



Australian Government

Department of Climate Change, Energy,  
the Environment and Water

# Draft Recommendation Report

Concept Plan Approval Modification – Bevia Road  
Rosedale, NSW

EPBC 2025/10255

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# Recommendation

- 1) That the proposed action to develop a residential subdivision and ancillary facilities at 73 Bevia Road, Rosedale, NSW be approved subject to the conditions specified at [Appendix A](#) to this report.

## Duration of approval

- 2) The department recommends that the approval remain valid for a period of 20 years until 31 December 2045 to allow sufficient time to undertake the proposed action.

## Purpose of this report

- 3) This report is a draft recommendation report prepared under section 93(2) of the EPBC Act, for an assessment on referral information.

# Background

## Description of the proposed action and location

- 4) The action proposed by Walker Rosedale Pty Limited (the proponent and person proposing to take the action) is to develop a large residential subdivision and ancillary facilities at 73 Bevia Road, Rosedale, NSW.
- 5) The proposed action covers stages 2 to 13 of a 13-stage development. Construction of stage 1 for 51 residential lots was completed in August 2023 and does not form part of the referred action.
- 6) Project components include construction/installation of:
  - 741 residential lots
  - car parking, landscaping, boundary fences, and asset protection zones
  - internal road network and access roads
  - underground sewerage, above-ground electrical reticulation, stormwater management systems and emergency services infrastructure
  - public open spaces, including managed parklands, pedestrian ways
  - fencing to protect retained lands
  - temporary construction infrastructure, including compounds, laydown and parking areas, site offices, material and waste storage, access tracks, fencing and gates.
- 7) The subject land (proposed action area) is 184 ha, which comprises:
  - a development footprint of 105 ha
  - 72 ha of retained managed lands
  - a 'deferred' area of 7 ha, north of the existing Eurobodalla Shire Council sewage treatment plant, which is not currently proposed to be developed as part of the proposed action, but could be developed in the future with likely constraints on what may be developed due to the site limitations.
- 8) A new road connection from George Bass Drive will provide access from the south. The referral states that there are two route options, and both options are included in the development footprint for the proposed action.
- 9) The proposed action involves clearing of vegetation and earthworks and civil construction works to shape the land and install lots, roads, stormwater drainage, sewer infrastructure and utility services. These changes are expected to affect local runoff with potential hydrological alterations and sedimentation risks to the wetland and surrounding ecosystems.

- 10) The referral states that management plans for biodiversity, vegetation and water will be developed and implemented to mitigate and manage impacts from the proposed action on these values.
- 11) The department notes that stage 1 of the development was completed in August 2023 and that the referred action covers stages 2 to 13 of the development. Therefore, the department considered that the referred action and the activities described as stage 1 comprise a larger action proposed to be undertaken by the same person.
- 12) The department estimates that the already completed stage 1 has an area of about 7 ha (approximately 4% of the proposed action area) on largely cleared agricultural land and does not intersect the areas identified as having threatened ecological communities (TEC map, [Att 11](#) to the referral) or areas identified by NSW as having high biodiversity value (NSW Biodiversity Values Map, [Att 9](#) to the referral). The proponent sought a pre-referral meeting in July 2025 to discuss the approval pathway under the EPBC Act and subsequently referred the remaining 12 stages. The department is satisfied that important impacts from the larger action will not be overlooked.

## Description of the environment

- 13) The proposed action area is located approximately 16 km south of Batemans Bay and 18 km north of Moruya within the Eurobodalla Shire local government area.
- 14) The proposed action area has historically been a dairy farm and is characterised by mostly cleared exotic dominated grasslands and derived native grasslands with scattered trees and patches of remnant vegetation and regrowth. The land is no longer grazed, and paddock slashing is undertaken to reduce the risk from bushfires. A powerline easement traverses the site from George Bass Drive in the south to Burri Road in the north.
- 15) The site includes a mix of primary production (RU1), low density residential (RU2), environmental conservation (C2) and environmental living (C4) zones under the *Eurobodalla Local Environment Plan 2012*.
- 16) Bevia Wetland is a freshwater wetland that straddles the southern edge of the proposed action area. It is identified in the *State Environmental Planning Policy (Resilience and Hazards) 2021*, which means under NSW legislation that development must avoid or minimise impacts on its water quality and quantity, native flora and fauna, and ensure appropriate safeguards and rehabilitation measures are in place. The southern part of the site drains to this wetland. The northern part of the site is in the Saltwater Creek catchment, which drains eastward to Rosedale Beach. The proposed action area contains several farm dams along existing drainage lines.
- 17) Surveys undertaken for the Biodiversity Development Assessment Report (BDAR, [Att 3](#) to the referral), required as part of the NSW assessment and approval process and provided as part of the referral documentation, identified 4 plant community types (PCTs) in the proposed action area. Southern Estuarine Swamp Paperbark Creekflat Scrub (PCT 4056), which occurs in lower lying areas in the south of the site, including around Bevia Wetland, and is associated with two EPBC Act listed ecological communities, both confirmed present in the proposed action area:

- Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland – Endangered
  - Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland – Endangered
- 18) Much of the surrounding land is forested, with small pockets of coastal residential development east and south of George Bass Drive, and patches of cleared agricultural land north of the proposed action area (behind Malua Bay) and along Tomakin Road, west of Mogo State Forest. There has been clearing of native vegetation for the Saltwood Estate residential development adjacent to the proposed action area.
- 19) Vegetation within the proposed action area links to Mogo State Forest in the north and west and to forested lands to the east and south, around Rosedale, Guerilla Bay and Tomakin, and to Bevia Wetland located in the south-western corner of the property.
- 20) The BDAR states the proposed action area (referred to as the subject land in the BDAR) contains 27 hollow bearing trees (HBTs). The referral states 18 of these are within the development footprint.

