Your ref: PP-2023-625
Our ref: DOC23/426342-13

General Manager
Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Attention: Mr Alex Caras

Dear Mr Arnold

RE: Pre-lodgment Consultation - Planning Proposal – Lot 1 DP123302 Broken Head Road, Suffolk Park

Thank you for your e-mail dated 20 May 2023 about the Planning Proposal to rezone Lot 1 DP123302 Broken Head Road Suffolk Park, seeking pre-lodgement comments from the Biodiversity and Conservation Division (BCD) of the Biodiversity, Conservation and Science Directorate in the Environment and Heritage Group of the Department of Planning and Environment. I appreciate the opportunity to provide input and apologise for the delay in responding.

The BCD forms part of a Group that has responsibilities relating to biodiversity (including threatened species and ecological communities, or their habitats), National Parks and Wildlife Service (NPWS) estate, flooding, and coastal processes and associated hazards.

We have reviewed the documents supplied and advise that, although we have no issues to raise about NPWS estate, flooding or coastal processes, several issues are apparent with the assessment of biodiversity.

These issues are discussed in detail in **Attachment 1** to this letter. The BCD recommended approach for assessing biodiversity at the Planning Proposal stage, including identifying and assessing High Environmental Value (HEV) land, is provided in **Attachment 2.**

In summary, the BCD recommends that:

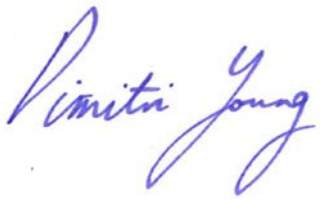
1. Areas of High Environmental Value (HEV) land zoned RU1 Primary Production be rezoned to C2 Environmental Conservation.

2. The balance of the planning area that does not contain HEV land be retained in the RU1 zone.

3. The parts of the planning area, which were required to be revegetated and rehabilitated in accordance with the former quarry development consent, be rezoned to C2 Environmental Conservation.

If you have any questions about this advice, please do not hesitate to contact Mr Don Owner, Senior Conservation Planning Officer, at don.owner@environment.nsw.gov.au or 6659 8239.

Yours sincerely



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

14/08/2023

Enclosures:

Attachment 1: Detailed BCD Comments – Planning Proposal – Lot 1 DP123302 Broken Head Road, Suffolk Park

Attachment 2: BCD NE Branch Approach to Biodiversity Assessment for Planning Proposals

Attachment 1: Detailed BCD Comments – Planning Proposal – Lot 1 DP123302 Broken Head Road, Suffolk Park

The BCD has reviewed the Planning Proposal to rezone Lot 1 DP123302 Broken Head Road Suffolk Park. We understand the intent of the Planning Proposal is to amend the Byron Local Environmental Plan 2014 (LEP 2014) to rezone areas of RU1 Primary Production to R2 Low Density Residential to facilitate future residential development.

<u>The Planning Proposal does not protect areas of High Environmental Value (HEV) land</u>

Strategy 3.1 of the NCRP 2041 requires strategic planning to consider opportunities to protect biodiversity values by:

- focusing land use intensification away from HEV assets and implementing the 'avoid, minimise and offset' hierarchy in strategic plans, LEPs and Planning Proposals.
- identifying HEV assets within the planning area at Planning Proposal stage through site investigations.
- applying appropriate mechanisms such as conservation zones and Biodiversity Stewardship Agreements to protect HEV land within a planning area and considering climate change risks to HEV assets.

HEV land is considered present in a planning area if one or more of the following components occurs there:

- Land contained on the Biodiversity Values Map (BV Map)
- Land containing over-cleared vegetation types
- Land containing native vegetation within an over-cleared landscape (Mitchell landscape)
- Land containing a Threatened Ecological Community
- Land within 100 metres of a Coastal Wetland and/or Littoral Rainforest mapped as per the *State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021*
- Key habitat for threatened species (i.e. vulnerable, endangered or critically endangered flora and fauna species listed under the *Biodiversity Conservation Act 2016* (BC Act)
- Nationally important wetlands
- Areas of geological significance

The proponent has addressed this NCRP 2041 requirement in Table 3, page 12 of the Planning Proposal by stating '*the planning area has been rehabilitated and holds minimal environmental value as it has been significantly disturbed via quarrying*'. However, parts of the planning area are contained on the BV Map, hence these parts have already been confirmed as HEV land. The Planning Proposal has not included any mechanism to protect HEV land within the planning area.

