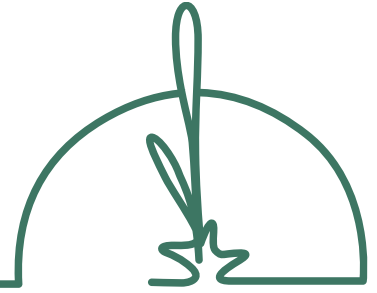


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Proposed Peak Motorcycle Facility
Yerriyong

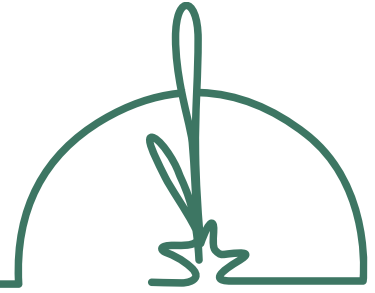
Motorcycling NSW

Peer Review and Project Assessment

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This document and the intellectual material it contains have been prepared by the principal author (Mr F Dominic Fanning) for the specific purposes described herein.

It has been prepared in cognition of Division 2 Part 31 of the *Uniform Civil Procedures Rules* (UCPRs) and the *Expert Witness Code of Conduct* contained in Schedule 7 to the UCPRs – as practised *inter alia* in the NSW Land & Environment Court.

Any interpretation of this *Report* or any extraction from it are subject to the approval of the author.

**PROPOSED PEAK MOTORCYCLE FACILITY - YERRIYONG
MOTORCYCLING NSW**

PEER REVIEW and PROJECT ASSESSMENT

June 2016

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PROPOSED PEAK MOTORCYCLE FACILITY - YERRIYONG MOTORCYCLING NSW

PEER REVIEW and PROJECT ASSESSMENT

June 2016

1 INTRODUCTION

1.1 The Proposed Development

The proposal is for the development of a 'Peak Motorcycle Facility' at Yerriyong – to the southwest of Nowra in the Shoalhaven Local Government Area (LGA). The overall project involves:

- the development of a 'Road Racing Precinct' - on land to the immediate east of Braidwood Road (adjoining the southwestern boundary of the existing HMAS Albatross aerodrome); and
- the formalisation and re-development of an 'Off Road Facility' to the immediate west of Braidwood Road – on land that has long been highly disturbed for such purposes.

The “*study area*” for the purposes of this *Peer Review and Project Assessment Report* (as defined in Biosis 2016) is an area of approximately 548 hectares of Crown Land (involving several Lots) straddling Braidwood Road at Yerriyong, southwest of Nowra in the Shoalhaven Local Government Area. Approximately 525.5ha of the study area contains “*native vegetation in good condition*” (Biosis 2016), whilst the remainder has been disturbed for the existing off-road facility and informal enduro tracks.

The land on which the Road Racing Precinct is proposed (east of Braidwood Road) is currently vegetated with open woodland, in generally good condition. This portion of the study area occupies approximately 85ha, of which approximately 42ha is to be cleared for the Road Racing Precinct project. The area to be cleared for the Road Racing Precinct is defined in Biosis 2016 as the “*subject site*”.

1.2 Purpose of This Report

The motorcycling NSW facility at Yerriyong has been addressed in a *Flora & Fauna Assessment Report* (FFAR) prepared by Biosis (Final Version 7 dated 19 February 2016).

This *Peer Review and Project Assessment Report* was commissioned by the proponent (Motorcycling NSW) and the project manager (Cowman Stoddart Pty Ltd) – with the following purposes:

- to peer review the Biosis FFAR and Addendum – have the investigations undertaken by Biosis been sufficient and is the impact assessment adequate; and
- to consider some matters raised by the Threatened Species Officer (TSO) of Shoalhaven City Council (SCC) and by the Office of Environment & Heritage (OEH).

2 INFORMATION BASE

Information regarding the subject land and the proposal with respect to relevant threatened and other native biota has been obtained from the following documentation.