## **Referral, controlling provisions, assessment approach decision and public consultation**

- 21) A valid referral was received on 1 September 2025, referred by Eco Logical Australia Pty Ltd on behalf of Walker Rosedale Pty Limited.
- 22) No public comments were received in response to the published referral documentation.
- 23) The proposed action is a NSW state significant development currently under consideration by NSW (paragraphs 30)-31)).
- 24) The NSW Department of Planning, Housing and Infrastructure responded to the department's invitation to comment on the referral on 1 September 2025, advising that the project will not be assessed in a manner specified in Schedule 1 to the Bilateral Agreement made under section 45 of the EPBC Act, relating to environmental assessment between the Commonwealth and the New South Wales Government.
- 25) On 29 September 2025, the proposed Action was determined to be a controlled action, due to likely significant impacts on the following listed threatened species and communities (section 18 & section 18A):
- Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland– Endangered
  - Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland endangered ecological community – Endangered
  - Swift Parrot (*Lathamus discolor*) – Critically Endangered

- Gang-gang Cockatoo (*Callocephalon fimbriatum*) - Endangered
- 26) On 29 September 2025, the delegate for the Minister for the Environment and Water also decided that the assessment approach would be assessment on referral information.
  - 27) The delegate also agreed that the proposed action is a component of a larger action.
  - 28) This draft recommendation report and its appendices will be published for public comment for 10 business days on the EPBC Act Public Portal in accordance with section 93(3) of the EPBC Act.
  - 29) Any public comments received during this period will be considered in the final recommendation report provided to the Minister for consideration for the approval decision.

## NSW assessment and approval

- 30) An earlier concept plan for the site received development approval in 2008 under Part 3A of NSW *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 31) The proponent is seeking approval from the NSW Department of Planning, Housing and Infrastructure to modify the approved action (MP05\_0199-Mod-2). The modified plan is being assessed as a state significant development. It is currently under consideration, following completion of public exhibition of assessment documentation in October 2024 and amendments to the project in April 2025, but has not yet been granted approval by the NSW consent authority.

## NSW Offset Requirements

- 32) The BDAR addresses the offsets required under the NSW Biodiversity Offsets Scheme (BOS) which has been endorsed by the Australian Government<sup>1</sup>.
- 33) The BDAR states that the offset retirement will be implemented using a staged approach, allowing flexibility in credit acquisition and alignment with the timing of impacts across the 13 development stages. This approach ensures offset obligations are progressively met in accordance with development sequencing.
- 34) Credit retirement will be undertaken in accordance with the BOS, using either direct like-for-like credit retirement and/or payments into the Biodiversity Conservation Fund (BCF).

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<sup>1</sup> *Environment Protection and Biodiversity Conservation Act 1999—Condition-setting Policy*, Commonwealth of Australia 2020.

35) Further discussion of offsets as they relate to MNES are provided below, under the *Offset and compensatory measures* subheadings for each threatened community or species section.

# Mandatory considerations – section 136

*s136(1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must consider the following, so far as they are not inconsistent with any other requirement of Subdivision B, Division 1 of Part 9 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act):*

*matters relevant to any matter protected by a provision of Part 3 that the Minister has decided is a controlling provision for the action;*

*economic and social matters.*

## Controlling provisions – section 136(1)(a)

36) The proposal was determined a controlled action under the Listed threatened species and ecological communities (sections 18 and 18A) controlling provision of the EPBC Act. This controlling provision is discussed below.

### Listed threatened species and ecological communities (sections 18 and 18A)

#### Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland – Endangered

*Protected matter ecology*

37) The Conservation Advice for the Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland<sup>2</sup> (Coastal Swamp Sclerophyll Forest Conservation Advice) defines the key diagnostic characteristics of the community as follows:

- a) occurs from south-east Queensland to southern NSW within the South Eastern Queensland, NSW North Coast, Sydney Basin bioregions, and the Bateman sub-region of the South East Corner bioregion
- b) occurs in coastal catchments, typically within 20 km of the coast, typically at elevations less than 20 m (occasionally to 220 m) above sea-level

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<sup>2</sup> Department of Agriculture, Water and the Environment (2021). *Conservation Advice for the Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland*. Canberra: Department of Agriculture, Water and the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/171-conservation-advice.pdf>. In effect under the EPBC Act from 08-Dec-2021.

- c) occurs on hydric soils that are intermittently to episodically inundated
  - d) has a vegetation structure that varies from tall closed to open forest to woodland, to dense (closed) shrubland or scrub forest, with a minimum crown cover of at least 10%, but more typically 50-70%
  - e) has a canopy typically dominated or co-dominated by *Melaleuca quinquenervia* and/or *Eucalyptus robusta*. In the South East Corner bioregion, *Melaleuca ericifolia* may occur as a dominant canopy or sub-canopy species. Other tree species may occur in the canopy, including *Casuarina glauca*.
  - f) tall sedges and/or ferns often dominate the ground layer, mixed with graminoids and other herbs
  - g) the ecological community is not present if halophytic species, more typically associated with estuarine/saltmarsh areas, dominate the ground layer of a patch.
- 38) Coastal Swamp Sclerophyll Forest can intergrade with the Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland ecological community (Coastal Swamp Oak Forest) (see paragraphs 65)-88)).
- 39) The Coastal Swamp Sclerophyll Forest Conservation Advice identifies 3 main categories and 5 subcategories of patch size and vegetation quality (A, B1 and B2, and C1 and C2) that meet the requirements for protection under the EPBC Act. Habitat critical to the survival of the ecological community largely corresponds to categories A, B and C1 and is defined as areas where the hydrological regime remains reasonably intact such that the vegetative diagnostic features are maintained. Other patches may be of high value if they contribute to landscape connectivity, show evidence of recruitment, contain nationally listed species or contain relatively low levels of weeds and feral animals.
- 40) Coastal Swamp Sclerophyll Forest provides diverse habitat values for a wide range of fauna, particularly the crevices and hollows within older trees. Many fauna species in the ecological community are listed under the EPBC Act.
- 41) Changes to natural hydrological regimes is a major factor contributing to the loss of wetland features. Other relevant threats to the ecological community are clearing and fragmentation, weeds, invasive fauna and climate change.
- 42) Conservation priorities include protecting and conserving remaining areas, retaining other native vegetation remnants near patches of the community to maintain connectivity, habitat diversity and act as buffer zones, and preventing detrimental changes to hydrology. The Coastal Swamp Sclerophyll Forest Conservation Advice recommends a minimum buffer zone of 100 m, where practical, to protect patches that are of conservation value.
- Environment within and surrounding the proposed action area*
- 43) Coastal Swamp Sclerophyll Forest has been mapped in the Bevan Wetland catchment in two patches north of the wetland and a third patch east of the Wetland along an existing farm road