BCD recommendation:

1. Areas of High Environmental Value (HEV) land zoned RU1 Primary Production be rezoned to C2 Environmental Conservation.

The Planning Proposal does not satisfy the NCRP 2041 urban growth area variation principles

One of the key settlement planning principles specified in the North Coast Regional Plan (NCRP) 2041 is to direct growth to identified urban growth areas to create a more compact urban footprint and balance urban expansion with protection of coastal and other environmental assets.

The planning area is not within an urban growth area identified in the NCRP 2041 and so would need to satisfy the urban growth area variation principles in the NCRP 23041. Based on our review, it is unlikely the Planning Proposal would satisfy these urban growth area variation principles given it is in the coastal strip and would not be minor and contiguous to an identified urban growth area.

BCD recommendation:

2. The balance of the planning area that does not contain HEV land be retained in the RU1 zone.

The Planning Proposal does not fulfil the commitments and development consent conditions to mitigate the impacts of former quarry operations in the planning area

The development consent for the former quarry in the planning area was predicated on the proponent's stated commitment to "*progressively rehabilitate cleared areas of the land to ensure long term replacement of habitat lost and the progressive recolonisation of regenerating areas as habitat niches develop*". This commitment was used to support the Environmental Impact Statement (EIS) conclusion that "*site rehabilitation would considerably mitigate the long-term impacts of the quarry operation on flora*".

The Species Impact Statement (SIS) prepared in support of the former quarry development application also recommended areas affected by quarry operations be progressively rehabilitated over a 20 to 30 year period to ensure, "*in the long-term, similar vegetation communities to those removed would be developed within the cleared areas*".

The Flora and Fauna Management Plan prepared as a requirement of the quarry development consent included a long-term objective to "*leave all land disturbed by quarrying and related activities as a safe, stable and well drained landform with a vegetative cover developing over the medium to long term towards an appropriate array of communities naturally occurring in the area*".

The proponent only completed establishment of rehabilitation plantings in 2019 under the direction of an Enforceable Undertaking issued in 2018 by the Department of Planning and Environment.

Consequently, the rehabilitation works have not had enough time to develop into similar vegetation communities to those removed, or to replace the habitat lost by the quarry operations, which is necessary to fulfil the EIS commitment to considerably mitigate the long-term biodiversity impacts of the quarry operations.

Therefore, the rehabilitated areas will need to be protected from future development to ensure the impacts of former quarry operations have been mitigated in accordance with the development consent.

BCD recommendation:

3. The parts of the planning area, which were required to be revegetated and rehabilitated in accordance with the former quarry development consent, be rezoned to C2 Environmental Conservation.

Attachment 2: BCD NE Branch Approach to Biodiversity Assessment for Planning Proposals

Introduction

Planning Proposals should demonstrate consistency with the strategic planning framework including the relevant Regional Plan.

To achieve biodiversity goals, directions, and actions in the relevant Regional Plan for areas with High Environmental Value (HEV), Planning Proposals should identify areas of HEV at the property scale and the current land uses in such areas should not be intensified.

Areas of HEV should instead be better protected by Planning Proposals through an appropriate zone which has strong conservation objectives and limited land uses, an appropriate minimum lot size so the land cannot be subdivided, and future management though a Biodiversity Management Plan (BMP) and Vegetation Management Plan (VMP). Also, the residual biodiversity impacts of Planning Proposals should be offset.

Planning Proposals should also secure the provision of these biodiversity offsets and the preparation and implementation of the BMP and VMP.

Biodiversity Assessment for Planning Proposals

Biodiversity assessment for Planning Proposals should be undertaken in accordance with the following seven steps:

Step 1: Include the entire lot in the planning area

The planning area should cover the entire cadastral lot unless only a part of the lot is identified in a growth management strategy, in which case the planning area could be limited to just that part of the lot.

Step 2 - Consider biodiversity certification

The proponent should consider seeking biodiversity certification of the proposed future development land in the planning area as part of the Planning Proposal.

Step 3: Identify HEV

If biodiversity certification is not sought, then the Planning Proposal should identify and map areas of HEV in the planning area with desktop analysis and site investigations as set out in Appendix 1.

Step 4: Avoid and minimise impacts on HEV

The Planning Proposal should be designed to maximise avoiding land use intensification in HEV areas and should provide justification to demonstrate how the land use zones and minimum lot sizes (MLS) applied to HEV areas and to other parts of the planning area accord with the guidance in Appendix 2.

Step 5: Protect HEV

The Planning Proposal should use planning mechanisms (e.g. Conservation zones, Minimum Lot Sizes to preclude subdivision) and a BMP and VMP to protect HEV.