- The *Final Report* (dated 19 February 2016) from Biosis – *Motorcycling NSW Peak Motorcycle Facility, Yerriyong. Flora and Fauna Assessment. Final Report* (FFAR)
- An *Addendum* to the FFAR (dated 06 June 2016) from Biosis
- Correspondence from the NSW Office of Environment & Heritage (OEH) – dated 15 June 2016
- The *Report* from Shoalhaven City Council (SCC) to the Southern Region Joint Regional Planning Panel (JRPP) – undated
- Aerial photography – including that provided by Biosis and that available on Google Earth
- Data and records contained within the databases of the OEH and the Commonwealth Department of the Environment

3 BASIS of REPORT and ASSUMPTIONS

This *Peer Review and Project Assessment Report* has been prepared on the basis of the documents cited above, and on the basis of the personal knowledge and experience of the author of this *Report* in the Shoalhaven LGA over a period of at least 25 years.

Whilst I have not undertaken a site inspection for this *Report*, I have travelled along Braidwood Road on many occasions, and have extensive experience in the locality. I rely on the mapping and empirical field descriptions provided in the Biosis FFAR; and I am confident of their veracity.

I note that I have read a previous version of the Biosis FFAR; as well previous correspondence from Shoalhaven City Council (SCC) – dated 11 November 2015, and from the NSW Office of Environment & Heritage (OEH) – dated 30 November 2015. I provided advice to Cowman Stoddart and Motorcycling NSW in January 2016 regarding some aspects of the FFAR and the project, which have been incorporated into the latest documentation and development design.

This *Report* has been prepared in cognisance of Division 2 Part 31 of the *Uniform Civil Procedures Rules* (UCPRs) and the *Expert Witness Code of Conduct* contained in Schedule 7 to the UCPRs – as practised *inter alia* in the NSW Land & Environment Court.

4 PEER REVIEW

4.1 Field Investigations

I am of the opinion that the field investigations conducted by Biosis of the study area and of the subject site are sufficient to support their conclusions and *Section 5A Assessments of Significance* – as documented in the February 19 FFAR and the June 06 Addendum.

As documented in Chapter 2.5.1 and detailed in Appendix 1, and as illustrated in Figures 3, 4 and 5 of the FFAR, field investigations for flora and vegetation have included the following.

- Dedicated flora surveys (including random meanders and flora quadrats) and the mapping of vegetation in the study area and the subject site – in 2011 and 2013.
- Dedicated surveys for a range of threatened plant species – in July, September and December 2013; January 2014; January, March and May 2015; and January 2016.

Additionally, as documented in Chapter 2.5.2 and Appendix 1, and in Figures 6, 7 and 8 of the FFAR, field investigations for fauna and fauna habitats have included the following.

- Mapping of hollow-bearing trees on and around the subject site.
- dedicated surveys for a range of threatened fauna species – in June and July, and in October and November 2013; December 2014; and April 2015.

A supplementary study of hollow-bearing tree densities in the locality (being the area within a 5km radius of the study area) was undertaken in April 2016 – to gain a more detailed understanding of the densities and numbers of hollow-bearing trees, and different tree-hollows, around the subject land.

The field investigations have thoroughly covered the subject site and the relevant parts of the study area both extensively and intensively; and the Biosis FFAR and Addendum provide a detailed and thorough analysis of the areas to be affected by the proposal, and a satisfactory understanding of the study area.

It is noted that Biosis states – with respect to activities west of Braidwood Road - that “*further threatened flora and fauna surveys are recommended in the western area if detailed design cannot avoid significant impacts to [sic] sensitive habitats*”.

Appropriate and careful design of the activities to be undertaken west of Braidwood Road should aim to avoid any such impacts; and would readily be able to do so, in my opinion.

4.2 Flora, Fauna and Ecosystems

The Biosis 2016 FFAR and Addendum provide a satisfactory documentation and analysis of the flora and fauna present and/or likely to occur on the subject site and in the study area at Yerriyong.

Given the comprehensive field surveys undertaken, it is my conclusion that an excellent understanding of the ecosystems present, and their component wildlife, has been provided. The material enables a reasonable and competent person to make a reasoned judgement regarding the likely impacts of the proposal, and to determine the appropriateness of the proposal.

The assessment by Biosis of the threatened flora and fauna present on or likely to use the subject site and the study area is based on thorough field investigations and reasonable consideration of habitat requirements and the life habits of the species – as documented in Chapter 3.4.1 and Appendices 2 and 3 of the FFAR. These analyses are, in my opinion, appropriate; and accurately reflect both the circumstances of the subject lands and the likelihood or otherwise of the threatened biota being present on or dependent for their survival on the subject site and study area.

