Department of Climate Change, Energy, the Environment and Water

Your ref: 76132994
Our ref: DOC24/818580

Mr Michael Doyle
Team Leader Environmental Assessments
Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy Street Parramatta 2150
Locked Bag 5022 Parramatta 2124

via email: michael.doyle@dpie.nsw.gov.au

Dear Mr Dowle,

Subject: Request for Input: Coalcliff Eco-Tourist Facility – Lot 100 DP 715376 Lawrence Hargrave Drive, Coalcliff NSW 2508 - SSD-76132994

Thank you for your email dated 23 September 2024 seeking input from the Biodiversity, Conservation and Science Group (BCS) into the Department of Planning, Housing and Infrastructure (DPHI) Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environment Impact Statement (EIS) for the proposed subdivision.

We are informed that the proposed works are in excess of $10 million and is located in an environmentally sensitive area of State Significance or sensitive coastal location, and therefore is State Significant Development (SSD) requiring an EIS to be prepared.

The proposed site is zoned C2 Environmental Conservation under the Wollongong Local Environment Plan 2009 (LEP) and the Lot is split by Lawrence Hargrave Drive and the South Coast Train line. The eastern portion of the site is accessible from Lawrence Hargrave Drive. The western part of the site predominantly contains bushland forming part of the Illawarra Escarpment.

We note that the site contains various environmental attributes and constraints to development, and spatial data indicates the site is:

- adjacent to the Illawarra Escarpment State Conservation Area managed by the National Parks and Wildlife Service
- within coastal use area and coastal environmental areas under the *State Environmental Planning Policy (Resilience and Hazards) 2021*
- mapped almost entirely as native vegetation, containing plant community types (PCTs) with potential association with threatened ecological communities listed under schedule 2 of the *Biodiversity Conservation Act 2016*
- mapped as containing numerous records of flora and fauna threatened species listed under schedule 1 of the *Biodiversity Conservation Act 2016*

- subject to Illawarra Escarpment Strategic Management Plan 2015 (IESMP 2015) due to the site being mapped on the Wollongong LEP Illawarra Escarpment Map
- mapped partly on the Shoalhaven LEP Riparian Lands and Watercourses mapping
- mapped on Wollongong LEP
    - Natural Resource Sensitivity map
    - Acid Sulphate Soils map (Class 5)
- mapped within the Illawarra Regional Biodiversity Corridor in the Illawarra Biodiversity Strategy and within High Environmental Value (HEV) mapping associated with the Illawarra Shoalhaven Regional Plan
- bushfire prone,
- coastal erosion, and
- slope instability.

As the matter is SSD, the development application must be accompanied by a biodiversity development assessment report (BDAR) and the proponent has indicated the need to prepare a BDAR. Impacts to biodiversity values include, but are not limited to, direct impacts from clearing for building envelopes, bushfire asset protection zones, access roads, driveways, services, effluent disposal areas, ancillary buildings and new boundary fence lines as well as indirect impacts. See sections 7.2 and 7.7 of the *Biodiversity Conservation Act 2016* (BC Act), 7.1 (3) of *Biodiversity Conservation Regulation 2017* and Attachment A for further details.

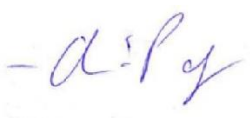
The western side of the proposal adjoins land owned by the National Parks and Wildlife Service (NPWS). As such adjoining land owner issues will need to be addressed. The proposed use of the Wodi Wodi Track as access to the private land will need to also gain land owner's consent. No communication with NPWS is documented and it is recommended the proponent engages directly with NPWS before progressing the proposal. See Attachment B for further details.

In addition, the EIS must address the relevant requirements in Attachment A and address the project specific requirements in Attachment B.

Finally, the proponent should also refer to the relevant guidance material listed in Attachment C.

If you have any further questions about this issue, please contact Katherine Lang, Senior Conservation Planning Officer, Planning (Illawarra), Biodiversity, Conservation and Science Group, on 02 4224 4114 or at *katherine.lang@environment.nsw.gov.au*.