(TEC Map, [Att 11](#) to the referral). It adjoins and surrounds areas that have been mapped as Coastal Swamp Oak Forest.

- 44) The BDAR states that the proposed action area has 24.8 ha of PCT 4056 (Southern Estuarine Swamp Paperbark Creekflat Scrub), which is associated with both the EPBC Act listed Coastal Swamp Sclerophyll Forest and Coastal Swamp Oak Forest ecological communities.
- 45) Of this, the BDAR states 17.36 ha of moderate condition PCT 4056 has been cautiously assessed as meeting the key diagnostic characteristics for Coastal Swamp Sclerophyll Forest. The BDAR states that moderate condition PCT 4056 lacks canopy cover due to past clearing and grazing, and that natural regeneration is dominated by *Melaleuca ericifolia* and eucalypt species, with little indication of *Casuarina glauca* regeneration under current management.
- 46) The Integrated Water Management Plan (IWMP) referenced in the BDAR states that the Bevia Wetland catchment is 154 ha and has minimal impervious surfaces. Concentrations of total nitrogen and total phosphorus in Bevia Wetland are currently reported to be two orders of magnitude higher than trigger values for slightly disturbed estuary and lowland river systems and double average concentrations in urban stormwater.

#### *Impacts*

- 47) The referral states that the proposed action will clear 11.5 ha of Coastal Swamp Sclerophyll Forest.
- 48) The department has assessed BDAR vegetation plot data ([Att 18](#) to the referral) in terms of the condition categories in the Coastal Swamp Sclerophyll Forest Conservation Advice and considers that at least 5-6 ha is habitat critical to survival of the community. This assumes category C2 (medium patch size, non-native ground cover of 50-80%) for the northwestern patch and category B1 (large patch size, non-native ground cover of 20-50%) for the northeastern patch. No plot data were collected for the patch along the powerline easement, but the department considers it likely to be category C2 due to its use as a farm and service track.
- 49) Indirect impacts on retained Coastal Swamp Sclerophyll Forest include edge effects from removal of surrounding native vegetation and potential hydrological, water quality and sedimentation effects on Bevia Wetland from flood mitigation, drainage and landscaping works during construction and post-construction stormwater flow.
- 50) The department notes that while the development design includes a 100 m buffer around Bevia Wetland, which includes retained Coastal Swamp Sclerophyll Forest, there is no buffer proposed between the development and the northern sides of the retained ecological community and, therefore, some edge effects are likely.
- 51) The IWMP states that half (77 ha) of the contributing area to Bevia Wetland is in the development footprint and the development will increase the area of impervious surfaces to about 40% of total catchment area. This has the potential to increase annual runoff and peak discharges and reduce water quality.

*Avoidance and mitigation measures*

- 52) The BDAR states that the proposed action is a modification of a previously approved plan and that impacts on native vegetation have been reduced from 128 ha to 105 ha, including a reduction in direct impacts to Coastal Swamp Sclerophyll Forest. The referral states the proposed action will retain 12 ha of PCT 4056, of which approximately half (Table 9 of the BDAR) meet the condition criteria for EPBC Act listed Coastal Swamp Sclerophyll Forest.
- 53) In relation to indirect impacts, the BDAR states that:
- the development design includes an approximately 100 m buffer around the wetland, which includes most of the retained Coastal Swamp Sclerophyll Forest, that will be allowed to regenerate and/or be supplemented by planting and managed for weeds.
  - the development design includes a vegetated riparian parkland, designed in accordance with NSW guidelines for riparian corridors, along the western creek line and part of the eastern creek line that flow into Bevia Wetland, which will minimise water quality impacts from the proposed action. Revegetation in the landscaped areas will be primarily with trees, understorey and groundcover species of local provenance.
  - an integrated water management strategy has been designed, which uses rainwater tanks, gross pollutant traps, detention storage and bioretention and infiltration management to achieve pre-development hydrology and improve the quality of runoff entering Bevia Wetland and Saltwater Creek receiving waters. This will be set out in a Stormwater and Groundwater Management Plan.
- 54) The BDAR states that a biodiversity management plan will be implemented to manage weeds, habitat corridors, riparian areas and water quality to ensure retained habitat areas are enhanced for runoff water quality, habitat linkages and foraging opportunities.

