

## Department of Planning and Environment

Our ref: DOC23/847361

Your ref: SSD-14378717

Ms Anna Nowland  
Department of Planning and Environment  
4 Parramatta Square  
12 Darcy Street  
PARRAMATTA NSW 2150

25 October 2023

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**Subject:** EHG comments on Additional Response to Submissions and amended BDAR for Telopea Concept Plan and Stage 1 (SSD-14378717)

Dear Ms Nowland

Thank you for the email of 22 September 2023 requesting comments on the Additional Response to Submissions (ARtS) and amended BDAR for this State significant development - SSD-14378717.

The Environment and Heritage Group (EHG) has reviewed the ARtS and amended BDAR and provides its comments and recommendations at Attachment A and B.

If approved, EHG requests that it not be given a role in the conditions of consent unless EHG agrees to the role and the condition.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at [janne.grose@environment.nsw.gov.au](mailto:janne.grose@environment.nsw.gov.au).

Yours sincerely,



Susan Harrison  
Senior Team Leader Planning  
Greater Sydney Branch  
**Biodiversity and Conservation**

**Subject:** EHG comments on Additional Response to Submissions and amended BDAR for Telopea Concept Plan and Stage 1 (SSD-14378717)

The Environment and Heritage Group (EHG) has reviewed the following reports for this State Significant Development (SSD):

- Telopea Concept Plan and Stage 1A - RFI Package cover letter – 19 September 2023
- Telopea Concept Plan and Stage 1A - RFI Response - September 2023
- Appendix F– Amended BDAR report for Concept Plan – March 2023
- Appendix F2 – BDAR digital maps Concept Plan
- Appendix G1 -Amended BDAR report for Stage 1A - revised 7 March 2023
- Appendix G2 – Addendum Tree letter
- Appendix X – Stage 1A Landscape Plans
- Appendix G1 from EIS – Concept Design Report

and provides its comments and recommendations below.

### BDARs

EHG has reviewed the Biodiversity Development Assessment Reports (BDARs) (ACS Environmental, 2023) for the Concept Plan and for Stage 1A. The BDARs conclude that no ecosystem or species credits are required to offset the proposal.

EHG considers some information in the BDAR is missing. However, EHG considers that an amended BDAR that addresses the missing information would not change the conclusion that no credits are required to offset the proposal. Therefore, comments are attached in Attachment B for the applicant's consultant to consider in the preparation of future BDARs.

Please note EHG does not require an amended BDAR to be submitted.

### Biodiversity Corridor

EHG previously noted the EIS indicates the Concept Plan design aims to repair and reconnect the highly fragmented ecosystem using green infrastructure initiatives to create a biodiversity corridor between existing wildlife protection areas such as Vineyard Creek Reserve and Ponds Creek Reserve (see Section 1.3 of the EIS). No further details were provided in the EIS on this and EHG noted it had not been included as a mitigation measure in the updated Appendix B of the RtS. The RFI Response provides no comments in relation to this.

EHG supports the concept of reconnecting the fragmented landscape between Vineyard Creek Reserve and Ponds Creek Reserve. Appendix G1 of the EIS includes a section titled 'reconnecting the ecosystem' and states "through its renewal and revitalisation, Telopea will become a place of enhanced wellbeing: where natural systems are relinked and rehabilitated". It also states a "driving concept of our Concept Plan idea is the connection of remnant bushland (the Vineyard and Second Ponds Creek corridors)". To support these statements and deliver on the EIS, the biodiversity corridor should be provided as part of this SSD.

The row trees on Sturt Street shown in the figure on page 67 of Appendix G1 do not provide a biodiversity corridor. The figure on page 27 appears to show that the Stage 1A development, Telopea Public School and the Telopea Skate Park are also meant to contribute towards creating the corridor, but no land has specifically been set aside to create a biodiversity corridor.

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If a driving concept of the Concept Plan is to connect remnant bushland through Telopea, EHG recommends adequate space is provided on the site to achieve this and a condition of consent is included which requires the biodiversity corridor to be created and rehabilitated with local species.

