



Our Ref: DOC21/509570
Your Ref: SSD 22536006

Director Regional Assessments
Department of Planning, Industry and Environment
Planning and Assessment Group
Locked Bag 5022
Paramatta NSW 2124

Attention: Ms Michelle Niles

Dear Mr Thomas,

Re: Request for Environmental Assessment Requirements – Pacific Bay Resort Stage 2, Coffs Harbour LGA (SSD 22536006)

Thank you for your e-mail of 21 June 2021 inviting input to the preparation of Secretary's Environmental Assessment Requirements (SEARs) for the Pacific Bay Resort Stage 2 (SSD 22536006), proposal from the Biodiversity and Conservation Division (BCD) of the Biodiversity, Conservation and Science Directorate in the Environment, Energy and Science Group of the Department of Planning, Industry and Environment. I appreciate the opportunity to provide advice.

The BCD was formerly part of the Office of Environment and Heritage, but now forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), National Parks and Wildlife Service estate, climate change, sustainability, flooding, coastal and estuary matters.

On 1 July 2020 Aboriginal cultural heritage (ACH) functions were transferred from the BCD to Heritage NSW in the Department of Premier and Cabinet. For ACH advice, please contact Heritage NSW at heritagemailbox@environment.nsw.gov.au.

We note that the proposal will be assessed as State Significant Development/Infrastructure in accordance with Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The Environmental Impact Statement (EIS) SEARs provided by the Biodiversity and Conservation Division are limited to biodiversity, National Park estate, acid sulfate soils, flooding, stormwater and coastal erosion.

The BCD notes that the proposal area intersects land that has been identified under the Biodiversity Values Map (BVM) of the Biodiversity Conservation Act 2016, either separately or as overlapping, areas of 'Threatened species or communities with potential for serious and irreversible impacts', and/or 'Core Habitat within an approved Koala Plan of Management (SEPP 44)' as well as land identified under the State Environmental Planning Policy (SEPP) (Coastal Management) 2018, either separately or as overlapping 'Coastal Wetlands', 'Coastal Wetlands Proximity Area', 'Littoral Rainforest' or 'Littoral rainforest Proximity Area'.

The BCD also notes Bionet records pertaining to the following Threatened Species either on or immediately adjacent to the proposal area; Koalas (*Phascolarctos cinereus*), Giant Barred Frog

(*Mixophyes iteratus*), Squirrel Glider (*Petaurus norfolcensis*), Rough Doubletail (*Diuris praecox*), Floyd's Grass (*Alexfloydia repens*). We also note the occurrence of Sooty Oystercatcher (*Haematopus fuliginosus*), immediately to the east of the proposal area within the Coffs Coast Regional Park.

These SEARs, as they relate to biodiversity, have been issued with respect to the *Biodiversity Conservation Act 2016*.

The proponent should ensure that the EIS will be sufficiently comprehensive to enable unambiguous determination of the extent of the direct and indirect impact(s) of the proposal. The EIS should include an appropriate assessment of the potential impacts on (enter key issues here). We consider that this information is necessary to assess an EIS for the proposal.

The full lists of our standard and project specific requirements that may need to be addressed in the EIS are provided in **Attachment A** and **Attachment B** respectively. In preparing the EIS, the proponent should refer to the relevant guidance material listed in **Attachment C**.

If you have any questions about this advice, please do not hesitate to contact Mr Paul Houlder Project Officer Data Support, at paul.houlder@environment.nsw.gov.au or on 6670 8679.

Yours sincerely



6 July 2021

Nicky Owner
A/Senior Team Leader Planning, North East Branch
Biodiversity and Conservation

Enclosures: Attachment A - BCD Standard Environmental Assessment Requirements (SSD 22536006); Attachment B - BCD Project-specific Environmental Assessment Requirements (SSD 22536006); Attachment C – Guidance Material (SSD 22536006).