Step 6: Calculate biodiversity credits for future development impacts

The Planning Proposal should apply Stage 1 of the Biodiversity Assessment Method to calculate the biodiversity credits for parts of the planning area rezoned for land use intensification.

Step 7: Secure biodiversity credits and the BMP and VMP

The Planning Proposal should include a planning agreement to secure:

a. the provision of the biodiversity credits from Step 6 at the development application (DA) stage unless the Biodiversity Offsets Scheme (BOS) is triggered by that DA, and more biodiversity credits are required by the BOS for the DA; and
b. preparation and implementation of the BMP and VMP for the C zoned land.

Appendix 1 - BCD NE Branch HEV Criteria and Identification Methods at the Property Scale

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
Criterion 1. Sensitive biodiversity mapped on the Biodiversity Values Map		
1.1 Biodiversity Values Map		a. Identify the parts of the land on the Biodiversity Values Map. b. Inspect those mapped areas on the land to verify accuracy and map as HEV where the map is accurate.
Criterion 2. Native vegetation of high conservation value		
2.1 Over-cleared vegetation types		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the Vegetation Information System (VIS) database. c. Use the VIS to determine whether the % cleared status of the PCTs identified through field work on the land is above 70%. d. Map all PCTs on the land with the % cleared above 70% as HEV.
2.2 Vegetation in over-cleared landscapes (Mitchell landscapes)		a. Identify over-cleared Mitchell landscapes by viewing map data from the SEED Portal – selecting NSW (Mitchell Landscapes) – latest version, selecting Show on Seed Map and viewing the View Over Cleared Land Status. b. Map all native vegetation on the land as HEV if it is in an over-cleared Mitchell landscape.
2.3 Threatened Ecological Communities - any vulnerable, endangered, or critically endangered ecological community listed under the *Biodiversity Conservation Act 2016* (BC Act), the *Fisheries Management Act 1994* or the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and not mapped on the Biodiversity Values Map		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the VIS database. c. Use the VIS to determine whether the PCTs on the land have Threatened Ecological Community (TEC) Status. d. If not *identified* as a TEC from steps a – c above, then refer to the NSW Threatened Species Scientific Committee determinations, schedules 4, 4A and 5 of the FM Act, and the EPBC Protected Matters Search Tool to consider whether the any of the PCTs accord with the determinations. e. Map all PCTs on the land that are TECs as HEV.
2.4 100m buffer on Coastal Wetlands and Littoral Rainforest areas as per the State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021		a. Locate the land on the SEPP (Resilience and Hazards) Maps b. Map any parts of the land shown as proximity areas for Coastal Wetlands and Littoral Rainforest as HEV.
Criterion 3. Threatened species		
3.1 Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act)	Key breeding habitats with known breeding occurrence	a. Search BioNet for threatened species records on and within 5km of the land b. Undertake field work to identify potential breeding habitats on the land for threatened species. c. Either assume breeding occurrence and map identified breeding habitats on the land as HEV or undertake targeted surveys during the breeding season and map theses habitats as HEV if breeding occurs there.
	Core Koala Habitat	a. Check council records for approved comprehensive or individual property Koala Plans of Management (KPoM). b. Identify areas of core koala habitat on the land mapped in any approved KPoM and map these areas as HEV. c. If there are no approved KPoMs, then undertake field work in accordance with the relevant State Environmental Planning Policy (SEPP) for koalas, e.g. SEPP (Koala Habitat Protection) 2020, to determine whether Core Koala Habitat is present on the land. d. Map any core koala habitat identified on the land through field work as HEV.