*Offset and compensatory measures*

- 55) The department considers that despite the avoidance and mitigation measures, direct clearing of 11.5 ha of Coastal Swamp Sclerophyll Forest will result in a residual significant impact to the TEC from the proposed action, therefore offsets are required to ensure that the proposed action does not have an unacceptable impact to the Coastal Swamp Sclerophyll Forest.
- 56) The Coastal Swamp Sclerophyll Forest Conservation Advice states that where impacts are unavoidable, offsets could be used as a last resort to compensate for the adverse impacts of the action deemed unavoidable.
- 57) As discussed in paragraphs 32)-34), the referral states that the proponent proposes to meet its obligations under the NSW Biodiversity Offset Scheme (BOS). Offsets will be calculated using the Biodiversity Assessment Method (BAM) and secured through the retirement of ecosystem and

species credits. As the BAM and BOS are endorsed under the EPBC Act Condition-setting Policy 2020<sup>3</sup>, the department considers this is an appropriate means to offset any impacts.

*Proposed conditions*

- 58) To avoid and mitigate impacts to Coastal Swamp Sclerophyll Forest, the department recommends you impose conditions that the approval holder must not clear or construct outside of the action area (development footprint) (condition 1), and limit the clearance of Coastal Swamp Sclerophyll Forest to no more than 11.5 ha (condition 2a).
- 59) To further avoid and mitigate impacts to the retained 12 ha of PCT 4056 within the proposed action area, the department also recommends you impose conditions that require the proponent to implement a Biodiversity Management Plan (BMP) (condition 3).
- 60) The department notes that the area of impact to this TEC specified in the referral (11.5 ha) is slightly larger than that specified in the BDAR (10.74 ha). The proponent has clarified that slightly larger areas of the two threatened ecological communities were included in the referral, to allow a buffer against any future changes that may arise from the final design of some specific infrastructure batters. The department notes that the BDAR submitted to the department with the referral, and its associated NSW BOS Credit Summary Report, proposes an ecosystem credit offset obligation of only 10.7 ha for the vegetation zone that meets the EPBC Act condition thresholds for this TEC (4056\_Moderate\_TEC).
- 61) To offset the residual significant impacts to Coastal Swamp Sclerophyll Forest, the department recommends you implement a condition requiring the approval holder to offset the direct clearance of up to 11.5 ha of Coastal Swamp Sclerophyll Forest by retiring biodiversity credits in accordance with the NSW BOS (condition 4). The credit obligation under the BOS can be adjusted as required, if more than 10.74 ha will be directly impacted.

*Conclusion*

- 62) The department considers that the proposed action will result in a residual significant impact to Coastal Swamp Sclerophyll Forest. The department has recommended the above conditions, as set out in the proposed conditions ([Appendix A](#)), be attached to an approval under the EPBC Act.
- 63) The department considers that the avoidance, mitigation and management measures, and offsets and compensatory measures are consistent with the objectives of the Coastal Swamp Sclerophyll Forest Conservation Advice. The department considers that these measures, and

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<sup>3</sup> Environment Protection and Biodiversity Conservation Act 1999— Condition-setting Policy, Commonwealth of Australia 2020. Available at: <https://www.dcceew.gov.au/sites/default/files/documents/epbc-condition-setting-policy.pdf>

proposed environmental offsets, which will be given effect through the proposed conditions, are adequate to manage impacts to Coastal Swamp Sclerophyll Forest.

- 64) Considering the Coastal Swamp Sclerophyll Forest Conservation Advice and the referral information, the department considers that the proposed action, if approved subject to the recommended conditions, will not have an unacceptable impact on Coastal Swamp Sclerophyll Forest.

**Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland endangered ecological community – Endangered**

*Protected matter ecology*

- 65) The Conservation advice (incorporating listing advice) for the Coastal Swamp Oak (*Casuarina glauca*) Forest of New South Wales and South East Queensland ecological community<sup>4</sup> (Coastal Swamp Oak Forest Conservation Advice) defines the key diagnostic characteristics of the community as:

- occurs from south-east Queensland to southern NSW within the South Eastern Queensland, NSW North Coast, Sydney Basin, or South East Corner bioregions
- occurs in coastal catchments, typically within 30 km of the coast, typically at elevations less than 20 m above sea-level, on coastal flats, floodplains, drainage lines, lake margins, wetlands and estuarine fringes where soils are at least occasionally saturated, water-logged or inundated
- occurs on soils derived from unconsolidated sediments, typically hydrosols, sometimes organosols
- has an open woodland, woodland, forest, or closed forest structure, with a tree canopy that has a total crown cover of at least 10%
- has a canopy of trees dominated (at least 50%) by *Casuarina glauca* (swamp-oak)
- typically occurs where groundwater is saline or brackish.

- 66) The Coastal Swamp Oak Forest Conservation Advice states that due to impacts of clearing, fragmentation and degradation, many remnants are smaller than they once were, and their

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<sup>4</sup> Department of the Environment and Energy (2018). *Conservation advice (incorporating listing advice) for the Coastal Swamp Oak (Casuarina glauca) Forest of New South Wales and South East Queensland ecological community*. Canberra: Department of the Environment and Energy. Available from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/141-conservation-advice.pdf>. In effect under the EPBC Act from 20-Mar-2018

integrity is severely compromised by weed invasion and changes to hydrological processes. The Coastal Swamp Oak Forest Conservation Advice identifies three categories of patch size and vegetation quality (A, B and C) that meet the requirements for protection under the EPBC Act.

- 67) Habitat critical to the survival of the ecological community is defined as patches of a reasonable size and in the best condition (Categories A and B). Category C patches are likely to be critical to the survival of the community if they contain suites of species, habitat features or other characteristics that are important in a regional or local context.
- 68) Coastal Swamp Oak Forest provides diverse habitat values for a wide range of fauna, particularly the crevices and hollows within older trees. Many fauna species in the ecological community are listed under the EPBC Act.
- 69) Relevant threats to the ecological community are clearing and fragmentation, weeds, invasive fauna, changes to hydrology and climate change.
- 70) Conservation priorities include protecting and conserving remaining areas and retaining other native vegetation remnants near patches of the community to maintain connectivity, habitat diversity and act as buffer zones. The Coastal Swamp Oak Forest Conservation Advice recommends a minimum buffer zone of 30 m from the outer edge of remnant patches and larger buffers for patches that are very high conservation value or are located below drainage lines or a source of nutrient enrichment or groundwater drawdown.