Attachment A – Biodiversity and Conservation Division Standard Environmental Assessment Requirements (SSD 22536006)

Biodiversity	
<p>1. Biodiversity impacts related to the proposed [development] are to be assessed in accordance with Section 7.9 of the Biodiversity Conservation Act 2017 using the Biodiversity Assessment Method and documented in a Biodiversity Development Assessment Report (BDAR). The BDAR must include information in the form detailed in the <i>Biodiversity Conservation Act 2016</i> (s6.12), <i>Biodiversity Conservation Regulation 2017</i> (s6.8) and Biodiversity Assessment Method, unless Biodiversity and Conservation Division and Planning and Assessment Group determine that the proposed development is not likely to have any significant impacts on biodiversity values.</p> <p>2. The BDAR must document the application of the avoid, minimise and offset framework including assessing all direct, indirect and prescribed impacts in accordance with the Biodiversity Assessment Method.</p> <p>3. The BDAR must include details of the measures proposed to address the offset obligation as follows;</p> <ul style="list-style-type: none"> • The total number and classes of biodiversity credits required to be retired for the development/project; • The number and classes of like-for-like biodiversity credits proposed to be retired; • The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; • Any proposal to fund a biodiversity conservation action; • Any proposal to conduct ecological rehabilitation (if a mining project); • Any proposal to make a payment to the Biodiversity Conservation Fund. <p>If seeking approval to use the variation rules, the BDAR must contain details of the reasonable steps that have been taken to obtain requisite like-for-like biodiversity credits.</p> <p>4. The BDAR must be submitted with all spatial data associated with the survey and assessment as per Appendix 11 of the BAM.</p> <p>5. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017 under s6.10 of the <i>Biodiversity Conservation Act 2016</i>.</p>	
Water and soils	
<p>6. The [EIS] must map the following features relevant to water and soils including:</p> <ol style="list-style-type: none"> a. Acid sulfate soils (Class 1, 2, 3 or 4 on the Acid Sulfate Soil Planning Map). b. Rivers, streams, wetlands, estuaries (as described in s4.2 of the Biodiversity Assessment Method). c. Wetlands as described in s4.2 of the Biodiversity Assessment Method. d. Groundwater. 	

<ul style="list-style-type: none"> e. Groundwater dependent ecosystems. f. Proposed intake and discharge locations.
<p>7. The [EIS] must describe background conditions for any water resource likely to be affected by the [development], including:</p> <ul style="list-style-type: none"> a. Existing surface and groundwater. b. Hydrology, including volume, frequency and quality of discharges at proposed intake and discharge locations. c. Water Quality Objectives (as endorsed by the NSW Government http://www.environment.nsw.gov.au/ieo/index.htm) including groundwater as appropriate that represent the community's uses and values for the receiving waters. d. Indicators and trigger values/criteria for the environmental values identified at (c) in accordance with the ANZECC (2000) Guidelines for Fresh and Marine Water Quality and/or local objectives, criteria or targets endorsed by the NSW Government. e. Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions http://www.environment.nsw.gov.au/research-and-publications/publications-search/risk-based-framework-for-considering-waterway-health-outcomes-in-strategic-land-use-planning
<p>8. The [EIS] must assess the impacts of the [development] on water quality, including:</p> <ul style="list-style-type: none"> a. The nature and degree of impact on receiving waters for both surface and groundwater, demonstrating how the [development] protects the Water Quality Objectives where they are currently being achieved, and contributes towards achievement of the Water Quality Objectives over time where they are currently not being achieved. This should include an assessment of the mitigating effects of proposed stormwater and wastewater management during and after construction. b. Identification of proposed monitoring of water quality. c. Consistency with any relevant certified Coastal Management Program (or Coastal Zone Management Plan)
<p>9. The [EIS] must assess the impact of the [development] on hydrology, including:</p> <ul style="list-style-type: none"> a. Water balance including quantity, quality and source. b. Effects to downstream rivers, wetlands, estuaries, marine waters and floodplain areas. c. Effects to downstream water-dependent fauna and flora including groundwater dependent ecosystems. d. Impacts to natural processes and functions within rivers, wetlands, estuaries and floodplains that affect river system and landscape health such as nutrient flow, aquatic connectivity and access to habitat for spawning and refuge (e.g. river benches). e. Changes to environmental water availability, both regulated/licensed and unregulated/rules-based sources of such water. f. Mitigating effects of proposed stormwater and wastewater management during and after construction on hydrological attributes such as volumes, flow rates, management methods and re-use options. a. Identification of proposed monitoring of hydrological attributes.