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
	Habitat for known populations of species-credit-species and SAII entities (species-credit species and SAII entities are identified in the Threatened Biodiversity Data Collection)	a. Search BioNet for threatened species records on and within 5km of the land. b. Undertake field work to identify populations of threatened species credit species on the land and their habitats. c. Map all habitats of known populations of species credit species on the land as HEV. The Biodiversity Assessment Method and the Department's survey assessment guidelines should be referred to for suitable habitat assessment methodologies. If a recent Biodiversity Development Assessment Report has been prepared for the land, then this could be referred to in support of demonstrating how this criterion has been considered.
	Key habitats for migratory species	a. Search BioNet for threatened migratory species records on and within 5km of the land. b. Undertake field work to identify habitats of threatened migratory species on the land. c. Map all habitats of threatened migratory species on the land as HEV.
Criterion 4. Wetlands, rivers, estuaries & coastal features of high environmental value		
4.1 Nationally important wetlands Note: Rivers and their riparian areas comprising HEV are included in the Biodiversity Values Map under HEV Criterion 1 as protected riparian land		a. Search the Directory of Important Wetlands in Australia for those occurring in NSW. b. Identify any nationally important wetlands listed in the directory that occur on the land and map these areas as HEV.
4.2 Vulnerable Estuaries and Intermittently Opening and Closing Lakes and Lagoons (ICOLLs)		a. Identify whether any vulnerable estuaries or ICOLLs occur on, or in the vicinity of, the land by reviewing the Maps. b. Map any vulnerable estuaries or ICOLLs that occur on, or in the vicinity of, the land as HEV.
Criterion 5. Areas of geological significance		
5.1 Karst landscapes		a. Identify whether limestone outcrops or caves occur on the land. b. Consider any additional Karst landscapes that occur in the vicinity of the land, with reference to the NSW Government's Guide to New South Wales Karst and Caves and any other available karst mapping, such as karts maps associated with local environmental plans. c. Map any limestone outcrops or caves on the land and any other karst landscapes that occur in the vicinity of the land as HEV.
5.2 Sites of geological significance included in the State Heritage Register or Heritage Inventory		a. Identify whether the land contains, or is in the vicinity of, the sites of geological significance listed in Annexure A. b. Map any sites of geological significance that occur on, or in the vicinity of, the land as HEV.

Annexure A: Sites of geological significance included in the State Heritage Register or Heritage Inventory

Local Government Area	Name	Location
Canterbury Bankstown	Enfield Brickpits	7 Juno Parade, Greenacre
Cessnock	Bow Wow Creek Gorge	Sandy Creek Road, Mulbring
Eurobodalla	Myrtle Beach - Wasp Head Coastal Area	Durras
	Melville Point	Red Hill Road, Tomakin
Goulburn-Mulwaree	Badgerys Lookout View	Tallong
Kiama	Bombo Headland Quarry Geological Site	Princes Highway, Bombo
Port Stephens	Seaham Quarry	Torrence Street, Seaham
Shellharbour	Bass Point Area	Bass Point Tourist Road, Shellharbour
Warrumbungle	Narangarie Quarry Geological Site	Narangarie Road, Coolah
Uralla	The Captain Thunderbolt Sites – Thunderbolt's Rock	New England Highway, Uralla

Appendix 2: BCD NE Branch Approach for Avoiding and Minimising Impacts on HEV Areas

Decisions about the location of land use intensification in Planning Proposals should be informed by knowledge of biodiversity values including High Environmental Values (HEV) recognising that this is an iterative process that should consider the guidance provided below.

Locating land use intensification to avoid and minimise impacts on native vegetation and habitat

1. Direct impacts on clearing of native vegetation and habitat can be avoided and minimised by:

    (a) locating land use intensification in areas where there are no biodiversity values

    (b) locating land use intensification in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)

    (c) locating land use intensification in areas that avoid habitat for species that have a high biodiversity risk weighting or native vegetation that is a threatened ecological community (TEC)

    (d) locating land use intensification such that connectivity enabling movement of species and genetic material between areas of adjacent or nearby habitat is maintained.

2. In selecting locations for land use intensification, the following should be addressed, as they apply to the Planning Proposal:

    (a) an analysis of alternative modes or technologies that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed mode or technology

    (b) an analysis of alternative routes that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed route

    (c) an analysis of alternative locations that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed location

    (d) an analysis of alternative sites within a property on which land use intensification is proposed that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed site.

3. Justifications for decisions on the location of land use intensification should identify any other site constraints that the proponent has considered in determining the location and design of these areas, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.

4. Actions taken to avoid and minimise impacts through locating areas for land use intensification must be documented and justified in the Planning Proposal.

Designing a Planning Proposal to avoid and minimise impacts on native vegetation and habitat

1. Planning Proposal design, including the potential location of future temporary and permanent ancillary construction and maintenance facilities, should avoid and minimise clearing of native vegetation and habitat by:

    (a) reducing the clearing footprint of future development

    (b) locating ancillary facilities in areas where there are no biodiversity values

    (c) locating ancillary facilities in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)

(d) locating ancillary facilities in areas that avoid habitat for species and vegetation in high threat status categories (e.g. a TEC)

(e) providing structures to enable species and genetic material to move across barriers or hostile gaps

(f) making provision for the demarcation, ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation habitat on the development site.

