

Issue	BAM reference	BCD comments	BCD recommendation	Ecosure response/actions	Comments from meeting with Ecosure (Ziggy Andersons) and BCD (Gene Mason) on Thursday 14th September	Actions (5/2/24)
Survey effort within retained vegetation		Stage 1 of the Biodiversity Assessment Method (BAM) 2020 requires accredited assessors to assess the biodiversity values of the subject land to inform the location and design of the proposal such that it avoids and minimises impacts on those values, before assessing the direct and indirect impacts of the proposed development in Stage 2 of the BAM 2020.	1. The BDAR be revised to apply Stage 1 of the BAM to the entirety of Lot 2 DP733057 and Lot 32 DP1280863.	Additional surveys to be undertaken to assess biodiversity values across the entirety of Lot 2 DP733057 and Lot 32 DP1280863. BDAR to be updated.	Even though outside of the definition of 'subject land' i.e. the development footprint, BCD of the opinion that due to potential indirect impacts from changes in hydrological flow that these additional surveys were required to determine what the potential indirect impact may be. They suggested that if we couldn't definitively rule out indirect impacts that we may need allow for a degree of degradation 50m off of the development footprint boundary and retire credits for a reduction in the condition within a 50m buffer.	<p>Surveys completed in June, September, and October 2023.</p> <p>BDAR has been revised to apply Stage 1 of the BAM to the entirety of Lot 2 DP733057 and Lot 32 DP1280863</p>
BAM plot field data	Section 4.3.4 and Appendix K of the BAM 2020	Appendix 2 of the BDAR includes a summary of the results of the plot-based floristic vegetation survey. However, the vegetation integrity survey plot data has not been included. In accordance with section 4.3.4 and Appendix K of the BAM 2020, all plot field data must be included in the BDAR.	2. The BDAR be revised to include all vegetation plot field data.	Noted and to be included in BDAR.	Data to be as raw as possible, electronic data capture output would be ideal.	<p>Report revised to include plot data as appendix.</p> <p>The results are presented as data capture output as requested by BCD.</p>

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BAM plot 3 location	Section 4.3.4(3) of the BAM 2020	During a site inspection carried out by the BCD on 20 June 2023, the approximate location of plot 3 was identified. The plot location appeared to be in a small clearing dominated by exotic grasses which did not reflect the condition of the broader vegetation zone which appeared to mostly comprise Casuarina glauca floodplain forest.	3. The plot 3 data for vegetation zone 1 be replaced in the BDAR with new plot data from an alternate location in vegetation zone 1 that more accurately captures attributes relevant to that vegetation zone.	Noted. Additional more appropriately located plot to be completed in September 2023.	Agreed.	New plot completed in October 2023. No changes resulted from the updated data.
TEC determination and distribution		Parts of the site that have been misidentified as PCT 1064 have also been misidentified as the TEC Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions and will need to be revised to the TEC Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	4. The identification of PCT 1064 in Vegetation Zones 1-3 of the BDAR be reviewed and additional vegetation plots undertaken where the PCT has been misidentified.	Noted. Additional survey work to be completed in September 2023	Agreed.	Survey work and aerial imagery assessment undertaken to refine the extents of PCT 1064 and PCT 1235.
			5. The identification of TECs associated with PCTs in the BDAR be revised where misidentification has occurred.			Mapping has been updated based on the existing plot data and 2023 field surveys. Completed.

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Candidate species occurrence		The habitat constraints for the ecosystem credit species black-necked stork (<i>Ephippiorhynchus asiaticus</i>) and black bittern (<i>Ixobrychus flavicollis</i>) are swamps, shallow open freshwater or saline wetlands and areas of dense vegetation. The subject land mostly comprises coastal floodplain wetlands and swamp forest and contains a tidal drainage line that runs into Oyster Channel immediately to the west of the site. Therefore, these species should not have been excluded from further assessment.	6. The BDAR be revised to remove the black-necked stork (<i>Ixobrychus flavicollis</i>) and black bittern (<i>Ixobrychus flavicollis</i>) from “Table 7 Predicted and candidate threatened species assessed as not present at the site”, and these species be further assessed in the BDAR as likely to occur on the subject land.	Noted. BDAR to be updated accordingly. Note that these are vagrant species and will be recorded within the BAMC accordingly	Both the black-necked stork and the black-bittern are ecosystem species so including them won’t have an impact on the outcome, it was just a technicality	The BDAR has been revised to include the black-necked stork and black bittern as Predicted threatened species, and assessed as being likely to occur on the subject land.
	section 5.2.2(1) of the BAM 2020	The Threatened Biodiversity Data Collection (TBDC) does not list habitat constraints for the species credit species Mitchell’s rainforest snail (<i>Thersites mitchellae</i>), so in accordance with section 5.2.2(1) of the BAM 2020 it cannot be excluded from further assessment.	7. Targeted survey be conducted for the Mitchell’s rainforest snail (<i>Thersites mitchellae</i>), or it be assumed present, or an expert report be obtained, and if the species is	Noted. Surveys to be undertaken in September 2023	Mitchell’s rainforest snail surveys, even though the site is outside of the predicted range for this species they still wanted it surveyed for. BCD agreed on our timing and methodology.	Targeted survey for Mitchell’s rainforest snail completed between October 2023 and January 2024. No evidence found.

