



Office of
Environment
& Heritage

DOC16/557658
6743 MR:MR

Mr David Smith
Manager Strategic Planning and Growth
Wollondilly Shire Council
PO Box 21
PICTON NSW 2571

Attention: Mark Ruddiman

Dear Mr Smith

Planning proposals to rezone land at Bargo

I refer to your 24 October 2016 letter seeking comments from the Office of Environment and Heritage (OEH) on the above and apologise for the delay in replying.

Following OEH's advice of 30 November 2015, it is understood Council seeks further comments from OEH on the appropriateness of applying an:

1. R2 across zone across two sites so that vegetation could be offset through the biobanking framework and;
2. E3 zone on the Noongah and Gwyne Hughes Street site and whether it is the best environmental zone.

In relation to the first matter, OEH advises that BioBanking Statements can be obtained for any development other than the clearing of certain native vegetation that is dealt with under the *Native Vegetation (NV) Act, 2003*. The NV Act does not apply to land zoned R2 in accordance with section 5 and schedule 1. The appropriateness of applying an R2 zone across both sites is a matter for Council, however, OEH notes both sites contain endangered ecological communities listed under the *Threatened Species Conservation Act, 1995* and that preliminary advice suggests their removal would likely constitute a 'significant effect' under part 5A of the *Environmental Planning and Assessment (EPAA) Act, 1979*.

With regard to the second matter, OEH considers areas of high ecological value are most appropriately protected by the application of an E2 zone. Given the permitted uses and proposed minimum lot size of 1500m², it is difficult to see how the application of E3 zoning would provide any significant long term protection of biodiversity values.

Council should consider that BioBanking statements can only be issued if the proposed development will improve or maintain biodiversity values. It should also be noted that the issuing of a BioBanking Statement may be refused where the applicant has not demonstrated that all cost-effective onsite measures to minimise any negative impacts of development on biodiversity values are being or will be carried out. Some developments will fail to meet the 'improve or maintain' test and thus not be eligible for a BioBanking Statement because the type of biodiversity under threat by the proposed development has been significantly over-cleared in the past.

Therefore, it should not be assumed that a biobanking statement will be granted by OEH. For more information on circumstances in which a development will 'improve or maintain' biodiversity value see the BioBanking Guide to Biodiversity Assessment for Developers which can be downloaded at www.environment.nsw.gov.au/biobanking/developers.htm. For more information on the BioBanking Framework see www.environment.nsw.gov.au/biobanking/biobankframework.htm.

If you have any further queries regarding this advice, please contact Richard Bonner, Conservation Planning Officer, on 9995 6917 or richard.bonner@environment.nsw.gov.au.

Yours sincerely

Handwritten signature of S. Harrison and the date 14/12/16.

SUSAN HARRISON
Senior Team Leader Planning
Greater Sydney Region

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