2. Efforts to avoid and minimise impacts through design must be documented and justified in the Planning Proposal.

Other Impacts on HEV

Some future development to be enabled by a Planning Proposal may have other impacts on HEV in addition to, or instead of, impacts from clearing vegetation and/or loss of habitat. For many of these impacts, HEV may be difficult to quantify, replace or offset, making avoiding and minimising impacts critical.

Other impacts on HEV can include:

(a) impacts of future development on the habitat of threatened species or ecological communities associated with:
   i. karst, caves, crevices, cliffs and other geological features of significance, or
   ii. rocks, or
   iii. human made structures, or
   iv. non-native vegetation

(b) impacts of future development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range

(c) impacts of future development on movement of threatened species that maintains their life cycle

(d) impacts of future development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining)

(e) impacts of wind turbine strikes on protected animals

(f) impacts of vehicle strikes on threatened species or on animals that are part of a TEC.

Locating a Planning Proposal to avoid and minimise other impacts on HEV

1. Other impacts on HEV can be avoided and minimised by:

(a) locating areas of land use intensification to avoid direct impacts on such habitat features

(b) locating areas of land use intensification to avoid and minimise future operations beneath such habitat features, e.g. locating future development away from geological features of significance or water dependent plant communities and their supporting aquifers

(c) locating areas of land use intensification to avoid severing or interfering with corridors connecting different areas of habitat, migratory flight paths to important habitat or local movement pathways

(d) optimising the locations of land use intensification to minimise future interactions with threatened species and ecological communities, e.g. allowing for buffers around features that attract and support aerial species, such as forest edges, riparian corridors and wetlands, ridgetops and gullies

(e) locating areas of land use intensification to avoid direct impacts on water bodies.

2. In selecting areas of land use intensification, the following should be addressed, as they apply to the Planning Proposal:

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   (b) an analysis of alternative routes that would avoid or minimise such impacts and justification for selecting the proposed route

   (c) an analysis of alternative locations that would avoid or minimise such impacts and justification for selecting the proposed location

   (d) an analysis of alternative sites within a planning area that would avoid or minimise such impacts and justification for selecting the proposed site.

3. Justifications for decisions about areas of land use intensification should identify any other site constraints that the proponent has considered in determining the locations of such areas and design of the Planning Proposal, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.

4. Efforts to avoid and minimise impacts through locating areas of land use intensification must be documented and justified in the Planning Proposal.

<u>Designing a Planning Proposal to avoid and minimise other impacts on HEV</u>

1. Other impacts on HEV can be avoided and minimised by:

   (a) engineering solutions, e.g. proven techniques to minimise fracturing of bedrock underlying features of geological significance, water dependent communities and their supporting aquifers, proven engineering solutions to restore connectivity and favoured movement pathways

   (b) design of project elements to minimise interactions with threatened and protected species and ecological communities, e.g. designing turbines to dissuade perching and minimise the diameter of the rotor swept area, designing fencing to prevent animal entry to transport corridors

   (c) design of the project to maintain environmental processes critical to the formation and persistence of habitat features not associated with native vegetation

   (d) design of the project to maintain hydrological processes that sustain threatened species or TECs

   (e) design of the project to avoid and minimise downstream impacts on rivers, wetlands and estuaries by control of the quality of water released from the site.

Efforts to avoid and minimise other impacts on HEV through design must be documented and justified in the Planning Proposal.

Attachment 1: Detailed BCD Comments – Planning Proposal – Lot 1 DP123302 Broken Head Road, Suffolk Park

