



Department of Planning, Housing and Infrastructure  
Locked Bag 5022  
PARRAMATTA NSW 2124

Attention: Mr Timothy Coorey

Dear Mr Coorey

**RE: Further Request for Comment - Planning Proposal Swift Place South West Rocks (PP-2021-4455)**

Thank you for your email dated 4 December 2024 providing further information about the planning proposal at Swift Place, South West Rocks, seeking comments from the Biodiversity, Conservation and Science Group (BCS) of the NSW Department of Climate Change, Energy, the Environment and Water. I appreciate the opportunity to provide input.

BCS previously reviewed the High Environmental Values (HEV) report prepared by Biodiversity Australia (November 2023) and raised several issues with the report in our letter to the Department of Planning Housing and Infrastructure (DPHI) dated 23 January 2024.

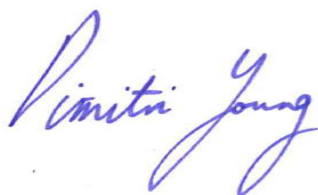
Biodiversity Australia prepared a Response to the DPHI Request for Information (RRFI) dated 21 February 2024 in response to the issues raised by BCS in the January 2024 letter. We have reviewed the RRFI and associated documentation including the Northern Regional Planning Panel's Decision Report dated 4 November 2024. Several issues remain apparent with the mapping of High Environmental Value (HEV) land within the planning area. These issues are discussed in detail in **Attachment 1** to this letter.

In summary, BCS recommends that:

1. The planning proposal be revised to map all parts of the planning area containing land mapped on the revised NSW Biodiversity Values Map as HEV land and apply the C2 Environmental Conservation zone to this land.
2. As the Wallum froglet survey undertaken by AWC is adequate for informing the planning proposal, the confirmed Wallum froglet habitat in the planning area be mapped as HEV land and the C2 Environmental Conservation zone applied to that land.
3. The planning proposal be revised to map all areas of Plant Community Type 4004 as HEV land and apply the C2 Environmental Conservation zone to that land.
4. Protection of koala habitat be achieved by mapping all parts of the planning area containing land mapped on the revised NSW Biodiversity Values Map as HEV land and applying the C2 Environmental Conservation zone to this land.

If you have any further questions about this issue, please contact Mr Bill Larkin, Team Leader Planning North East, BCS, on 6659 8216 or at [bill.larkin@environment.nsw.gov.au](mailto:bill.larkin@environment.nsw.gov.au).

Yours sincerely



**DIMITRI YOUNG**  
**Senior Team Leader Planning North East**  
**Biodiversity, Conservation and Science**

17 December 2024

Enclosure: Attachment 1 – Detailed BCS Comments – Further Request for Comment – Planning Proposal Swift Place SWR

## **Attachment 1: Detailed DCCEEWS BCS Comments – Further Request for Comment planning Proposal Swift Place South West Rocks**

The Biodiversity, Conservation and Science Group (BCS) of the NSW Department of Climate Change, Energy, the Environment and Water previously reviewed the High Environmental Values (HEV) report prepared by Biodiversity Australia in November 2023 and outlined several issues in our letter addressed to the Department of Planning, Housing, and Infrastructure dated 23 January 2024.

In response, Biodiversity Australia submitted a Response to Request for Information (RRI) dated 21 February 2024, addressing the issues raised by BCS. As requested, we have conducted a comprehensive review of the RRI and supporting documents, including the Northern Regional Planning Panel's Decision Report dated 4 November 2024. Based on this review, we raise the following issues for further consideration.

### All parts of the planning area containing land mapped on the NSW Biodiversity Values Map are HEV land.

Some of the planning area contains land mapped on the NSW Biodiversity Values Map (BV Map), which aligns with the North Coast Regional Plan 2041 (NCRP 2041) HEV land criterion 1. Notably, this mapped area contains habitat for the critically endangered Swift Parrot (*Lathamus discolor*), as identified in the important habitat map and integrated into the BV Map.

Following our January 2024 response, Biodiversity Australia submitted a BV map review request to the Department's BV mapping team. The BV mapping team conducted a review and refinement of the Swift Parrot important habitat map and amended the BV map and important habitat map accordingly. Consequently, in accordance with NCRP2041, the updated BV mapped land within the planning area is HEV land. As a result, protecting this HEV land by applying the C2 Environmental Conservation Zone is justified.

### *BCS Recommendation*

1. The planning proposal be revised to map all parts of the planning area containing land mapped on the revised NSW Biodiversity Values Map as HEV land and apply the C2 Environmental Conservation zone to this land.

### The additional information provided has confirmed key habitat for threatened species across the planning area.

HEV land criterion 3 of the NCRP 2041 is key habitat for threatened species. The threatened Wallum froglet (*Crinia tinnula*) is known to occur within the planning area. The RRI included a site assessment for Wallum froglet presence and distribution within the planning area in a brief report prepared by AWC in February 2024. The assessment was completed on 11 and 12 November 2023 in conditions suitable for assessment of this species.