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			detected, assumed present, or deemed present by the expert report, then it be further assessed in the BDAR, including under the section on serious and irreversible impacts			
Section 5.3 of the BAM 2020		Figures 9 and 10 of the BDAR show the separation distances for the traverses undertaken for targeted flora surveys on the site were much greater than those listed in the guideline and were not undertaken in a grid pattern. Consequently, the survey effort was likely insufficient to confidently rule out the presence of cryptic plants on the site such as the candidate threatened flora species <i>Rotala tripartita</i> which is known to occur on the adjacent site to the east	8. Additional threatened plant surveys be undertaken for candidate threatened plant species in accordance with the “Surveying Threatened Plants and their Habitats” guideline, or the species be assumed present, or an expert report be obtained, and the BDAR revised accordingly.	Explain survey approach to BCD.	BCD were adamant that the flora survey spacing wasn’t adequate, despite our explanation of survey effort. BCD couldn’t give a definitive definition of what constituted ‘soaking rainfall’ but suggested that it would be if the site received enough rainfall so that the soil moisture reached maximum capacity and ponding had occurred then that would be enough, they suggested using anecdotal evidence of localised flooding in Yamba to strengthen that argument. I suggested that we would contact them closer to the	Threatened flora transects completed in September, October and December 2023; and January 2024, in accordance with the “Surveying Threatened Plants and their Habitats” guideline. Further discussion on survey effort, reference populations and rainfall provided. No threatened flora has been recorded on site.

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					survey period and discuss if the rainfall up to that point could be considered adequate.	
Indirect hydrological impacts to TECs	Section 8.3.4 of the BAM 2020	As the TECs on the subject land are heavily dependent on hydrological conditions that may change because of the development, the impact of the proposed filling on adjacent areas should be fully considered in the BDAR. This should include an assessment of the likely impacts from the change in landscape morphology, and hydrological impacts such as the quantity and quality of stormwater inflow and altered wetting and drying regimes	9. The BDAR be revised to include an assessment of likely impacts that affect water quality, water bodies and hydrological processes that sustain threatened entities.	Noted. BDAR to be updated accordingly	BCD were still concerned that this was going to occur even after Ecosure raised the points about minimal changes to existing vs constructed catchment areas and discharge. BCD suggested providing credits to compensate for indirect impacts within 50m of development footprint. Clifton/Ecosure to put together a more detailed hydrological model/discussion of before and after and incorporate into Stage 2 of the BDAR.	Further discussion has been provided on the ecological impacts of the proposed filling, with reference to other supporting reports (VMP, SWMP, ESCP, Aquatic report). Based on the information available, proposed measures will successfully mitigate hydrological impacts to the retained vegetation. Ongoing monitoring and adaptive management has been proposed (see VMP) to account for potential unpredicted impacts.
Avoid and minimise	Section 6.12 of the Biodiversity Conservation Act 2016	As per recent judgements in the NSW Land and Environment Court, the BDAR cannot rely on avoiding vegetation in the parts of the site where the development is not	10. The BDAR be revised to adequately demonstrate and justify measures taken by the proponent to	Noted. BDAR to be updated accordingly	Avoid and minimise, the team leader was relatively satisfied with our revised avoid justification i.e. that a variety of developments could be undertaken in the C zoned land but Clifton Yamba had	The BDAR has been revised to elaborate on the avoidance and mitigation measures, as per conversations with Clifton Yamba.

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		permissible. The BDAR must demonstrate instead, how the proposal has avoided and minimised impacts on biodiversity values on the R1 zoned land. We consider that measures to avoid or minimise impacts of the proposed development in accordance with section 6.12 of the Biodiversity Conservation Act 2016 have not been adequately justified.	avoid and minimise impacts on the biodiversity values of the site in accordance with Section 6.12 of the Biodiversity Conservation Act 2016.		chosen not to, the officer was still concerned that most of the development site was TEC and we hadn't avoided it. Ecosure to include more info about what is proposed as part of the VMP in addition to updated justification.	The VMP has also been further updated to support the avoid and minimise section of the BDAR.