Flooding and coastal hazards
<p>10. The [EIS] must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including:</p> <ol style="list-style-type: none"> a. Flood prone land. b. Flood planning area, the area below the flood planning level. c. Hydraulic categorisation (floodways and flood storage areas). d. Flood hazard
<p>11. The [EIS] must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 5% Annual Exceedance Probability (AEP), 1% AEP, flood levels and the probable maximum flood, or an equivalent extreme event.</p>
<p>12. The [EIS] must model the effect of the proposed [development] (including fill) on the flood behaviour under the following scenarios:</p> <ol style="list-style-type: none"> a. Current flood behaviour for a range of design events as identified in 14 above. This includes the 0.5% and 0.2% AEP year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
<p>13. Modelling in the [EIS] must consider and document:</p> <ol style="list-style-type: none"> a. Existing council flood studies in the area and examine consistency to the flood behaviour documented in these studies. b. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood, or an equivalent extreme flood. c. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazard categories and hydraulic categories. d. Relevant provisions of the NSW Floodplain Development Manual 2005.
<p>14. The [EIS] must assess the impacts on the proposed [development] on flood behaviour, including:</p> <ol style="list-style-type: none"> a. Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure. b. Consistency with Council floodplain risk management plans. c. Consistency with any Rural Floodplain Management Plans. d. Compatibility with the flood hazard of the land. e. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land. f. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site. g. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. h. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the NSW SES and Council. i. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the NSW SES and Council. j. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum

flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the NSW SES.

- k. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.

Attachment B – Biodiversity and Conservation Division Project-specific Environmental Assessment Requirements (SSD 22536006)

Biodiversity

The occurrence of land listed under the Biodiversity Values Map (BVM) either separately or overlapping; 'Threatened species or communities with potential for serious and irreversible impacts', 'Core Habitat within an approved Koala Plan of Management (SEPP 44)', in association with land identified under the State Environmental Planning Policy (SEPP) (Coastal Management) 2018; 'Coastal Wetlands', 'Coastal Wetlands Proximity Area', 'Littoral Rainforest' or 'Littoral rainforest Proximity Area'.

The presence of records pertaining to *Phascolarctos cinereus*, *Mixophyes iteratus*, *Petaurus norfolcensis*, *Diuris praecox*, *Alexfloydia repens* and *Haematopus fuliginosus* either on or immediately adjacent to the proposal area.

National Parks and Wildlife Estate

1. For developments/projects that have the potential for direct and/or indirect impacts on adjoining or nearby National Parks and Wildlife estate reserved under the *National Parks and Wildlife Act 1974* (NPW Act) and/or Wilderness Areas declared under the *Wilderness Act 1987* (W Act) will require project specific SEARs. These developments/projects may:
 - be partly or wholly within reserved land
 - be immediately adjacent or near reserved land
 - be underneath reserved land
 - be located upstream of a watercourse that enters reserved land with potential for downstream impacts within reserved land
 - have the potential to impact upon the natural and cultural values of reserved land through noise, dust, light or visual impacts
 - have the potential to impact upon visitor experience.

The [EIS] must identify:

- a. Whether the proposal is permissible under the NPW Act or consistent with the objects of the W Act (s. 3) and the management principles for the wilderness area if this Act applies.
- b. Alternative options that have been explored to avoid the park and a clear justification of any on-park components of the project.
- c. [INSERT SITE OR PROJECT SPECIFIC ASSESSMENT REQUIREMENTS IN CONSULTATION WITH THE RELEVANT PWG AREA MANAGER]
- d. In the case of a project that adjoins, is in the immediate vicinity of, or is upstream of National Parks and Wildlife estate, the [EIS] must address the matters in the *Developments adjacent to National Parks and Wildlife Service lands Guidelines for consent and planning authorities* (DPIE 2020) and include:
 - i. The nature of the impacts, including direct and indirect impacts.
 - ii. The extent of the direct and indirect impacts.
 - iii. The duration of the direct and indirect impacts.