The AWC assessment observed Wallum froglets across the entire planning area including the parts of the planning area that are subject to ponding following heavy rain, which are linked to drainage lines, despite ongoing slashing/disturbance. The AWC report referenced the Wallum froglet report prepared by Connell Wagner (2007) for the original 'Saltwater' planning proposal and AWC concluded that despite the 16-year gap between the Connell Wagner (2007) surveys:

*"Surveying for Wallum Froglets in ideal conditions led to confirmation of suggestions the site provides widespread suitable foraging, dispersal and breeding habitat due to its ephemeral flood prone nature in combination with connected suitable habitat stretching from Saltwater Lagoon throughout the majority of the site".*

The RRFI has attempted to justify the planning area is not key habitat for Wallum froglet by using a definition of key threatened species habitat from the *Northern Councils E Zone Final Recommendations Report 2015* (E Zone Review), which only applies to five specific far North Coast local government areas (Ballina, Byron, Kyogle, Lismore and Tweed). The E Zone Review was prepared for an entirely different purpose and is not applicable to the Kempsey local government area.

The definition of key habitat for threatened species for assessing HEV land criteria as per the NCRP 2041 is as follows:

- Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act) including:
  - Key breeding habitats with known breeding occurrence
  - Core Koala Habitat
  - Habitat for known populations of species-credit-species and SAI entities as identified in the Threatened Biodiversity Data Collection.
  - Key habitats for migratory species

The AWC Wallum froglet surveys were not undertaken in accordance with the NSW Survey Guide for Threatened Frogs, as required by BCS in our previous letter. However, the AWC surveys were undertaken in suitable weather conditions and detected the Wallum froglet across the planning area.

No further Wallum froglet surveys are required for the planning proposal as the AWC conclusion that the planning area (including the slashed areas) provides habitat that fulfils essential aspects of Wallum froglet's lifecycle habitat requirements such as foraging, breeding and shelter and is key habitat for this species, is supported by sound evidence.

The additional information provided with the RRFI has clearly demonstrates the planning area contains key threatened species habitat, which comprises HEV land. Hence, to accord with the NCRP 2041 this HEV land within the planning area requires protection through an appropriate C2 Environmental Conservation zone.

#### *BCS Recommendation*

2. As the Wallum froglet survey undertaken by AWC is adequate for informing the planning proposal, the confirmed Wallum froglet habitat in the planning area be mapped as HEV land and the C2 Environmental Conservation zone applied to that land.

#### The planning area contains Threatened Ecological Communities.

As outlined in our January 2024 response, the planning area includes extensive areas of Plant Community Type (PCT) 4004, which is associated with the Endangered Ecological Community (EEC) *Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin, and South East Corner Bioregions*. Despite BCS providing detailed evidence supporting this association in our January 2024 letter, Biodiversity Australia incorrectly maintains that PCT 4004 is not associated with this EEC based on edaphic criteria and soil landscapes.

Under HEV Criterion 2 of the NCRP 2041, land containing native vegetation of HEV, including threatened ecological communities, qualifies as HEV land. Given PCT 4004 is associated with the Swamp Sclerophyll Forest EEC, the planning proposal requires revision to map all areas of PCT 4004 as HEV land and apply a C2 Environmental Conservation zone accordingly.

#### *BCS Recommendation*

3. The planning proposal be revised to map all areas of Plant Community Type 4004 as HEV land and apply the C2 Environmental Conservation zone to that land.

Koala habitat is positioned within BV mapped land, so compensation areas are not necessary. The Northern Regional Planning Panel's Decision Report dated 4 November 2024 requested several matters to be addressed during a deferral period including:

*"1.(b) Confirming the proposed management mechanisms for the koala compensation area have in principle support from BCS. If the land is proposed to be dedicated to Council and/or a government agency, in principle support from that agency and/or council will also need to be obtained."*

The land within the planning area containing koala habitat in accordance with the *Kempsey Comprehensive Koala Plan of Management* (2011), sits entirely within the area mapped on the BV map and the critically endangered Swift parrot (*Lathamus discolor*) important habitat map.

As we previously noted, the BV map has been refined by the Department under a recent formal BV map review process.

To accord with the NCRP 2041, all parts of the planning area containing land on the BV map require protection through the appropriate C2 Environmental Conservation zone, hence any koala habitat within the planning area would then be protected in a C2 zone, negating the provision of koala habitat compensation measures in accordance with the *Kempsey Comprehensive Koala Plan of Management* (2011).

#### *BCS Recommendation*

4. Protection of koala habitat be achieved by mapping all parts of the planning area containing land mapped on the revised NSW Biodiversity Values Map as HEV land and applying the C2 Environmental Conservation zone to this land.