quality (Appendix X) assessment was undertaken in SSD7348 for the OWE development. This assessment concluded that that there was no unacceptable noise or air quality impacts resulting from the approved development, and was approved by DPE. Additionally, it should be noted that future noise and air quality assessment will be included with any future warehouse DAs lodged with Council for approval.</p> <p>There is no noise and air quality impacts which should preclude the proposed subdivision of the site.</p>
<p><i>Land contamination – Not supported.</i></p>	<p>It is noted that the subdivision DA does not seek use approval for the site, which would necessitate an assessment under SEPP 55 and remediation of the site. Contamination assessment was however undertaken (Appendix X), pursuant to SEPP 55, in SSD7348. This</p>

It is important to note that SEPP 55 requires that Council be satisfied that the land is suitable for the proposed use when approving a development application. Given that this application is creating land parcels for future industrial development (rather than the current agricultural land use), it is considered appropriate that SEPP 55 be comprehensively addressed at this time, prior to the subdivision of the land.

It is noted that the Statement of Environmental Effects does not address SEPP 55, however a 'Contamination Appraisal' prepared by AECOM dated 30 March 2017 was submitted in support of the application.

This document outlines the findings of historic Phase 1 and Phase 2 contamination investigations (carried out in 2007 and 2012 respectively). Six areas of environmental concern were identified, with two of these found to require remediation (rubbish burial area and old farmhouse). It is not clear where the contaminated materials are located on site, as no site plans have been provided as a part of this document.

The document states that remediation works were initiated in 2016 and that they have been "largely completed". The document concludes that the old farmhouse has been remediated and the rubbish burial area is "90% remediated", with asbestos containing materials still needed to be removed from this area. It was put forward that on removal of the identified ACM impacts at the rubbish burial area, the site would be suitable for the proposed commercial/industrial land use.

It is important to note that clause 11(4) of Sydney Regional Environmental Plan No 20—Hawkesbury Nepean River requires development consent to be obtained for remediation works. In turn, any remediation works in the Penrith Local Government Area are then considered Category 1 remediation works under SEPP 55. It is not clear through this application how and when development consent for the above stated remediation works was obtained, as

assessment concluded that the site is fit for the proposed warehouse use proposed under that DA. It is noted that Penrith Council provided comments following the notification of SSD7348 which were considered by DPE in their assessment and approval the proposal.

The DPE included in SSD7348 consent that an unexpected finds protocol be put in place requiring further remediation be undertaken if contamination is uncovered on the site in the future.

The majority of OWE is considered suitable for commercial and industrial land uses. Two small areas of surface soils were identified by the previous owners to be impacted with fragments of asbestos containing materials (ACM), namely the farmhouse (area 1) and the rubbish burial (area 2). AECOM have confirmed that based on the available data indicating the previous owners' successful removal of the all contaminated material, the site is suitable for industrial land use.

Noted. SSD7348 did not seek development consent for remediation works, as all remediation occurred prior to the OWE site purchase, and was undertaken by the previous owner (refer to Aecom's OWE, Remediation Report 22.08.2017 for The Austral Brick Co Pty Ltd). The required unexpected finds protocol does however put in place mechanism for any future discovery of contamination on the site.

no record of a development application for remediation works on the site could be located in Council's records.

Further, it is noted that copies of these investigation reports have been provided to the Department as a part of the SSD application for the future development of the site. In addition, a 'Remediation Report' has also been submitted. This documentation has not been submitted to Council for review as a part of this application.

Given that the 'Contamination Appraisal' submitted with this application identifies that additional remediation work is still required on site for the land to be made suitable for future use, and that the approval of this application provides for the creation of development lots, it is appropriate that the applicant provide all reports, and other associated documentation, which confirm that the site is suitable for the proposed commercial/industrial land use. Further, should remediation works still be required, then development consent needs to be obtained for these works (through an amendment to this application or through an additional development application).

Biodiversity – Not supported.

The applicant is seeking approval for a four (4) lot subdivision of the Oakdale West Industrial Estate Kemps Creek. The subject site is 152.12 ha in size, within the site vegetation has been identified on the Biodiversity Values Maps and on OEH vegetation mapping. This has identified that the vegetation belongs to Threatened Ecological Communities (TECs), Cumberland Plain Woodland (CPW) listed as Critically Endangered Ecological Community (CEEC) under the NSW Biodiversity Conservation Act 2016 (BC Act) and the Commonwealth Environmental Protection Biodiversity Conservation Act 1999 (EPBC Act) and Shale Hills Woodland a CEEC under both acts which is a Plant Community Type (PCT) comprising CPW.

It is noted that no vegetation clearing is proposed under this subdivision DA and that all clearing works have been sought and approved under SSD7348. SSD7348 included a comprehensive ecological assessment which included a Biodiversity Assessment Report (BAR) (Appendix X) and Biodiversity Offset Strategy (BOS) (Appendix X), which assessed the ecological impacts of the proposed development.

In their approval of the proposed vegetation removal in SSD7348, DPE have included the following conditions of consent:

- 1) The purchase and retirement of 172 ecosystem credits prior to clearing the approved 4.41 hectares of native vegetation and commencement of construction.
- 2) Preparation of a Biodiversity and Riparian Management Plan to the satisfaction of the Secretary.

It is assumed that as a result of the subdivision and associated road lots that future development will occur on the land and this will significantly impact on the TEC, threatened species present, and the riparian corridor. No assessment of the Flora and Fauna has been submitted.

Please note that the Penrith LGA is within the Interim Designated Areas (IDA's), as such we are still assessing DA's under the repealed Threatened Species Conservation Act 1995 using the 7-Part Test of Significance. This period ends on the 25th of November 2019, after this point and development with required to be assessed under the Biodiversity Offset Scheme (BOS) using the Biodiversity Assessment Method (BAM) as detailed in the BC Act.

Additionally, there are two large dams on the subject. if these are going to be removed, the applicant will need to submit a Dam De-watering report, and assessment of Flora and Fauna utilising the dam and a Fauna Handling procedure to deal with any species displaced by the de-watering of the dams.

Noted. While the approval of dam removal is not sought under this subdivision DA, relevant approvals will be obtained prior to any dam de-watering or removal.