*Environment within and surrounding the proposed action area*

- 71) Coastal Swamp Oak Forest has been mapped around the western, northern and eastern sides of Bevia Wetland with some smaller contiguous and isolated patches occurring along drainage lines north of the wetland, within larger areas of Coastal Swamp Sclerophyll Forest (TEC Map, [Att 11](#) to the referral). Some fragmentation of the community has occurred due to Bevia Road which runs around the perimeter of Bevia Wetland and to the southeast of Bevia Wetland where there is a farm road. Parts of the community connect to larger areas of native vegetation to the east and west of Bevia Wetland.
- 72) Of the 24.8 ha of PCT 4056 in the proposed action area, 7.44 ha has been assessed as good condition and meeting the key diagnostic characteristics for Coastal Swamp Oak Forest, including *Casuarina glauca* canopy cover of 45%.

*Impacts*

- 73) The referral states that the proposed action will clear 1.5 ha of Coastal Swamp Oak Forest, which occurs as two patches. The larger patch is contiguous with the ecological community around Bevia Wetland and the smaller is an isolated patch nearby. Both areas are surrounded by lower condition PCT 4056.
- 74) The department has assessed BDAR vegetation plot data ([Att 18](#) to the referral) in terms of the condition categories in the Coastal Swamp Oak Forest Conservation Advice (paragraphs 66)-67)) and determined them to be category B (part of a large (7.44 ha) patch with mostly native understorey) and therefore habitat critical to survival of the community.

- 75) Indirect impacts on retained Coastal Swamp Oak Forest include edge effects from removal of surrounding native vegetation and potential hydrological, water quality and sedimentation effects from flood mitigation, drainage and landscaping works during construction and post-construction stormwater flow.
- 76) The department notes the development design includes at least a 30 m buffer between retained Coastal Swamp Oak Forest and the development in most areas. There are a few locations where the minimum buffer recommended in the Coastal Swamp Oak Forest Conservation Advice is not met. Along the proposed southern access road, canopy cover is already absent, but construction of a sealed access road could increase edge effects on the patch east of the road.
- 77) The IWMP states that half of the contributing area to Bevan Wetland is in the development footprint and the development will increase the impervious area to about 40% of total catchment area. This has the potential to increase annual runoff and peak discharges and reduce water quality.

*Avoidance and mitigation measures*

- 78) The avoidance and mitigation measures identified at paragraphs 52)-54) are relevant to this ecological community.

*Offset and compensatory measures*

- 79) The department considers that despite the avoidance and mitigation measures, direct clearing of 1.5 ha of Coastal Swamp Oak Forest will result in a residual significant impact to the TEC from the proposed action, therefore offsets are required to ensure that the proposed action does not have an unacceptable impact to the Coastal Swamp Sclerophyll Forest.
- 80) The Coastal Swamp Oak Forest Conservation Advice states that where impacts are unavoidable, offsets could be used as a last resort to compensate for the adverse impacts of the action deemed unavoidable.
- 81) As discussed in paragraphs 32)-34), the referral states that the proponent proposes to meet its obligations under the NSW Biodiversity Offset Scheme (BOS). Offsets will be calculated using the Biodiversity Assessment Method (BAM) and secured through the retirement of ecosystem and species credits. As the BAM and BOS are endorsed under the EPBC Act Condition-setting Policy 2020, the department considers this is an appropriate means to offset any impacts.

*Proposed conditions*

- 82) To avoid and mitigate impacts to Coastal Swamp Oak Forest, the department recommends you impose conditions that the approval holder must not clear or construct outside the action area (development footprint) (condition 1), and limit the clearance of Coastal Swamp Oak Forest to no more than 1.5 ha (condition 2c).
- 83) To further avoid and mitigate impacts to the retained 6.28 ha of Coastal Swamp Oak Forest, the department also recommends you impose conditions that require the proponent to implement a BMP (condition 3).

- 84) The department notes that the area of impact to this TEC specified in the referral (1.5 ha) is slightly larger than that specified in the BDAR (1.16 ha). The proponent has clarified that slightly larger areas of the two threatened ecological communities have been included in the referral, to allow a buffer against any future changes that may arise from the final design of some specific infrastructure batters. The department notes that the BDAR submitted to the department with the referral, and its associated NSW BOS Credit Summary Report, proposes an ecosystem credit offset obligation of only 1.2 ha for the vegetation zone that meets the EPBC Act condition thresholds for this TEC (4056\_Good).
- 85) To offset the residual significant impacts to Coastal Swamp Oak Forest, the department recommends you implement a condition requiring the approval holder to offset the direct clearance of 1.5 ha of Coastal Swamp Oak Forest by retiring biodiversity credits in accordance with the NSW BOS (condition 5). The credit obligation under the BOS can be adjusted as required, if more than 1.2 ha will be directly impacted.

#### *Conclusion*

- 86) The department considers that the proposed action will result in a residual significant impact to Coastal Swamp Oak Forest. The department has recommended the above conditions, as set out in the proposed conditions (Appendix A), be attached to an approval under the EPBC Act.
- 87) The department considers that the avoidance, mitigation and management measures, offsets and compensatory measures are consistent with the objectives of the relevant conservation advice. The department considers that these measures, and proposed environmental offsets, which will be given effect through the proposed conditions, are adequate to manage impacts to Coastal Swamp Oak Forest.
- 88) Based on the relevant statutory documents and the referral information, the department considers that the proposed action, if approved subject to the recommended conditions, will not have an unacceptable impact on Coastal Swamp Oak Forest.