### **Avoid and minimise the removal of local native trees**

The best way to mitigate urban heat island effect is to retain existing trees. While the Concept Plan recognises the importance of preserving existing trees, 914 trees in the CPA site could be removed/potentially impacted for Stage 1 and 1A and Stages 2 and 3.

EHG recommended the SSD avoids or minimises the removal of local native trees from the CPA site. The RFI Response states “The BDAR recommends preserving as many individuals Blue Gum and Spotted Gum trees as possible in the proposed development as these two species may be representative of former areas of Sydney Turpentine Ironbark Forest (STIF) that may have occurred before clearing” but it is unclear how many local native STIF tree species are to be retained.

### **Seed collection from local native plants**

EHG recommended for any local native vegetation that is approved for removal, seed is collected, and the following condition of consent is included:

***Prior to the removal of any local native vegetation from the site seed from native trees and shrubs approved for removal is collected and it is propagated by a suitably qualified bush regenerator and used in the site plantings.***

The RFI response does not agree to EHG’s condition of consent. However, as the RFI response also indicates that most of the trees are not naturally occurring, EHG’s recommended condition would not be onerous.

### **Pre-clearance fauna surveys and Relocation of native fauna**

EHG recommended a condition of consent requiring the engagement of a suitably qualified and experienced ecologist to undertake pre-clearance surveys. The RFI response has accepted EHG’s condition of consent. EHG recommends the Conditions of Approval include its condition in accordance with its submission of 25 January 2023 (our ref DOC23/636445)

#### *Microbats*

The amended BDAR for the Concept Plan indicates the study area contains suitable bat roosts and potential habitat consists of hollows and fissures in the limbs of three large remnant trees, as well as a vacated building. It states much of the study area is comprised of private residences where close inspection of buildings was not possible. However, it is unclear if:

- there is currently only one or more vacant buildings on the site as section 3.2.4 of the updated BDAR notes that habitats of the subject land include “multi-storey buildings vacated by residents” (page 34) but it also refers to “a vacated building found to have gaps in the roofing that would allow microbats to enter” (page 37). Clarification is required as to whether there is currently only one vacated building on the site that was considered suitable as potential habitat or more.
- the vacant building(s) were inspected and surveyed internally for microbats.

EHG notes the Eastern Coastal Free-tailed Bat has been recorded on the site, but it was not recorded in the Stage 1A area where the existing vacant building is located. As the proposal is to remove all the buildings and most of the landscaped street and garden trees and redevelop the entire subject site (see section 4.3.1 of updated BDAR), once the private residences are vacated an inspection /survey should be undertaken of these buildings for microbats prior to demolition.

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The amended BDAR for the Concept Plan recommends a qualified ecologist undertake a pre-clearance survey prior to building demolition and that during demolition of buildings, with suitable crevices, an experienced fauna ecologist should be present to oversee removal of the roof of that building. It proposes sections of the roofs of these buildings where microbats may be roosting should be dismantled at night to allow any resident bats to flee and avoid predation. If microbats are found in the buildings, it is unclear what replacement habitat is proposed.

EHG previously advised that proposed surveys of buildings for microbats prior to demolition is not an acceptable practice as the release of microbats during the day would likely result in their predation. Any conditions of consent should detail appropriate measures that must be applied if microbats are found prior to demolition. This may include a condition of consent which requires the release of microbats at night and the inclusion of nest boxes. Depending on the species of microbats potentially using the buildings the provision of nest boxes to provide compensatory habitat may not be appropriate as not all microbats use nest boxes.

Prior to demolition, surveys for microchiropteran bats should be undertaken in accordance with the Bat survey guidelines - (*'Species credit' threatened bats and their habitats NSW survey guide for the Biodiversity Assessment Method* (OEH 2018)). Attention should be given to inspecting cracks or seams in the roof and a handheld bat detector of ultrasonic calls can assist in alerting the searcher to the presence of bats. Searches must be undertaken by someone with appropriate experience, as described on page 5 of that guide. If bats or signs of bats are observed, the bats may need to be captured to identify species and breeding status using traps, nets or other methods.