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2.1 Over-cleared vegetation types		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the Vegetation Information System (VIS) database. c. Use the VIS to determine whether the % cleared status of the PCTs identified through field work on the land is above 70%. d. Map all PCTs on the land with the % cleared above 70% as HEV.
2.2 Vegetation in over-cleared landscapes (Mitchell landscapes)		a. Identify over-cleared Mitchell landscapes by viewing map data from the SEED Portal – selecting NSW (Mitchell Landscapes) – latest version, selecting Show on Seed Map and viewing the View Over Cleared Land Status. b. Map all native vegetation on the land as HEV if it is in an over-cleared Mitchell landscape.
2.3 Threatened Ecological Communities - any vulnerable, endangered, or critically endangered ecological community listed under the *Biodiversity Conservation Act 2016* (BC Act), the *Fisheries Management Act 1994* or the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and not mapped on the Biodiversity Values Map		a. Identify Plant Community Types (PCTs) on the land through field work. b. Register and visit the VIS database. c. Use the VIS to determine whether the PCTs on the land have Threatened Ecological Community (TEC) Status. d. If not *identified* as a TEC from steps a – c above, then refer to the NSW Threatened Species Scientific Committee determinations, schedules 4, 4A and 5 of the FM Act, and the EPBC Protected Matters Search Tool to consider whether the any of the PCTs accord with the determinations. e. Map all PCTs on the land that are TECs as HEV.
2.4 100m buffer on Coastal Wetlands and Littoral Rainforest areas as per the State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021		a. Locate the land on the SEPP (Resilience and Hazards) Maps b. Map any parts of the land shown as proximity areas for Coastal Wetlands and Littoral Rainforest as HEV.
Criterion 3. Threatened species		
3.1 Key habitat for threatened species (vulnerable, endangered, or critically endangered species listed under BC Act)	Key breeding habitats with known breeding occurrence	a. Search BioNet for threatened species records on and within 5km of the land b. Undertake field work to identify potential breeding habitats on the land for threatened species. c. Either assume breeding occurrence and map identified breeding habitats on the land as HEV or undertake targeted surveys during the breeding season and map theses habitats as HEV if breeding occurs there.
	Core Koala Habitat	a. Check council records for approved comprehensive or individual property Koala Plans of Management (KPoM). b. Identify areas of core koala habitat on the land mapped in any approved KPoM and map these areas as HEV. c. If there are no approved KPoMs, then undertake field work in accordance with the relevant State Environmental Planning Policy (SEPP) for koalas, e.g. SEPP (Koala Habitat Protection) 2020, to determine whether Core Koala Habitat is present on the land. d. Map any core koala habitat identified on the land through field work as HEV.

High Environmental Value (HEV) Criteria and Components		Property Scale HEV Identification Method
	Habitat for known populations of species-credit-species and SAII entities (species-credit species and SAII entities are identified in the Threatened Biodiversity Data Collection)	a. Search BioNet for threatened species records on and within 5km of the land. b. Undertake field work to identify populations of threatened species credit species on the land and their habitats. c. Map all habitats of known populations of species credit species on the land as HEV. The Biodiversity Assessment Method and the Department's survey assessment guidelines should be referred to for suitable habitat assessment methodologies. If a recent Biodiversity Development Assessment Report has been prepared for the land, then this could be referred to in support of demonstrating how this criterion has been considered.
	Key habitats for migratory species	a. Search BioNet for threatened migratory species records on and within 5km of the land. b. Undertake field work to identify habitats of threatened migratory species on the land. c. Map all habitats of threatened migratory species on the land as HEV.
Criterion 4. Wetlands, rivers, estuaries & coastal features of high environmental value		
4.1 Nationally important wetlands Note: Rivers and their riparian areas comprising HEV are included in the Biodiversity Values Map under HEV Criterion 1 as protected riparian land		a. Search the Directory of Important Wetlands in Australia for those occurring in NSW. b. Identify any nationally important wetlands listed in the directory that occur on the land and map these areas as HEV.
4.2 Vulnerable Estuaries and Intermittently Opening and Closing Lakes and Lagoons (ICOLLs)		a. Identify whether any vulnerable estuaries or ICOLLs occur on, or in the vicinity of, the land by reviewing the Maps. b. Map any vulnerable estuaries or ICOLLs that occur on, or in the vicinity of, the land as HEV.
Criterion 5. Areas of geological significance		
5.1 Karst landscapes		a. Identify whether limestone outcrops or caves occur on the land. b. Consider any additional Karst landscapes that occur in the vicinity of the land, with reference to the NSW Government's Guide to New South Wales Karst and Caves and any other available karst mapping, such as karts maps associated with local environmental plans. c. Map any limestone outcrops or caves on the land and any other karst landscapes that occur in the vicinity of the land as HEV.
5.2 Sites of geological significance included in the State Heritage Register or Heritage Inventory		a. Identify whether the land contains, or is in the vicinity of, the sites of geological significance listed in Annexure A. b. Map any sites of geological significance that occur on, or in the vicinity of, the land as HEV.