#### **Swift Parrot (*Lathamus discolor*) – Critically Endangered**

##### *Protected matter ecology*

- 89) The *Conservation Advice Lathamus discolor swift parrot*<sup>5</sup> (Swift Parrot Conservation Advice) states that the species:

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<sup>5</sup> Threatened Species Scientific Committee (2016). *Conservation Advice Lathamus discolor swift parrot*. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/744-conservation-advice-05052016.pdf> . In effect under the EPBC Act from 05-May-2016.

- Breeds in Tasmania during the summer.
- Migrates to mainland for the winter, where it forages in forests and woodlands of southern and eastern Australia. In NSW, coastal regions tend to support larger numbers of birds when inland habitats are subjected to drought. The Swift Parrot exhibits high site fidelity, returning to locations on an irregular cyclic basis.

90) The *National Recovery Plan for the Swift Parrot (Lathamus discolor)*<sup>6</sup> (Swift Parrot Recovery Plan) defines habitat critical to the survival of the species as:

- Breeding and foraging habitat in Tasmania.
- All preferred foraging species within known and likely foraging habitat on the mainland: Yellow Gum (*E. leucoxylon*); Red Ironbark (*E. tricarpa*); Mugga Ironbark (*E. sideroxylon*); Grey Box (*E. microcarpa*); White Box (*E. albens*); Yellow Box (*E. melliodora*); Swamp Mahogany (*E. robusta*); Forest Red Gum (*E. tereticornis*); Blackbutt (*E. pilularis*); and Spotted Gum (*Corymbia maculata*).

91) The Recovery Plan states:

*Actions that remove habitat critical to the survival would interfere with the recovery of Swift Parrots and reduce the area of occupancy of the species... If removal of habitat critical to the survival cannot be avoided or mitigated then an offset should be provided.*

92) The main threats on the mainland include habitat loss from land clearing for agriculture and urban development, and to a lesser extent forest harvesting. Other identified threats include competition for foraging and nesting resources, mortality from collisions with human-made objects and impacts from climate change.

93) The *Threat abatement plan for predation by feral cats 2024*<sup>7</sup> (Cat TAP) is adopted for this species, the following Objectives being relevant considerations for the proposed action:

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<sup>6</sup> Department of Climate Change, Energy, the Environment and Water (2024). *National Recovery Plan for the Swift Parrot* (Lathamus discolor). Department of Climate Change, Energy, the Environment and Water, Canberra. Available from: <http://www.dcceew.gov.au/environment/biodiversity/threatened/recovery-plans/swift-parrot-2024>. In effect under the EPBC Act from 30-Apr-2024.

<sup>7</sup> Department of Climate Change, Energy, the Environment and Water (2024). *Threat abatement plan for predation by feral cats 2024*. Canberra: Commonwealth of Australia. Available from: <http://www.dcceew.gov.au/environment/biodiversity/threatened/publications/tap/threat-abatement-plan-feral-cats>. In effect under the EPBC Act from 24-Dec-2024.

- a) Objective 9 of the Cat TAP is to 'reduce density of free-roaming cats around areas of human habitation and infrastructure'. Objective 9 focuses on controlling the impacts of cats living near people, particularly pet cats, to achieve conservation benefits.
  - b) Linked to Objective 9 is Objective 2, 'Plan cat management within an evidence-based framework, with broad stakeholder and community support. Objective 2.6 is to 'prioritise areas for managing feral (and pet) cats living near human habitation and infrastructure including remote tourism sites, mining camps and new residential developments.'
- 94) Conservation and management priorities for the species include maintaining known breeding and foraging habitat at local, regional, and landscape scales.

*Environment within and surrounding the proposed action area*

- 95) There are extensive areas of foraging habitat for Swift Parrot within the region containing preferred foraging tree species.
- 96) The department notes the proposed action area is in the Swift Parrot Ulladulla-Merimbula Key Biodiversity Area<sup>8</sup>, which has been defined based on Spotted Gum and other winter flowering eucalypts used by the Swift Parrot. The proposed action area intersects the NSW Biodiversity Values Map<sup>9</sup> because it contains land mapped as NSW Swift Parrot Important Habitat (NSW Biodiversity Values Map, Att 9 to the referral).
- 97) While the species was not recorded during surveys of the project area, NSW BioNet shows numerous records of Swift Parrot in areas surrounding the proposed action area since 2008. Given the Swift Parrot's high site fidelity, the department considers the Swift Parrot is likely to forage regularly within the area of the proposed action as part of a broader foraging range in the region.
- 98) According to the BDAR, PCTs 3274 (South Coast Spotted Gum Moist Forest) and 3275 (South Coast Spotted Gum Cycad Dry Forest) are reliably predicted to be used by the Swift Parrot and the species is assumed present. The BDAR states that the following 20 ha of PCT 3274 and 3275 vegetation zones will be cleared for the proposed action (Table 29 of the BDAR), which the

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<sup>8</sup> Key Biodiversity Areas (KBAs) are areas recognised as contributing significantly to the global persistence of biodiversity based on globally agreed IUCN criteria.

