



AEP

BIODIVERSITY | BUSHFIRE | ARBORICULTURE
NEWCASTLE SYDNEY CENTRAL COAST

AEP Ref: 5501
To: NALAG and MRA Consulting
Attention: Esther Huges, Ben Connell
Via Email: Esther@mraconsulting.com.au, ben@nalg.com.au

16 April 2026

Dear Esther, Ben and team,

RE: MidCoast Regional Organics Facility (SSD-84090218) (MID-COAST)

Following the recent comments received from CPHR 31 March 2026 and MidCoast Council 9 April 2026 and AEPs subsequent email advice. **Table 1** provides a summary of the items raised and AEPs considered response.

Table 1: Summary of RFI issues that pertains to Ecology and Arboriculture

No	Issue	Comment	AEP comment
CPHR - 1.	<i>Indirect impacts to adjacent vegetation - The BDAR must document and justify efforts to avoid or minimise impacts through design (BAM 7.1.2 (2))</i>	The proposal avoids direct impacts to Plant Community Type (PCT) 4006, which constitutes TEC Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions. However, the BDAR states that the operation of the proposal will be less than 1m from this TEC. This area of TEC has also been found to meet the definition of a wetland in accordance with the BAM. The BDAR must document and justify design efforts to avoid or minimise impacts, including indirect impacts to avoided vegetation. Recommended action: <i>A 20m buffer should be implemented from PCT 4006 to minimise indirect impacts (as per Appendix E Table 14 buffer distance for a wetland). This buffer should be included in the BMP.</i>	Recommend redesign to include 20m buffer from TEC.
CPHR - 2.	<i>Prescribed impacts on habitat connectivity - locate the proposal to avoid severing or interfering with corridors connecting different areas of habitat and migratory flight paths, to important habitat or local movement pathways (BAM 7.2.1 c)</i>	The western boundary of the proposal creates a pinch point for habitat connectivity between native vegetation to the north and south. The site provides habitat for Squirrel Glider, and the proposal seeks to clear this habitat. As such, a buffer should be maintained along the western boundary to maintain connectivity as per section 7.2.1 c of the BAM. Recommended action: <i>A connectivity buffer should be maintained along the western site boundary to allow for connectivity between native vegetation</i>	A 20m buffer established along western boundary, Squirrel Glider Management Plan completed and incorporated into the BMP. OR present connectivity still viable along eastern boundary, complete a Squirrel Glider Management Plan and incorporate within the Landscape Plan.

No	Issue	Comment	AEP comment
		<i>to the north and south of the site for species including Squirrel Glider. This buffer should be included in the BMP</i>	
MCC - 1	AIA Error	It is noted that there is a minor error in the BDAR. The BDAR states that only one hollow-bearing tree was found on site which is within the Endangered Ecological Community (EEC) proposed to be retained, and so no compensatory nest boxes are proposed. However, in Appendix 2 of the Arborist Report, Plate 2 contains a photo of a Blackbutt identified as 'Tree 21' showing multiple hollows - this tree is proposed to be removed. Due to the presence of Squirrel gliders on the site and the lack of hollow bearing trees, this tree should be retained within the landscaping at the front of the site. If this is not feasible, compensatory nest boxes should be provided within trees to be retained on the site.	Error in photo description in AIA. Only one (1) HBT present and will be retained Tree 53. Tree 21 does not contain hollows.
MCC - 2	EEC buffer	Further information is required on the impact of the development on groundwater levels and the subsequent impact on the retained Swamp Sclerophyll Forest EEC, which is a groundwater dependent ecosystem. Also, the potential impacts of surface water being discharged directly into the EEC should be examined including the measures proposed to protect the EEC from stormwater impacts, e.g. greater setbacks to the EEC and replacing the spillway with a level spreader.	20m buffer applied and potential spillway design amendments.
MCC - 3	BSA	It is also recommended that the proponent pursue a local biodiversity offset to meet its credit obligation rather than retiring credits from outside the LGA or paying directly into the fund. This could be achieved by establishing a Biodiversity Stewardship Agreement on a suitable parcel of land and paying the Total Fund Deposit to retire the necessary credits and fund the management of the site to improve biodiversity at the local scale. We believe that this approach is capable of being conditioned.	A BSA will cause a significant delay (2-3 years) on the development start, sourcing credits on the open market within the LGA would be the first preference with payment into the Biodiversity Conservation Trust used as a last resort.

Managing concurrent RFIs from CPHR/DCCEEW and Council, can be a balancing act between compliance costs and regulatory risk. There is generally no "perfect" response—only a choice of which risks the Client/Project can manage. The goal would be to fast-track approvals, maintain "cooperative" status with regulators and to not place the project at risk.

AEP can clarify matters directly with Consent Authorities to 'test their boundaries', confirm a formal response to their queries and as always, happy to discuss further with the team any development design amendments or otherwise.