Annexure A: Sites of geological significance included in the State Heritage Register or Heritage Inventory

Local Government Area	Name	Location
Canterbury Bankstown	Enfield Brickpits	7 Juno Parade, Greenacre
Cessnock	Bow Wow Creek Gorge	Sandy Creek Road, Mulbring
Eurobodalla	Myrtle Beach - Wasp Head Coastal Area	Durras
	Melville Point	Red Hill Road, Tomakin
Goulburn-Mulwaree	Badgerys Lookout View	Tallong
Kiama	Bombo Headland Quarry Geological Site	Princes Highway, Bombo
Port Stephens	Seaham Quarry	Torrence Street, Seaham
Shellharbour	Bass Point Area	Bass Point Tourist Road, Shellharbour
Warrumbungle	Narangarie Quarry Geological Site	Narangarie Road, Coolah
Uralla	The Captain Thunderbolt Sites – Thunderbolt's Rock	New England Highway, Uralla

Appendix 2: BCD NE Branch Approach for Avoiding and Minimising Impacts on HEV Areas

Decisions about the location of land use intensification in Planning Proposals should be informed by knowledge of biodiversity values including High Environmental Values (HEV) recognising that this is an iterative process that should consider the guidance provided below.

Locating land use intensification to avoid and minimise impacts on native vegetation and habitat

1. Direct impacts on clearing of native vegetation and habitat can be avoided and minimised by:

    (a) locating land use intensification in areas where there are no biodiversity values

    (b) locating land use intensification in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)

    (c) locating land use intensification in areas that avoid habitat for species that have a high biodiversity risk weighting or native vegetation that is a threatened ecological community (TEC)

    (d) locating land use intensification such that connectivity enabling movement of species and genetic material between areas of adjacent or nearby habitat is maintained.

2. In selecting locations for land use intensification, the following should be addressed, as they apply to the Planning Proposal:

    (a) an analysis of alternative modes or technologies that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed mode or technology

    (b) an analysis of alternative routes that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed route

    (c) an analysis of alternative locations that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed location

    (d) an analysis of alternative sites within a property on which land use intensification is proposed that would avoid or minimise impacts on biodiversity values and justification for selecting the proposed site.

3. Justifications for decisions on the location of land use intensification should identify any other site constraints that the proponent has considered in determining the location and design of these areas, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.

4. Actions taken to avoid and minimise impacts through locating areas for land use intensification must be documented and justified in the Planning Proposal.

Designing a Planning Proposal to avoid and minimise impacts on native vegetation and habitat

1. Planning Proposal design, including the potential location of future temporary and permanent ancillary construction and maintenance facilities, should avoid and minimise clearing of native vegetation and habitat by:

    (a) reducing the clearing footprint of future development

    (b) locating ancillary facilities in areas where there are no biodiversity values

    (c) locating ancillary facilities in areas where the native vegetation or threatened species habitat is in the poorest condition (i.e. areas that have a lower vegetation integrity score)

(d) locating ancillary facilities in areas that avoid habitat for species and vegetation in high threat status categories (e.g. a TEC)

(e) providing structures to enable species and genetic material to move across barriers or hostile gaps

(f) making provision for the demarcation, ecological restoration, rehabilitation and/or ongoing maintenance of retained native vegetation habitat on the development site.

2. Efforts to avoid and minimise impacts through design must be documented and justified in the Planning Proposal.

Other Impacts on HEV

Some future development to be enabled by a Planning Proposal may have other impacts on HEV in addition to, or instead of, impacts from clearing vegetation and/or loss of habitat. For many of these impacts, HEV may be difficult to quantify, replace or offset, making avoiding and minimising impacts critical.

Other impacts on HEV can include:

(a) impacts of future development on the habitat of threatened species or ecological communities associated with:
   i. karst, caves, crevices, cliffs and other geological features of significance, or
   ii. rocks, or
   iii. human made structures, or
   iv. non-native vegetation

(b) impacts of future development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range

(c) impacts of future development on movement of threatened species that maintains their life cycle

(d) impacts of future development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining)

(e) impacts of wind turbine strikes on protected animals

(f) impacts of vehicle strikes on threatened species or on animals that are part of a TEC.

Locating a Planning Proposal to avoid and minimise other impacts on HEV

1. Other impacts on HEV can be avoided and minimised by:

(a) locating areas of land use intensification to avoid direct impacts on such habitat features

(b) locating areas of land use intensification to avoid and minimise future operations beneath such habitat features, e.g. locating future development away from geological features of significance or water dependent plant communities and their supporting aquifers

(c) locating areas of land use intensification to avoid severing or interfering with corridors connecting different areas of habitat, migratory flight paths to important habitat or local movement pathways

(d) optimising the locations of land use intensification to minimise future interactions with threatened species and ecological communities, e.g. allowing for buffers around features that attract and support aerial species, such as forest edges, riparian corridors and wetlands, ridgetops and gullies

(e) locating areas of land use intensification to avoid direct impacts on water bodies.