With respect to hollow-bearing trees, the FFAR calculated that there would be around 72,000 hollow-bearing trees in the locality (being an area within a 5km radius of the study area). Supplementary investigations by Biosis have demonstrated that there are likely to be in excess of 368,000 hollow-bearing trees in the locality – most of which are in conservation lands or on Crown Land. The number of hollow-bearing trees to be removed for the proposed development (497) is insignificant.

It is noted that the species that are known or highly likely to occur which rely on tree-hollows are all highly mobile. Many use a number of hollows within their home ranges.

4.3 Section 5A Assessments of Significance

Biosis has updated the *Section 5A Assessments of Significance* which were contained in the previous version of the FFAR, and has provided four additional *Section 5A Assessments of Significance* (for the Squirrel Glider, Rosenberg's Goanna, Bush Stone-curlew and Eastern False Pipistrelle) in the Addendum.

In addition, Biosis states in the Addendum that the *Section 5A Assessments of Significance* in the FFAR were not reliant on the establishment of a policy of salvaging and re-deploying tree-hollows. Rather, the conclusions of the *Section 5A Assessments of Significance* are reliant on the substantial array of tree-hollows in the extensive reserved and other forested lands in the locality.

As noted above, the revised estimate by Biosis of the number of hollow-bearing trees within a 5km radius of the study area is more than 368,000 (all within conserved lands or Crown Lands). The loss of 497 hollow-bearing trees for the proposal is insignificant in that circumstance.

The *Section 5A Assessments of Significance* provided by Biosis - in both the FFAR and in the Addendum - are satisfactory and the factors of Section 5A have been properly applied.

I am of the opinion, on the basis of the data and information provided in the Biosis FFAR and Addendum, that the proposed motorcycling facility at Yerriyong is NOT "*likely*" to impose a "*significant effect*" on any threatened biota.

I am further of the opinion that there is no justification for the preparation of a *Species Impact Statement*; and that the proposal as currently designed has addressed the matters of impact and impact amelioration in a satisfactory and appropriate manner.

5 SHOALHAVEN CITY COUNCIL

5.1 Council's Concerns in 2015

Shoalhaven City Council had raised a number of concerns with the proposal (in correspondence dated 11 November 2015).

- A lack of survey and information to justify the estimates of the number of hollow-bearing trees in the locality.
- The assumption that no threatened species are breeding in the area of impact.
- The use a 'no net loss' of hollows policy, through salvaging hollows removed during tree clearing and re-deployment in areas of retained vegetation, to support conclusions in *Assessments of Significance* (AoS).
- Additional AoS were required for a further four species previously recorded within 10km of the study area, including:
 - Squirrel Glider *Petaurus norfolcensis*
 - Rosenberg's Goanna *Varanus rosenbergi*
 - Bush stone Curlew *Burhinus grallarius*
 - Eastern False Pipistrelle *Falsistrellus tasmaniensis*

The Addendum to the FFAR (Biosis 06 June 2016) has addressed all of those issues.

- A supplementary survey of hollow-bearing trees by Biosis has calculated that there are more than 368,000 hollow-bearing trees in the locality (all within conserved lands or Crown Lands). The loss of 497 hollow-bearing trees for the proposal is insignificant in that circumstance.
- Even if there are any threatened hollow-dependent species breeding in the area of impact, the quantum of tree-hollows in the locality is sufficient to ensure that there would be no "significant effect".
- The 'no net loss' of hollows policy was not used to support conclusions in *Assessments of Significance* (AoS). Given the opposition of some Council officers to this proposal, it has been withdrawn by the proponent. It is my opinion that the opposition to this approach is ill-informed and ill-considered.
- The four additional *Section 5A Assessments of Significance* have been provided.

The concerns raised by Council in November 2015 have been satisfactorily addressed by Biosis, as is acknowledged in the Council *Report* to the Southern Region JRPP – which recommends approval of the proposal subject to a deferred commencement condition (see below).

As noted by Council in its 2016 *Report* to the Southern Region JRPP, the proposal has been substantially amended to reduce the footprint of the project and to retain additional vegetation and hollow-bearing trees, as well as to commit to substantial rehabilitation works and to dedicate lands for biodiversity conservation purposes.