<sup>9</sup> The Biodiversity Values Map is one of the NSW Biodiversity Offsets Scheme thresholds. It identifies land with high biodiversity value, such as native vegetation, threatened species habitat and creek lines, that is particularly sensitive to impacts from development. See <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/clear-and-develop-land/biodiversity-values-map-and-threshold-tool>.

department considers to be habitat critical due to the presence of older flowering trees preferred by the species:

- 3274\_good – 1.54 ha
- 3275\_good – 10.26 ha
- 3275\_moderate – 8.19 ha

#### *Impacts*

- 99) The proposed action will result in the removal of up to 20 ha of potential foraging habitat for the Swift Parrot, including key foraging trees (*Corymbia maculata*, *Eucalyptus tereticornis* and *E. fibrosa*).
- 100) The department considers there is potential for indirect impacts on retained habitat from light spill and an increased risk of predation if domestic cats are not contained within the development area.
- 101) While the BDAR and referral conclude that impacts to the Swift Parrot are unlikely to be significant, the department considers that the proposed action area contains preferred foraging species within known foraging habitat on the mainland, which is habitat critical to the survival of the species.
- 102) In accordance with the Swift Parrot Recovery Plan and the Significant Impact Guidelines, the department considers that the proposed action will have a significant residual impact to 20 ha of habitat critical to the survival of the critically endangered Swift Parrot.

#### *Avoidance, mitigation, and management measures*

- 103) The general mitigation measures for Coastal Swamp Sclerophyll Forest identified at paragraphs 52)-54) are broadly relevant to this species.
- 104) The BDAR states that proposed action design has avoided Swift Parrot Important Habitat located along the eastern section of the proposed action area and continues towards the southern section which will be retained on site.
- 105) The proposed action retains 28.7 ha of woodland along the east, south and western boundary. Habitat corridors and riparian areas will be planted, widened and enhanced providing linkages through the proposed action area to facilitate movement into the adjoining Mogo Forest and facilitating movement across the landscape.
- 106) Notably, the referral contains the following mitigation measure:
- Investigate restrictions on domestic pets, apart from companion dogs and cats, to reduce predation on native fauna and nesting shorebirds.

The department does not consider this to be an adequate mitigation measure, see paragraph 111) below.

*Offset and compensatory measures*

- 107) The department considers that despite the avoidance and mitigation measures, the direct clearance of habitat critical for the survival of the Swift Parrot, being approximately 20 ha of preferred foraging species within known foraging habitat on the mainland, will result in a residual significant impact. In accordance with the Swift Parrot Recovery Plan “If removal of habitat critical to the survival cannot be avoided or mitigated then an offset should be provided.” The department therefore recommends offsets be required to ensure that the proposed action does not have an unacceptable impact on the species.
- 108) As discussed in paragraphs 32)-34), the referral states that the proponent proposes to meet its obligations under the NSW Biodiversity Offset Scheme (BOS). Offsets will be calculated using the Biodiversity Assessment Method (BAM) and secured through the retirement of ecosystem and species credits. Offsets for Swift Parrot will be provided through ecosystem credits.
- 109) As the BAM and BOS are endorsed under the EPBC Act Condition-setting Policy 2020, the department considers this is an appropriate means to offset any impacts.

*Proposed conditions*

- 110) To avoid and mitigate impacts to the Swift Parrot, the department recommends you impose conditions that the approval holder must not clear or construct outside of the action area (development footprint) (condition 1) and limit the clearance of Swift Parrot habitat to no more than 20 ha (condition 2c).
- 111) To further avoid and mitigate impacts to the Swift Parrot, the department recommends you impose conditions that require the proponent to implement a BMP (condition 3). As the Cat TAP is adopted for this species, the species is known to utilise the habitat, and Objectives 2 and 9 are directly relevant to the proposed action, the department recommends that condition 3 require that the BMP must be consistent with the Cat TAP.
- 112) To offset the residual significant impacts to Swift Parrot from habitat loss, the department recommends you implement a condition requiring the approval holder to offset the clearance of 20 ha of habitat critical to the survival of the Swift Parrot by retiring biodiversity credits in accordance with the NSW BOS (condition 6).

*Conclusion*

- 113) The department considers that the proposed action will result in a residual significant impact to the Swift Parrot. The department has recommended the above conditions, as set out in the proposed conditions ([Appendix A](#)), be attached to an approval under the EPBC Act.
- 114) The department considers that the avoidance, mitigation and management measures, offsets and compensatory measures are consistent with the objectives of the relevant conservation advice, recovery plan and TAP. The department considers that these measures, and proposed environmental offsets, which will be given effect through the proposed conditions, are adequate to manage impacts to the Swift Parrot.

115) Based on the relevant statutory documents and the referral information, the department considers that the proposed action, if approved subject to the recommended conditions, will not have an unacceptable impact on Swift Parrot.

**Gang-gang Cockatoo (*Callocephalon fimbriatum*) - Endangered**

*Protected matter ecology*

116) The Gang-gang Cockatoo is endemic to south-eastern Australia, having been recorded as far north as Coffs Harbour and as far west as Mudgee, though it is rarely seen at the extremities of its range.

117) Gang-gang Cockatoos are predominantly found in temperate eucalypt forests and woodlands. During summer, the species moves to higher altitudes, generally inhabiting mature wet sclerophyll forests dominated by eucalypts, though has also been recorded in other habitat types. During winter, the birds move to drier woodland habitats at lower altitudes. It is common for summer and winter ranges to overlap.

118) Gang-gang Cockatoos forage on the seeds, buds, flowers and fruit of a wide variety of plant species, both native and introduced. Important species include eucalypts, acacias, and introduced hawthorn, cotoneaster, and pyracantha. They will also feed on insect larvae. Foraging mainly occurs higher in the canopy, although birds will occasionally forage in shrubs when resources are available.

119) The *Conservation Advice for Callocephalon fimbriatum (Gang-gang Cockatoo)*<sup>10</sup> (Gang-gang Cockatoo Conservation Advice) describes habitat critical to the survival of the species as all foraging habitat during both the breeding and non-breeding season, but does not include non-native feed plant species within urban and suburban foraging areas. Habitat critical to the survival also includes hollow bearing trees with known or potential Gang-gang Cockatoo hollow chambers that are generally around 20 cm in floor diameter, around 50.5 cm deep (range 22–90 cm) and occur between around 7.5 m (range 5–9.4 m) above the ground. Gang-gang Cockatoo pairs generally use different hollows each year.