2. In selecting areas of land use intensification, the following should be addressed, as they apply to the Planning Proposal:

   (a) an analysis of alternative modes or technologies that would avoid or minimise such impacts and justification for selecting the proposed mode or technology

   (b) an analysis of alternative routes that would avoid or minimise such impacts and justification for selecting the proposed route

   (c) an analysis of alternative locations that would avoid or minimise such impacts and justification for selecting the proposed location

   (d) an analysis of alternative sites within a planning area that would avoid or minimise such impacts and justification for selecting the proposed site.

3. Justifications for decisions about areas of land use intensification should identify any other site constraints that the proponent has considered in determining the locations of such areas and design of the Planning Proposal, e.g. bushfire protection requirements including clearing for asset protection zones, flood planning levels, servicing constraints.

4. Efforts to avoid and minimise impacts through locating areas of land use intensification must be documented and justified in the Planning Proposal.

<u>Designing a Planning Proposal to avoid and minimise other impacts on HEV</u>

1. Other impacts on HEV can be avoided and minimised by:

   (a) engineering solutions, e.g. proven techniques to minimise fracturing of bedrock underlying features of geological significance, water dependent communities and their supporting aquifers, proven engineering solutions to restore connectivity and favoured movement pathways

   (b) design of project elements to minimise interactions with threatened and protected species and ecological communities, e.g. designing turbines to dissuade perching and minimise the diameter of the rotor swept area, designing fencing to prevent animal entry to transport corridors

   (c) design of the project to maintain environmental processes critical to the formation and persistence of habitat features not associated with native vegetation

   (d) design of the project to maintain hydrological processes that sustain threatened species or TECs

   (e) design of the project to avoid and minimise downstream impacts on rivers, wetlands and estuaries by control of the quality of water released from the site.

Efforts to avoid and minimise other impacts on HEV through design must be documented and justified in the Planning Proposal.

NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: PP-2023-625
Our reference: SPI20230524000072

ATTENTION: Alex Caras

Date: Friday 16 June 2023

Dear Sir/Madam,

Strategic Planning Instrument
Draft LEP – Draft Proposal
The Planning Proposal is for the rezoning of part of the former Broken Head Quarry site to R2 Low Density Residential.

I refer to your correspondence dated 19/05/2023 inviting the NSW Rural Fire Service (NSW RFS) to comment on the above Strategic Planning document.

The NSW RFS has considered the information submitted and provides the following comments.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the proposal with regard to Section 4.4 of the directions issued in accordance with Section 9.1 of the *Environmental Planning and Assessment Act 1979*.

The objectives of the direction are:

- *to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and*
- *to encourage sound management of bush fire prone areas.*

The direction provides that a planning proposal must:

- *have regard to Planning for Bushfire Protection 2019,*
- *introduce controls that avoid placing inappropriate developments in hazardous areas, and*
- *ensure that bushfire hazard reduction is not prohibited within the APZ.*

Based upon an assessment of the information provided, NSW RFS raises no objections to the proposal subject to a requirement that the future subdivision/development of the land complies with *Planning for Bush Fire Protection 2019*.

With regard to these requirements, the following comments are made in relation to the submitted propsal:

- Council should note that any future proposal for subdivision of the site will be required to comply with Tables 5.3a to 5.3d (inclusive) of Planning for Bush Fire Protection 2019 (PBP 2019).

Postal address

NSW Rural Fire Service
Locked Bag 17
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Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

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- Council should note that any future development of the site that may be defined as a Special Fire Protection Purpose facility will be required to comply with Tables 6.8a and 6.8b of PBP 2019.
- Council should consider the capacity for the proposed, and existing, road network to deal with evacuating residents and responding emergency services, based on the existing and proposed community profile.
- Council should note that fire trails are not considered a suitable trade-off for the provision of perimeter roads or property access requirements. Any future proposal must specifically address the requirements of Table 5.3b of PBP 2019.
- Servicing and infrastructure delivery for the proposal should include the consideration of operational response for emergency services. In considering future operational fire fighting infrastructure, the proponents should;
    - identify what proposed servicing arrangements are required for the future community;
    - identify whether proposed servicing arrangements for the community are practical;
    - discuss any issues that may result from the interplay of service delivery options;
    - identify any infrastructure issues including financial contributions; and
    - identify timelines for the finalisation of proposed servicing arrangements.

For any queries regarding this correspondence, please contact David Webster on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss
Manager Planning & Environment Services
Built & Natural Environment