5.1 Council's Position in 2016

- The amended development proposal (as of June 2016) is the subject of a *Report* by Council to the Southern Region JRPP
- Council now recommends approval of the masterplan proposal as a 'deferred commencement consent' – *"with the outstanding item to be resolved being the detail of how lands proposed as conservation areas will be permanently protected"*.
- The following quotes are from the Council Report to the Southern Region JRPP recommending approval of the proposal as a 'deferred commencement consent' – noting the satisfactory ecological outcomes of the proposal.
 - *"Following an extensive review of the flora and fauna reports submitted and site visits the EAO's [Environmental Assessment Officers] have concluded that 'on the basis of all the mitigation areas offered (34% reduction in area of impact, avoidance of endangered species, reduction in hollow bearing tree removal, vegetated buffers, in perpetuity conservation management for 137 ha of like for like habitat, and rehabilitation of existing enduro tracks and creek crossings) Council concurs with Biosis' conclusion that this proposal does not trigger a significant impact'. Note: Recommended conditions have been provided of which some are relevant to the current masterplan and others relevant to future development applications."*
 - *"Council has undertaken an assessment of the impacts on the basis of all the mitigation areas offered (34% reduction in area of impact, avoidance of endangered species, reduction in hollow bearing tree removal, vegetated buffers, in perpetuity conservation management for 137 ha of like for like habitat, and rehabilitation of existing enduro tracks and creek crossings). Council concurs with Biosis' conclusion that this proposal does not trigger a significant impact."*
 - *"It is noted that the proposed conservation areas are not BioBanking and therefore BioBanking credits are not applicable, and the recommendation is that the application be a deferred commencement to resolve the permanent protection of the conservation areas."*

6 OFFICE of ENVIRONMENT and HERITAGE

The Office of Environment & Heritage (OEH) has provided a supplementary comment on the proposal (dated 15 June 2016).

- Predictably, the OEH opposes the proposal
- The OEH recommends use of the BioBanking Assessment Methodology to determine offsets. This approach is rejected by the proponent, and also by Shoalhaven City Council (see quotes from the Council *Report to the Southern Region JRPP* above)
- The BioBanking Assessment Methodology will be repealed in the new *Biodiversity Conservation Act*
- The recommendation from Council for a 'deferred commencement consent' will satisfactorily address the issues of a "*legal mechanism or instrument ... to secure the required actions*" and "*a secure and transparent funding arrangement*"
- This approach will ensure that the relevant legal mechanisms to secure the biodiversity outcomes proposed will be in place prior to the commencement of any works at the site – to the satisfaction of Council
- OEH does not accept the mitigation measures proposed – including the rehabilitation of endure tracks and creek crossings and the dedication of "*in perpetuity conservation management for 137 ha of like for like habitat*" to the west of Braidwood Road
- In my opinion (and in the opinion of Council's EAOs), these conservation outcomes are an appropriate mitigation measure for the proposal

7 PROJECT ASSESSMENT

My assessment of the 'Peak Motorcycle Facility' at Yerriyong as currently proposed (as at June 2016) is as follows.

- The proposal has been the subject of an intense iterative process – which has *inter alia* reduced the footprint of clearing from 58ha to 42ha, reduced the number of hollow-bearing trees to be removed, and facilitated the retention of all but one of the Leafless Tongue Orchids and provided a 50m buffer (which Both Council and I consider adequate)
- The proposal includes significant impact amelioration and environmental mitigation measures – including rehabilitating a large number of informal enduro trails and creek crossings to the west of Braidwood Road, and dedicating 137ha of rehabilitated open forest and shrubland in perpetuity for biodiversity conservation purposes
- The residual impacts of the proposal are minor – especially given the extent of dedicated and *de facto* conservation areas in the vicinity and locality, and the estimate of 368,000+ hollow-bearing trees within 5 km of the proposal study area
- The proposal represents an appropriate balance between social, economic and environmental goals (the 'triple bottom line' that underpins the state government's planning goals and which underlies the new *Biodiversity Conservation Bill*)
- In my opinion, the Biosis assessment of the project (with respect both to impacts and environmental mitigation measures) is satisfactory, and properly assess the proposal, its impacts and its environmental outcomes
- The proposal as currently designed (in June 2016) will not impose a "*significant effect*" on any threatened biota or their habitats.
- There is no valid requirement for a *Species Impact Statement* to be prepared



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