We thank you for the opportunity to be involved in this project to completion. Should you require any further clarification on this matter, please contact Ian Benson –Director & Principal Ecologist 0420 624 707 or the undersigned.

Regards,

Anderson Environment and Planning



Kelly Drysdale

Senior Project Manager

0428 296 470



AEP

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NEWCASTLE SYDNEY CENTRAL COAST

AEP Ref: 5501
To: MidCoast Council
Attention: Craig Wilkinson – Senior Development Planner MCC
Via Email: council@midcoast.nsw.gov.au
CC: Esther@mraconsulting.com.au, ben@nalg.com.au

21 April 2026

Dear Craig,

RE: State Significant Development – SSD-84090218 – MidCoast Regional Organics Facility– Council Comments on Application

Following the recent comments received from CPHR dated 31 March 2026 and MidCoast Council dated 9 April 2026, AEP would like MCC to consider an alternative action that may suffice MCC-3 with ecology protected within the site and within the LGA with credit retirement as a viable option to a currently unfeasible BSA. **Table 1** provides a summary of AEPs considered response.

Table 1: Summary of RFI issues that pertains to Ecology and Arboriculture

No	Issue	Comment	AEP comment
MCC - 1	AIA Error	It is noted that there is a minor error in the BDAR. The BDAR states that only one hollow-bearing tree was found on site which is within the Endangered Ecological Community (EEC) proposed to be retained, and so no compensatory nest boxes are proposed. However, in Appendix 2 of the Arborist Report, Plate 2 contains a photo of a Blackbutt identified as 'Tree 21' showing multiple hollows - this tree is proposed to be removed. Due to the presence of Squirrel gliders on the site and the lack of hollow bearing trees, this tree should be retained within the landscaping at the front of the site. If this is not feasible, compensatory nest boxes should be provided within trees to be retained on the site.	Error in photo description in AIA. Only one (1) HBT present and will be retained Tree 53. Tree 21 does not contain hollows.
MCC - 2	EEC buffer	Further information is required on the impact of the development on groundwater levels and the subsequent impact on the retained Swamp Sclerophyll Forest EEC, which is a groundwater dependent ecosystem. Also, the potential impacts of surface water being discharged directly into the EEC should be examined including the measures proposed to protect the EEC from stormwater impacts, e.g. greater setbacks to the EEC and replacing the spillway with a level spreader.	NALAG will redesign facility to include 20m buffer from TEC with potential spillway design amendments.
MCC - 3	BSA	It is also recommended that the proponent pursue a local biodiversity offset to meet its credit obligation rather than retiring credits from outside the LGA or paying directly into the fund.	The proponent will meet their offset obligations via mechanisms available to them under the BC Act.

No	Issue	Comment	AEP comment
		This could be achieved by establishing a Biodiversity Stewardship Agreement on a suitable parcel of land and paying the Total Fund Deposit to retire the necessary credits and fund the management of the site to improve biodiversity at the local scale. We believe that this approach is capable of being conditioned.	

Consistent with previous discussions between AEP and Council, the proponent acknowledges Council's preference for securing local biodiversity offsets to retain ecological value within the region. However, establishing a project-specific Biodiversity Stewardship Agreement (BSA) for this development is neither commercially nor operationally feasible.

Under the BAM 2020 framework, smaller sites (typically well below 120 ha) are subject to a "scale versus solvency" constraint, whereby the required Total Fund Deposit (TFD), payable upfront to secure perpetual management, can exceed the market value of the credits generated. This creates an inherently unviable outcome from the outset. In addition, the process of establishing a new BSA involves a 2–3-year lead time to complete seasonal survey requirements and Biodiversity Conservation Trust (BCT) audit processes, which is incompatible with the delivery timeframe of the project and its financial constraints.

In lieu of pursuing a new stewardship site, the proponent will meet its offset obligations through the mechanisms available under the Biodiversity Conservation Act 2016. The proponent's preference is to secure like-for-like credits on the open market, with a priority for sourcing these within the local government area where feasible, thereby supporting existing conservation investments and maintaining biodiversity value locally. The proponent will negotiate in good faith to acquire such credits at the time they are required.

Where like-for-like credits are not available, the proponent will discharge its offset liability through a payment to the Biodiversity Conservation Fund, in accordance with the legislated framework.

Importantly, this approach is complemented by meaningful on-site measures, including the implementation of a Biodiversity Management Plan (BMP) to protect and manage a Threatened Ecological Community, and the delivery of an enhanced Squirrel Glider connectivity corridor in response to CPHRI feedback. Together, these measures provide an immediate and tangible ecological benefit, ensuring that local biodiversity outcomes are achieved without the delays and financial impracticalities associated with a project-specific BSA.

AEP are seeking consultation with MCC for an alternative and viable solution at your earliest convenience to progress this development.

Regards,

Anderson Environment and Planning



Ian Benson

Director & Principal Ecologist

0420 624 707