### *Hollow bearing trees and replacement nest boxes*

The amended BDAR for the Concept Plan recommends hollow-bearing trees be preserved as a priority. EHG agrees and recommends the hollow bearing trees are protected on site.

EHG previously advised that details need to be provided on the total number of tree hollows that are located across the site and how many tree hollows are proposed to be removed. The RFI Response states there are only three hollow bearing trees in the whole of the CPA site (page 64) and there is only one hollow bearing tree required to be removed as part of the Stage 1 works (page 69). The updated BDARs include differing information in relation to the tree hollows, for example:

- Section 4.3.1 of the amended BDAR for Stage 1A indicates Tree No. 315 “contains one small hollow” (page 73) but on page 36 it refers to compensating for the loss of a few hollows and Section 3.2.4 of the amended BDAR for the Concept Plan indicates Tree No. 315 (Thin-leaved Stringybark) “contains some small hollows”.
- Section 3.2.4 of the amended BDAR for the Concept Plan indicates a potential remnant Blackbutt (Tree No 283 in Stage 1A) “contains some small hollows” and Table 6 in the amended BDAR for Stage 1A, indicates Tree 283 has two hollows (see under Little Lorikeet, page 66).
- According to Table 6 in the amended BDAR for the Concept Plan, for the Gang-gang Cockatoo it indicates hollows occur in only a few trees, and are not greater than 9cm in diameter (page 65) but under the Glossy Black Cockatoo it indicates the hollows are not greater than 15cm in diameter (page 64-65),

The amended BDAR for the Concept Plan notes to compensate for the loss of a few hollows a nest box program of installing two nest boxes for small birds and two bat boxes for microbats on retained trees is required (section 3.2.4, page 34). The Applicant needs to clarify if this nest box replacement program proposes to include two nest boxes for small birds and two bat boxes for

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microbats for every tree hollow that is proposed to be removed. EHG recommends the size of the nesting box/ artificial hollow reflects the size and dimension of the hollow removed.

The nest boxes should be monitored for any repair /maintenance /replacement requirements for a minimum of 5 years. It is best-practise to monitor and maintain nest boxes after installation to ensure they are fit-for-purpose. Over time, nest boxes can become damaged, can damaged the trees they are attached to or become infested with non-target or invasive species. Negative impacts from the installation of nest boxes should be quickly ameliorated.

### Clearing of native vegetation

#### *Reuse and removed trees and hollows*

EHG recommended the project salvages and reuses any native trees that are approved for removal including hollows and tree trunks (greater than approximately 25-30cm in diameter and 2-3m in length) and root balls and these are placed within the CPA site that are to be replanted with local native species to enhance habitat.

EHG routinely includes this as a recommended condition in its SSD and SSI proposals. The RFI Response has not accepted EHG recommended condition, but it has misunderstood the condition to mean the relocation of live trees from one area on the site to a new location.

EHG recommendation relates to trees that are cut down for the tree trunks and root balls to be reused to provide habitat in areas on the site that are proposed to be planted such as the proposed biodiversity corridor to link Vineyard Creek Reserve and Ponds Creek Reserve, landscape areas, neighbourhood parks/ public domain/open space areas/ clusters of retained trees and the eucalypt stands which step down the hillside (see Appendix H of EIS – Design Guidelines).

If the SSD project is not able to reuse the native trees that are cut down, a condition of consent is included that the proponent consults with the local community restoration/rehabilitation groups, Landcare groups, and relevant public authorities including local councils, and Greater Sydney Local Land Services prior to any clearing commencing to determine if the removed trees can be re-used by others in habitat enhancement and rehabilitation work. This detail including consultation with the community groups and their responses should be documented.

EHG repeats the SSD includes the following condition of consent:

***The Applicant must where it is practicable reuse any of the native trees that are to be removed as part of this project, including tree hollows, tree trunks (greater than 25-30 centimetres in diameter and 2-3 metres in length), and root balls to enhance habitat:***

- ***Any hollow sections of wood removed should be salvaged and re-located to appropriate locations to provide natural nest boxes prior to the release of any native fauna found using the tree hollows.***
- ***If removed native trees are not able to be entirely re-used by the project, the proponent should consult with local community restoration/rehabilitation groups, Landcare groups, and relevant public authorities, local councils, and Greater Sydney Local Land Services prior to removing any native trees to determine if the removed trees can be reused in habitat enhancement and rehabilitation work. This detail including consultation with the community groups and their responses must be documented.***



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### Revegetation and Landscaping

#### *Use of local native provenance species*

EHG recommended any planting/ landscaping and rehabilitation at the site should use a diversity of local provenance native trees, shrubs and groundcover species from the relevant native vegetation community (or communities) that once occurred on the site/ local area (rather than use exotic species or non-local native species). The RFI Response has not accepted EHG's condition. EHG routinely recommends this condition is included in its SSD/SSI submissions. EHG considers its condition is consistent with the EIS for this SSD which includes the following mitigation measure:

- The former habitat of Sydney Turpentine Ironbark Forest and possibly Blue Gum High Forest should be enhanced by the incorporation of landscape plantings including native species which are diagnostically positive for these ecological communities (see page 172 of EIS).

EHG's condition is also consistent with the revised mitigation measure (14) in Appendix B of the RtS for this SSD:

- The former habitats of Blue Gum High Forest and Sydney Turpentine Ironbark Forest should be enhanced by the incorporation of landscape plantings including native species which are diagnostically positive for these ecological communities. Examples of appropriate species are outlined in the Biodiversity Assessment (ACS Environmental July 2020).

As the Planting Schedule in the Stage 1A Landscape Plans includes local native, non-local native and exotic species, EHG recommends the Stage 1A Landscape Plans be amended. EHG repeats its previous recommendations that the following conditions of consent are included:

- ***Any planting/ landscaping, rehabilitation associated with the project will use a diversity of local provenance native trees, shrubs and groundcover species from the relevant native vegetation community (or communities) that once occurred on the site/ local area (rather than use exotic species or non-local native species).***
- ***Tree planting shall use advanced and established local native trees for local native tree species which are commercially available. Other local native tree species which are not commercially available may be sourced as juvenile sized trees or pre-grown from provenance seed.***
- ***Enough area/space is provided to allow the trees to grow to maturity.***
- ***A Landscape Plan is to be prepared and implemented by an appropriately qualified bush regenerator and include details on:***
  - the native vegetation community (or communities) that once occurred on the site/ local area and the plan demonstrates that the proposed plant species are from the relevant vegetation community***
  - seed collection – the location of all native seed sources should be identified***
  - the type, species, size, quantity, and location of replacement trees***
  - the species, quantity and location of shrubs and groundcover plantings***
  - the plan demonstrates replacement trees plantings will deliver a net increase in trees for trees that are not covered by a biodiversity offset strategy***
  - the local provenance tree, shrub and groundcover species to be used***
  - the area/space required to allow the planted trees to grow to maturity***
  - plant maintenance regime. The planted vegetation must be regularly maintained and watered for 12 months following planting. Should any plant loss occur during the maintenance period the plants should be replaced by the same plant species***
  - the replacement plantings will be with the same growth form (i.e., a tree with a tree, a shrub with a shrub etc). The replacement planting must not decrease species diversity.***

The applicant should then maintain the landscaping and vegetation on the site in accordance with this Landscape Plan for the life of the development.

End of Submission

## Attachment B

### EHG comments on the BDAR for the information of the Consultant

- EHG recommends that to ensure all aspects of the BAM are covered, that in future the assessor uses the [BDAR template](#) to prepare BDARs.
- EHG notes that the BDAR was certified on 8 March 2023. The BDAR must be certified within 14 days of the submission date. The date of submission is unknown, but given it is some months since the BDAR was certified, it is recommended that DPE confirm that the date of submission is within 14 days of 8 March.
- EHG previously commented (January 2023) that the area threshold trigger is not relevant to this proposal as it is a SSD. Section 1.9 still erroneously refers to the area threshold.
- The BDAR should include figures titled Site Map and Location Map, and these should be prepared in accordance with the requirements of section 3.1. of the BAM.
- The spatial data does not include relevant information, such as the native vegetation zone and the plot locations.
- The site straddles two Mitchell landscapes. It is not clear from the report which Mitchell landscape has been chosen to be entered into the BAM-C and why.
- The BDAR should include figures which show IBRA region, rivers and streams classified by stream order and areas of connectivity.
- As required by section 3.1.3.13 of the BAM, the BDAR must map and show all areas of native vegetation cover within the assessment area on the Location Map.
- As required by section 3.2 of the BAM, the BDAR must identify the extent of woody and non-woody native vegetation cover within the assessment area.
- It is not clear from the BDAR how the patch size was calculated.
- As required by Table 24 of the BAM, the BDAR must include a map of the location of floristics vegetation survey plots relative to PCT boundaries.
- There is no description in the BDAR of survey effort or timing, other than for microbat species.
- Table 6 states for all ecosystem credit species that no further assessment is required, however it is unclear whether they have been excluded in the BAM-C.
- Table 6 also states that no species credit species are present. Part of the justification for this conclusion is that the BDAR states targeted surveys were undertaken for the species. However, if surveys are not undertaken in the months as specified in BioNet, then adequate targeted surveys have not been undertaken. While the month of survey is not indicated in the BDAR, it is assumed surveys were undertaken in September. As such, this is the wrong month for the following species: *Hibbertia puberula* (Oct-Dec), *Hibbertia superans* (Oct-March), *Pomaderris prunifolia* (Oct), *Syzygium paniculatum* (Apr-June), *Hygrocybe* spp (May-June).
- Table 6 states that there is no habitat on site for the Swift Parrot. However, reference should be made to the Important Habitat Areas map to determine whether this species is present. This was raised in previous comments.
- The description of, and impact assessment for prescribed impacts is not adequate as it has not considered man-made structures and has not assessed the potential for non-native vegetation on site being foraging habitat for threatened species.

Table 7 in the updated BDAR for the Concept Plan indicates potential prescribed impacts on habitat of threatened species associated with man-made structures such as drainage pipes is not applicable to the proposed development. EHG previously advised that regarding prescribed impacts, that human-made structures include buildings, are relevant to this proposal, and not just drainage pipes. Table 7 in the BDAR has not been amended. The RFI Response states “there are no threatened species in the locality with only common urbanised species occurring on site” but the updated BDAR for Concept plan indicates three species of

microbats were recorded on the site including the vulnerable Eastern Coastal Free-tailed Bat (see page 38) and this species is known to roost in buildings.

- There is no table of measures to be implemented before, during and after construction to minimise impacts of the project.
- The BDAR has included runoff, sedimentation and erosion as direct impacts. These are indirect impacts.
- The description of measures to mitigate impacts should include information on techniques, timing, frequency and responsibility.
- The assessment of serious and irreversible impacts has not addressed all the factors under section 9.1.1 of the BAM.
- The BDAR has been reviewed without access to the case in the BAM-C. To allow EHG to view the case, the assessor must add EHG as a case party (consent authority member) in the parent case and then 'submit to consent authority'. In this matter, the relevant EHG team is 'Greater Sydney – Compliance and Regulation'.
- The South Precinct is in proximity to the riparian corridor along Ponds Creek, which has a mapped critically endangered ecological community and threatened species habitats. The BDAR has not considered all potential indirect impacts on these habitats, such as the impacts caused by increased use of the area by future residents.

**End of Attachment**