Yours sincerely



Chris Page
Senior Team Leader, Planning (Illawarra) South East
Biodiversity Conservation and Science Group

Department of Climate Change, Energy, the Environment and Water

4 October 2024

Enclosures:
Attachment A – Standard Environmental Assessment Requirements
Attachment B – Project Specific Environmental Assessment Requirements
Attachment C – Guidance Material

Attachment A – Standard Environmental Assessment Requirements

Biodiversity

1. The EIS must assess biodiversity impacts related to the proposed development in accordance with Section 7.9 of the *Biodiversity Conservation Act 2016* using the Biodiversity Assessment Method (BAM) 2020 and documented in a Biodiversity Development Assessment Report (BDAR), unless: a) a BDAR waiver is granted, or b) the site is on biodiversity certified land. The BDAR must include information in the form detailed in the *Biodiversity Conservation Act 2016* (s6.12), *Biodiversity Conservation Regulation 2017* (s6.8) and the BAM.
2. The BDAR must apply the avoid, minimise and offset hierarchy including assessing all direct, indirect, uncertain and prescribed impacts in accordance with the BAM.
3. The BDAR must be submitted with all spatial data associated with the survey and assessment as per Appendix K of the BAM.
4. The BDAR should include details of the measures proposed to address the offset obligation as follows: a) The total number and classes of biodiversity credits required to be retired for the development/project; b) The number and classes of like-for-like biodiversity credits proposed to be retired; c) The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; d) Any proposal to fund a biodiversity conservation action; e) Any proposal to conduct ecological rehabilitation (if a mining project); f) Any proposal to make a payment to the Biodiversity Conservation Fund. 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.

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 *Biodiversity Conservation Act 2016*.

6. The EIS must contain a summary of the commitments set out in the BDAR to avoid, minimise and mitigate the biodiversity impacts of development that are to be implemented via consent conditions (or if via post approval, by their inclusion in a Biodiversity Management Plan (BMP)). The preparation of a BMP to fulfil the avoid and minimise requirements of the BDAR must be included as a condition of consent/approval, unless otherwise agreed with BCS. The BMP must include detailed measures to minimise impacts on biodiversity, monitoring and reporting requirements, proposed adaptive management measures, performance criteria recommended to meet states outcomes, remedial actions to be undertaken if actions fail to achieve stated outcomes, and any additional actions relevant to the management of biodiversity.

7. If the development is on biodiversity certified land, provide information to identify the site (using associated mapping) and demonstrate the proposed development is consistent with the relevant biodiversity measure conferred by the biodiversity certification.

NOTE – A BDAR template and guidance document has been created to assist accredited assessors to prepare a BDAR. It has been developed in accordance with best practice, minimum information requirements, and to support BDAR reviewers. The BDAR Template can be found *here* and the Guidance for the BDAR Template can be found *here*. Supporting digital data as per Appendix K of the BAM is also required to be submitted.

Water and soils

8. The EIS must map the following features relevant to water and soils including:
   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
   e. Groundwater dependent ecosystems
   f. Proposed intake and discharge locations

9. The EIS must describe background conditions for any water resource likely to be affected by the development, including:
   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. Where locally derived indicators and guideline values are not available for the relevant Water Quality Objectives, the EIS must refer to the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZG, 2018).

10. The EIS must assess the impacts of the development on water quality, including:
   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, using the *Risk-based framework for considering waterway health outcomes in strategic land use planning decisions*.
   b. Identification of proposed monitoring of water quality or required changes to existing monitoring programs
   c. How the development meets the objects of the *Coastal Management Act 2016* and management objectives of relevant Coastal Management Areas defined under this Act
   d. Consistency with any relevant certified Coastal Management Program (or Coastal Zone Management Plan)

11. EIS must assess the impact of the development on hydrology, including:
   a. Water balance including quantity, quality and source
   b. Effects to downstream rivers, wetlands, estuaries, marine waters (including marine protected areas) 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

g. Identification of proposed monitoring of hydrological attributes

Flooding and coastal hazards

12. The EIS shall include a flood impact and risk assessment (FIRA). As a minimum the FIRA must:

a. Consider the relevant provisions of the NSW Flood Risk Management Manual and associated guides, and existing council and government studies, information and requirements

b. Identify and describe existing flood behaviour on the site and its surrounding areas for the full range of events, including 5% AEP, 1% AEP, PMF and 0.5% AEP or 0.2% AEP and provide an assessment of the compatibility of the development and its users with flood behaviour. This may require flood modelling where existing flood information is not available

c. Determine and describe changes in post development flood behaviour, impacts of flooding on existing community and on the development and its future community for full range of events, 5% AEP, 1% AEP, PMF and 0.5% AEP or 0.2% AEP. This will typically require flood modelling

d. Consider impacts of climate change due to both sea level rise and increase in rainfall intensities considering relevant Council and government advice.

e. Propose and assess the effectiveness of management measures required to minimise the impacts and risks of flooding to the development and its users and existing community

Note:

- The FIRA will need to be tailored to suit the project being considered, whilst maintaining consistency with the FIRA guide.

Note:

- Flood modelling is to be undertaken by a suitably qualified engineer consistent with Council's requirements and Australian rainfall and Runoff and is to consider the influence of oceanic conditions in coastal areas.
- Flood behaviour includes flood volume, extent, depth, level, velocity, duration, rate of rise, flood function and flood hazard.
- Impacts include those on different elements at risk such as the existing community, property, floor levels, access etc due to changes to flood behaviour and risks to the community including emergency management response for the community.

13. The EIS must demonstrate consistency with any certified Coastal Management Program (or Coastal Zone Management Plan) and be consistent with the management objects and objectives described in the *Coastal Management Act 2016* and development controls for coastal management areas mapped under the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

Coastal and marine ecology

14. For development/infrastructure that have the potential for direct and/or indirect impacts on adjoining or nearby marine protected areas (marine parks and aquatic reserves) declared under the *Marine Estate Management Act 2014* and the *Fisheries Management Act 1994,* the EIS must take the following into consideration:
    - The management rules and purpose of zoning
    - Permissible uses of the area concerned under the regulations/management rules
    - The marine park management plan (if available)

15. The EIS must consider the potential impacts of the [development/infrastructure] in proximity to marine protected areas with regard to sediment transport processes and impacts to water quality.

16. A threatened aquatic species assessment (Part 7A *Fisheries Management Act 1994*) to assess impacts on listed threatened species, populations or ecological communities listed under the *Fisheries Management Act 1994* (FM Act).

17. The EIS must assess the environmental, social and economic impacts of marine pests and general marine biosecurity risks from vessels associated with development.

18. The EIS must assess biodiversity impacts on threatened and protected marine wildlife species under the *Biodiversity Conservation Act 2016* related to the proposed development in the marine and coastal environment out to 3 nautical miles and up to mean high tide mark.
19. The EIS must identify whether the development would be classified as a key threatening process in accordance with the listings in the FM Act, the BC Act and the *Environmental Protection and Biodiversity Conservation Act 2000 (Cth)*.
20. The EIS must identify and assess any potential impacts of the construction/operation of the development on benthic species/habitats, sea grass beds, sponge beds, corals, shell/gravel and rocky reefs.
21. The EIS must assess and identify whether there will be significant acoustic impacts on marine species during the construction and operation of the development.
22. The EIS must identify and assess whether the development will cause significant light pollution including obtrusive lighting and propose an appropriate strategy to mitigate lighting spill from the site.

Attachment B – Project Specific Requirements

Statutory Framework

23. The proponent must demonstrate in more detail how the proposal complies with the NSW statutory framework. Further evidence/discussion should be clearly presented and include, but not be limited to:
    - permissibility of the proposal,
    - clarity of the State Environmental Planning Policy (Planning Systems) including cl.2.6(1)(a) and cl.13(2)(b), and
    - legal land access arrangements (including owner's consent) for usage of Wodi Wodi Track for private purposes.

Lands managed by the National Parks and Wildlife Service

24. This section is relevant for development that has the potential for direct and/or indirect impacts on adjoining or nearby NPWS estate reserved under the *National Parks and Wildlife Act 1974* (NPW Act) and managed by the NSW National Parks and Wildlife Service (NPWS) such as impacts to natural and cultural values, management access, and visitor experiences.

    Note: the site is located adjacent to the Illawarra Escarpment State Conservation Area.

A. The EIS must:

    a. Identify whether the development is permissible under the NPW Act or consistent with the objects of the Act and relevant reserve management principles.

    b. Identify alternative options that have been explored to avoid the park and a clear justification of any on-park components of the development.

    c. Provide an assessment of the nature, extent and duration of any potential direct or indirect impacts on NPWS managed lands, including all matters outlined in the NPWS document titled: 'Developments Adjacent to National Parks and Wildlife Service

Lands: Guidelines for Consent and Planning Authorities' (DPIE NPWS 2020) including an assessment of impacts relating to:

i. illegal access issues e.g. trail bikes and four wheel drive vehicles, rubbish dumping, firewood collection (including tree felling), and creation of mountain bike track networks
ii. clearing required for boundary fencing
iii. potential hazard reduction burning
iv. potential impacts on fauna in adjacent landscape resulting from habitat reduction, fragmentation and degradation within the site

d. Identify measures proposed to prevent, control, abate, minimise and manage any potential direct and indirect impacts on NPWS managed lands including evaluation of the effectiveness and reliability of the proposed measures and quantification of any residual impacts to NPWS managed lands.
e. Quantify any residual impacts to the park[s]
f. Be prepared in consultation with NPWS.

B. Where there is a real potential for the proposed development to encroach or occupy lands reserved or acquired under the *National Parks and Wildlife Act 1974* (NPW Act), either on a temporary or permanent basis, the EIS must:

a. outline all consultation to date with the National Parks and Wildlife Service (NPWS) and whether land owner's consent has been obtained from the Minister administering the National Parks and Wildlife Act 1974
b. justify, with reference to the NPW Act and (if relevant) the *Wilderness Act 1987*, how the development/infrastructure is permissible through being consistent with:
   i. the objects of the NPW Act and (if relevant) the Wilderness Act
   ii. the management principles for the category of reserve and (if relevant) wilderness
   iii. the adopted plan of management for the park

   OR is subject to other legislation that overrides these Acts

   OR is dependent on the revocation of the park.

c. outline alternative options that have been explored that would avoid any encroachment/occupation of park and justify why this encroachment/occupation must occur as part of the development/infrastructure

d. clearly identify:

i. the area of park to be temporarily occupied or utilised as part of the development/infrastructure, including any routes of access through the park or areas required for the storage of vehicles, plant, equipment or materials

ii. the area of park to be permanently occupied or utilised as part of the development/infrastructure, including access for future operations.

C. In the case of proposed revocation of lands reserved under the NPW Act or transfer of lands acquired under the NPW Act, the EIS must provide:

a. a full account of the biological and cultural values of the land subject to the revocation/transfer

b. an evaluation of the contribution of the impacted land to the biological and cultural values of the neighbouring park

c. details of any compensation proposal, consistent with the *Revocation, recategorisation and road adjustment policy | NSW Environment and Heritage*, including an assessment of the biological and cultural values of the proposed offset.

D. In the case of a development/infrastructure that adjoins, is in the immediate vicinity of a park or upstream, the assessment of impacts must address:

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

v. 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

vi. Residual impacts

Attachment C – Guidance Material

Title	Web address
Relevant Legislation	
Biodiversity Conservation Act 2016	https://www.legislation.nsw.gov.au/#/view/act/2016/63/full
Coastal Management Act 2016	https://www.legislation.nsw.gov.au/#/view/act/2016/20/full
SEPP (Resilience and Hazards) 2021	https://legislation.nsw.gov.au/view/whole/html/inforce/current/epi-2021-0730
Commonwealth Environment Protection and Biodiversity Conservation Act 1999	https://www.legislation.gov.au/Series/C2004A00485
Environmental Planning and Assessment Act 1979	https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203
Fisheries Management Act 1994	https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203
Marine Estate Management Act 2014	https://legislation.nsw.gov.au/view/html/inforce/current/act-2014-072
National Parks and Wildlife Act 1974	https://legislation.nsw.gov.au/view/html/inforce/current/act-1974-080
Protection of the Environment Operations Act 1997	https://legislation.nsw.gov.au/view/html/inforce/current/act-1997-156

Title	Web address
Water Management Act 2000	*https://legislation.nsw.gov.au/view/html/inforce/current/act-2000-092*
Wilderness Act 1987	*https://legislation.nsw.gov.au/view/html/inforce/current/act-1987-196*
Biodiversity	
Biodiversity Assessment Method 2020 & assessor resources (including legislation, manuals, BDAR templates, survey guidelines, registers and databases)	*https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-2020* *https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-resources*
Guidance to assist a decision maker to determine a serious and irreversible impact	*https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/guidance-decision-makers-determine-serious-irreversible-impact-190511.pdf*
Policy and guidelines for fish habitat conservation and management	*https://www.dpi.nsw.gov.au/fishing/habitat/publications/pubs/fish-habitat-conservation*
SEED Data Portal (access to online spatial & environmental data)	*http://seed.nsw.gov.au/*
Conservation lands	

Title	Web address
Guidelines for developments adjacent to NPWS managed lands	https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/development-guidelines
Water and Soils	
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm
Australian and New Zealand Guidelines for Fresh and Marine Water Quality	https://www.waterquality.gov.au/anz-guidelines
Water Quality Guidelines Mixing zones	https://www.waterquality.gov.au/anz-guidelines/resources/key-concepts/mixing-zones
Approved methods for the sampling and analysis of water pollutants in NSW (2022)	https://www.epa.nsw.gov.au/licensing-and-regulation/licensing/environment-protection-licences/licensing-under-poeo-act-1997/licensing-to-regulate-water-pollution/approved-methods-for-sampling-and-analysing-water-pollutants

Title	Web address
Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions.	https://www.environment.nsw.gov.au/research-and-publications/publications-search/risk-based-framework-for-considering-waterway-health-outcomes-in-strategic-land-use-planning
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
National Acid Sulfate Soils Guidance: National acid sulfate soils identification and laboratory methods manual, Department of Agriculture and Water Resources, Canberra, ACT. (Sullivan, L, Ward, N, Toppler, N and Lancaster, G. 2018a).	https://www.waterquality.gov.au/sites/default/files/documents/dewatering-acid-sulfate-soils.pdf

Title	Web address
National Acid Sulfate Soils guidance: National acid sulfate soils sampling and identification methods manual, Department of Agriculture and Water Resources, Canberra ACT. (Sullivan, L, Ward, N, Toppler, N and Lancaster, G. 2018b).	*https://www.scu.edu.au/media/scueduau/eal/documents/National-acid-sulfate-soils-sampling-and-indentification-methods-manual.pdf*
National Acid Sulfate soils Guidance: Overview and management of monosulfidic black ooze (MBO) accumulations in waterways and wetlands, Department of Agriculture and Water Resources, Canberra ACT. (Sullivan, LA, Ward, NJ, Bush, RT, Toppler, NR, Choppala, G. 2018c)	*https://www.scu.edu.au/media/scueduau/eal/documents/Overview-and-management-of-monosulfidic-black-ooze-MBO-accumulations-in-waterways-and-wetlands.pdf*

Title	Web address
National Acid sulfate soils guidance: Guidelines for the dredging of acid sulfate soil sediments and associated dredge spoil management, Department of Agriculture and Water Resources, Canberra, ACT (Simpson, SL, Mosley, L, Batley, GE and Shand P. 2018).	https://www.waterquality.gov.au/sites/default/files/documents/dredging-sediments-spoil.pdf
National Acid Sulfate Soils Guidance: Guidance for the dewatering of acid sulfate soils in shallow groundwater environments, Department of Agriculture and Water Resources, Canberra, ACT. (Shand, P, Appleyard, S, Simpson, SL, Degens, B, Mosley, LM 2018)	https://www.waterquality.gov.au/sites/default/files/documents/dewatering-acid-sulfate-soils.pdf
Flooding and Coastal Hazards	
Coastal management	https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management
Floodplain development manual	https://www.environment.nsw.gov.au/topics/water/floodplains/floodplain-manual

Title	Web address
Flood Risk Management Manual	https://www.environment.nsw.gov.au/research-and-publications/publications-search/flood-risk-management-manual
Flood Impact and Risk Assessment	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/flood-risk-management-impact-risk-assessment-220057.pdf
Coastal Management Manual	https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/manual
NSW Climate Impact Profile	http://climatechange.environment.nsw.gov.au/
Floodplain Risk Management Guidelines	http://www.environment.nsw.gov.au/topics/water/coasts-and-floodplains/floodplains/floodplain-guidelines
Australian Rainfall and Runoff: A Guide to Flood Estimation	http://arr.ga.gov.au/
Marine and Coastal ecology	
Marine Estate Management Strategy	https://www.marine.nsw.gov.au/marine-estate-programs/marine-estate-management-strategy
NSW Marine Estate Threat and Risk Assessment	https://www.marine.nsw.gov.au/marine-estate-programs/threat-and-risk-assessment

Title	Web address
National Light Pollution Guidelines for Wildlife including Marine Turtles, Seabirds and Migratory Shorebirds	*https://www.dcceew.gov.au/environment/biodiversity/publications/national-light-pollution-guidelines-wildlife*
NSW Marine Protected Areas	*https://www.marine.nsw.gov.au/your-marine-estate/marine-protected-areas*