



Our ref: DOC21/24797

Your ref: DA 2020/508

Fern-Alice Finn
Bathurst Regional Council
fern-alice.finn@bathurst.nsw.gov.au

Dear Fern-Alice,

Sunnybright Estate, Stage 2 – Development Application 2020/508

I refer to your request dated 8 January 2021 seeking comment from the Biodiversity, Conservation and Science Directorate (BCS) of the Department of Planning, Industry and Environment (DPIE) on the exhibited Biodiversity Development Assessment Report (BDAR) for the Sunnybright Estate, Stage 2 – Development Application (the project).

From review of the BDAR for the project it is understood that no clearance of native vegetation will be required as a result of the proposed multiple lot residential subdivision at Lot 118 DP 1253021 Marsden Lane, Kelso. In addition, it has been determined within the BDAR that no significant impact to threatened species, ecological communities or their habitats is likely to result from the project.

BCS believes that the above assessment and determination has been adequately justified within the BDAR.

The proponent should note the below advice in relation to the method of assessment undertaken for the project.

Section 7.2.4 of the *Biodiversity Conservation Regulation 2017* sets out thresholds for when entry into the Biodiversity Offsets Scheme (BOS) is triggered. Section 7.2.4 details two area-based thresholds, which are:

- whether the amount of native vegetation being cleared exceeds an area threshold
- whether the impacts occur on an area mapped on the Biodiversity Values Map

The above area-based thresholds are applicable to local development assessed under Part 4 of the *Environmental Planning and Assessment Act 1979*.

In addition to the above area-based thresholds, Section 7.7 of the *Biodiversity Conservation Act 2016* requires proponents of Part 4 activities to apply the test of significance to assess biodiversity impacts. If the activity is determined as “*likely to significantly affect threatened species, ecological communities, or their habitats*” (referred to collectively as threatened entities) either a Species Impact Statement, or if the proponent “opts in” to the BOS, a BDAR, must be prepared.

For Part 4 activities, an activity is likely to significantly affect threatened entities if it is carried out in an Area of Outstanding Biodiversity Value (ABOV), or the outcome of the “5-part Test” set-out in Section 7.3 of the *Biodiversity Conservation Act 2016* indicates a significant impact.

Given the above, the proponent should note that as the project did not require clearance of native vegetation or impacts on an area mapped on the Biodiversity Values Map and was determined unlikely to significantly affect threatened entities, an assessment according to the Biodiversity Assessment Method (BAM) was not required.



An adequate assessment method in order to support this development application could have been limited to a standard “5-part Test”, in accordance with Section 7.3 of the *Biodiversity Conservation Act 2016*.

A biodiversity assessment and approvals decision support tool is available from the Office of Local Government to help identify biodiversity assessment requirements for proposed developments and activities. This can be accessed at the following website:

<https://www.olg.nsw.gov.au/councils/land-management/biodiversity/biodiversity-assessment-and-approvals-navigator/>

If you require any further information regarding this matter, please contact Ben Ellis, Conservation Planning Officer, via ben.ellis@environment.nsw.gov.au or (02) 82751838.

Yours sincerely

Renee Shepherd
Acting Senior Team Leader Planning North West
Biodiversity, Conservation and Science Directorate

20 January 2021