- iv. The objectives of the reservation of the land.
- e. Measures proposed to prevent, control, abate, minimise and manage the direct and indirect impacts including an evaluation of the effectiveness and reliability of the proposed measures.
- f. Residual impacts.
- g. In the case of proposed revocation of National Parks and Wildlife estate, the [EIS] must provide:
 - i. a full account of the biological and cultural values protected by the reservation;
 - ii. an evaluation of the contribution of the impacted land to the biological and cultural values protected by the reservation; and
 - iii. details of any compensation proposal, consistent with the *Revocation, Recategorisation and Road Adjustment Policy* (OEH 2012), including an assessment of the biological and cultural values of the offset.

Attachment C – Guidance material (SSD 22536006)

Title	Web address
<u>Relevant Legislation</u>	
<i>Biodiversity Conservation Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/63/full
<i>Coastal Management Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/20/full
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/
<i>Environmental Planning and Assessment Act 1979</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N
<i>Fisheries Management Act 1994</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+38+1994+cd+0+N
<i>Marine Parks Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+64+1997+cd+0+N
<i>National Parks and Wildlife Act 1974</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N
<i>Protection of the Environment Operations Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N
<i>Water Management Act 2000</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+2000+cd+0+N
<i>Wilderness Act 1987</i>	http://www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N
<u>Biodiversity</u>	
Biodiversity Assessment Method (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf
Biodiversity Development Assessment Report	https://www.legislation.nsw.gov.au/#/view/act/2016/63/part6/div3/sec6.12
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf
Accreditation Scheme for Application of the Biodiversity Assessment Method Order 2017	https://www.legislation.nsw.gov.au/regulations/2017-471.pdf
Biodiversity conservation actions	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-biodiversity-actions-170496.pdf
Reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf
Threatened Species Website	www.environment.nsw.gov.au/threatenedspecies/
NSW BioNet (Atlas of NSW Wildlife)	www.bionet.nsw.gov.au/
NSW guide to surveying threatened plants (OEH 2016)	www.environment.nsw.gov.au/resources/threatenedspecies/160129-threatened-plants-survey-guide.pdf
Threatened species survey and assessment guideline information	www.environment.nsw.gov.au/threatenedspecies/surveyassessmentgdlns.htm

Title	Web address
BioNet Vegetation Classification - NSW Plant Community Type (PCT) database	www.environment.nsw.gov.au/research/Vegetationinformationsystem.htm
Data Portal (access to online spatial data)	http://data.environment.nsw.gov.au/
Fisheries NSW policies and guidelines	http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation
List of national parks	http://www.environment.nsw.gov.au/NationalParks/parksearchatoz.aspx
Revocation, recategorisation and road adjustment policy (OEH, 2012)	http://www.environment.nsw.gov.au/policies/RevocationOfLandPolicy.htm
Developments adjacent to National Parks and Wildlife Service lands Guidelines for consent and planning authorities (DPIE 2020)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Development-guidelines/developments-adjacent-npws-lands-200362.pdf
<u>Water and Soils</u>	
Acid sulphate soils	
Acid Sulfate Soils Planning Maps via Data.NSW	http://data.nsw.gov.au/data/
Acid Sulfate Soils Manual (Stone et al. 1998)	http://www.environment.nsw.gov.au/resources/epa/Acid-Sulfate-Manual-1998.pdf
Acid Sulfate Soils Laboratory Methods Guidelines (Ahern et al. 2004)	http://www.environment.nsw.gov.au/resources/soils/acid-sulfate-soils-laboratory-methods-guidelines.pdf This replaces Chapter 4 of the Acid Sulfate Soils Manual above.
Flooding and Coastal Erosion	
Reforms to coastal erosion management	http://www.environment.nsw.gov.au/coasts/coastalerosionmgmt.htm
Floodplain development manual	http://www.environment.nsw.gov.au/floodplains/manual.htm
Guidelines for Preparing Coastal Zone Management Plans	http://www.environment.nsw.gov.au/resources/coasts/130224CZMPGuide.pdf
NSW Climate Impact Profile	http://climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	Climate Change Impacts and Risk Management: A Guide for Business and Government, AGIC Guidelines for Climate Change Adaptation
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm
ANZECC (2000) Guidelines for Fresh and Marine Water Quality	www.environment.gov.au/water/publications/quality/australian-and-new-zealand-guidelines-fresh-marine-water-quality-volume-1
Applying Goals for Ambient Water Quality Guidance for Operations Officers – Mixing Zones	http://deccnet/water/resources/AWQGuidance7.pdf
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf