



Ms Renah Givney
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By email: renah.givney@dpie.nsw.gov.au

Dear Ms Givney

Subject: Affordable Housing, 25-27 Boyd Street Tweed Heads (SSD-72700708)

Thank you for your email dated 11 February 2025 seeking advice from the Conservation Programs, Heritage and Regulation Group (CPHR) of the NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW) on the Environmental Impact Statement (EIS) for the Affordable Housing project at 25-27 Boyd Street Tweed Heads.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) issued by the Department of Planning, Housing and Infrastructure on 3 July 2024.

We consider the EIS **does not** meet the Secretary's requirements for the assessment of biodiversity. Our key issue is:

- The Biodiversity Development Assessment Report (BDAR) has not been certified by the accredited assessor.

Once this issue is resolved, BCS recommends the measures to minimise impacts identified in section 6.1 of the BDAR be included as conditions of approval, should consent be granted for the project.

A summary of our assessment and advice is provided in **Attachment A**. Detailed comments are provided in **Attachment B**.

If you have any questions about this advice, please do not hesitate to contact Mr Dimitri Young, Senior Team Leader Planning North East, CPHR, via dimitri.young@environment.nsw.gov.au or 6659 8272.

Yours sincerely

GABRIELLE PIETRINI
Director North East
Conservation Programs, Heritage and Regulation Group
7 March 2025

Attachments:

Attachment A - CPHR Assessment Summary for State Significant Development Application Environmental Impact Statement 25 – 27 Boyd Street, Tweed Heads (SSD 72700708)

Attachment B Detailed comments for Affordable Housing 25-27 Boyd Street Tweed Heads Environmental Impact Statement (SSD - 72700708)

ATTACHMENT A

CPHR Assessment Summary for State Significant Development Application Environmental Impact Statement 25 – 27 Boyd Street, Tweed Heads (SSD 72700708)

In preparing this advice CPHR has reviewed the following documents:

- Environmental Impact Statement, Beam Planning, 8 January 2025 (EIS)
- Flood Risk Assessment, Northrop Engineers, 10 December 2024
- Biodiversity Development Assessment Report, AMBS Ecology and Heritage, December 2024 (BDAR)
- Arborist Report, Bradley Magus, 13 December 2024

Key Assessment Issues

1.	<i>BDAR certification</i>	The BDAR has not been certified by the assessor Recommended action: <ul style="list-style-type: none">• The assessor certifies the BDAR and submits it to the consent authority within 14 days of the BDAR re-certification date
	<i>Extent and Timing</i>	Pre-determination
2.	<i>Measures to minimise impacts</i>	The BDAR includes measures to minimise impacts on biodiversity values Recommended action: <ul style="list-style-type: none">• The measures to minimise impacts recommended in section 6.1 of the BDAR be included as conditions of approval should consent be granted for the project.
	<i>Extent and Timing</i>	Determination

ATTACHMENT B Detailed comments for Affordable Housing 25-27 Boyd Street Tweed Heads Environmental Impact Statement (SSD - 72700708)

Flooding

CPHR has conducted a preliminary review of the Appendix - Flood Risk Assessment of the EIS and prepared by Northrop Engineers. We have no issues to raise regarding the flood risk assessment at this time.

Biodiversity

The Appendix - Biodiversity Development Assessment Report (BDAR) of the EIS does not meet the Secretary's requirements for biodiversity as set out below.

Biodiversity Development Assessment Report

The BDAR has not been certified by the assessor

A BDAR must be submitted to the decision-maker within 14 days of its certification as per s6.15(1) of the *Biodiversity Conservation Act 2016*. This ensures currency of assessment information in the report. It appears the BDAR has not been certified by the accredited assessor.

Recommended action:

1. The assessor certifies the BDAR and submits it to the consent authority within 14 days of the BDAR re-certification date.

The BDAR makes unnecessary references to the Biodiversity Offsets Scheme (BOS) threshold (page 13)

Applications for State Significant Development (SSD) projects are required to be assessed in accordance with the BOS unless a waiver has been obtained that specifies a BDAR is not required. This means the BOS threshold is not a relevant consideration for SSD. The BDAR states the project's impacts do not exceed the BOS threshold for application of the BAM. The BAM must be applied unless a BDAR waiver is obtained.

Recommended action:

2. The assessor be advised to exclude references to the BOS threshold in a BDAR.

The BDAR has not included a SAI assessment

A BDAR must include an assessment of entities at risk of a SAI in accordance with the relevant parts of Section 9.1 of the Biodiversity Assessment Method 2020 (BAM) or indicate why a SAI assessment is not relevant to a proposal. This has not been provided in the BDAR for this matter. The BDAR has identified 20 highly mobile threatened species that may forage on the site. None of these were recorded there and none are listed as SAI entities. CPHR advises the project is unlikely to have a SAI on biodiversity.

Recommended action:

3. The assessor be advised to ensure a SAI assessment is included in a BDAR or at least an explanation as to why such assessment is not relevant to the proposal.

The BDAR includes recommendations to minimise impacts on biodiversity values (pages 13-14)

The BDAR sets out several recommendations to minimise impacts on biodiversity values including, maximising the retention of mature planted native trees, having a fauna ecologist present during removal of either of the 2 trees with potential hollow fissures if the trees cannot be retained, controlling soil erosion and dust, and facing nocturnal lights downwards and away from trees. These recommendations are to be included in the conditions of approval, should consent be granted for the project.

Recommended action:

4. The measures to minimise impacts recommended in section 6.1 of the BDAR be included as conditions of approval should consent be granted for the project.

A Test of Significance (TOS) has been included in the BDAR (Appendix E)

The TOS included in Appendix E of the BDAR is not required to determine entry into the BOS for SSD. Rather, applications for SSD projects are required to be assessed in accordance with the BOS unless a waiver has been obtained that specifies a BDAR is not required. It is possible the TOS was used by the assessor to assess the impact on threatened species, ecological communities, or their habitats as part of the streamlined BDAR, but this is not explicitly stated in the BDAR

Recommended action:

5. The assessor be advised to exclude references to the TOS being used as a BOS entry trigger for SSD (i.e. to determine whether an impact is significant for SSD).