120) Key threats to Gang-gang Cockatoo include habitat loss, bushfires, climate change, competition for suitable hollows, and psittacine beak and feather disease.

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<sup>10</sup> Department of Agriculture, Water and the Environment (2022). *Conservation Advice for Callocephalon fimbriatum (Gang-gang Cockatoo)*. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/768-conservation-advice-02032022.pdf>. Canberra: Commonwealth of Australia. In effect under the EPBC Act from 2 March 2022.

121) The *Threat abatement plan for predation by feral cats 2024* (Cat TAP) is adopted for this species. Objectives 2 and 9, relevant to Swift Parrot, are also relevant to Gang-gang Cockatoo.

*Environment within and surrounding the proposed action area*

122) The BDAR states that the Gang-gang Cockatoo is known to occur in the area of the proposed action, having been recorded during previous assessments.

123) The BDAR states that three vegetation zones were marked as not containing habitat suitable for Gang-gang Cockatoo in the BAM Calculator (BAMC), as they are devoid of trees and shrubs, and therefore do not provide foraging habitat (vegetation zones 3274\_low, 3274\_exotic, and 3275\_low, Table 12 of the BDAR).

124) The department therefore concludes that the remaining vegetation zones within the development footprint are considered to provide suitable foraging habitat (3274\_good, 3274\_regen, 3275\_good, 3275\_moderate, 3275\_regen, 4056\_good, 4056\_low, and 3045\_good, Table 29 of the BDAR).

125) The proponent has clarified that owing to the larger areas of impact to the two vegetation zones that comprise the TECs included in the referral (included as a buffer against potential infrastructure batter design changes, see also paragraph 60), the area of impact to Gang-gang Cockatoo is anticipated to be 39.6 ha.

126) The BDAR states that HBTs were assessed for size and location on the stem to ensure if it was suitable for the species. This determined that no suitable sized hollows for the species were recorded within the proposed action area.

*Impacts*

127) The proposed action will result in the removal of up to 39.6 ha of potential foraging habitat for the Gang-gang Cockatoo. As there are no suitable hollows within the proposed action area, impacts to breeding habitat are not considered likely.

128) The department considers there is potential for indirect impacts on retained habitat from light spill and an increased risk of predation if domestic cats are not contained within the development area.

129) While the BDAR and referral conclude that impacts to the Gang-gang Cockatoo are unlikely to be significant, the department considers that the proposed action area contains known foraging habitat, which is habitat critical to the survival of the species.

130) In accordance with the Gang-gang Cockatoo Conservation Advice and the Significant Impact Guidelines, the department considers that the proposed action will have a significant residual impact to 39.6 ha of habitat critical to the survival of the endangered Gang-gang Cockatoo.

*Avoidance, mitigation, and management measures*

131) General mitigation measures for Coastal Swamp Sclerophyll Forest outlined in paragraphs 52)-54), and mitigation measures for Swift Parrot outlined in paragraphs 104)-105), are relevant to this species.

*Offset and compensatory measures*

- 132) The department considers that despite the avoidance and mitigation measures, the direct clearance of habitat critical for the survival of the Gang-gang Cockatoo, being approximately 39.6 ha of foraging habitat, will result in a residual significant impact. In accordance with the Gang-gang Cockatoo Conservation Advice "If removal of habitat critical to the survival cannot be avoided or mitigated then an offset should be provided." The department therefore recommends offsets be required to ensure that the proposed action does not have an unacceptable impact on the species.
- 133) As discussed in paragraphs 32)-34), the referral states that the proponent proposes to meet its obligations under the NSW Biodiversity Offset Scheme (BOS). Offsets will be calculated using the Biodiversity Assessment Method (BAM) and secured through the retirement of ecosystem and species credits. Offsets for Gang-gang Cockatoo will be provided through ecosystem credits.
- 134) As the BAM and BOS are endorsed under the EPBC Act Condition-setting Policy 2020, the department considers this is an appropriate means to offset any impacts.

*Proposed conditions*

- 135) To avoid and mitigate impacts to the Gang-gang Cockatoo, the department recommends you impose conditions that the approval holder must not clear or construct outside of the action area (development footprint) (condition 1), and limit the clearance of Gang-gang Cockatoo habitat to no more than 39.6 ha (condition 2d).
- 136) To further avoid and mitigate impacts to Gang-gang Cockatoo, the department also recommends you impose conditions that require the proponent to implement a BMP (condition 3). As the Cat TAP is adopted for this species, the species is known to utilise the habitat, and Objectives 2 and 9 are directly relevant to the proposed action, the department recommends that condition 3 require that the BMP must be consistent with the Cat TAP.
- 137) To offset the residual significant impacts to Gang-gang Cockatoo from habitat loss, the department recommends you implement a condition requiring the approval holder to offset the clearance of 39.6 ha of habitat critical to the survival of the Gang-gang Cockatoo by retiring biodiversity credits in accordance with the NSW BOS (condition 7).

*Conclusion*

- 138) The department considers that the proposed action will result in a residual significant impact to the Gang-gang Cockatoo. The department has recommended the above conditions, as set out in the proposed conditions ([Appendix A](#)), be attached to an approval under the EPBC Act.
- 139) The department considers that the avoidance, mitigation and management measures, offsets and compensatory measures are consistent with the objectives of the relevant conservation advice and TAP. The department considers that these measures, and proposed environmental offsets, which will be given effect through the proposed conditions, are adequate to manage impacts to the Gang-gang Cockatoo.

140) Based on the relevant statutory documents and the referral information, the department considers that the proposed action, if approved subject to the recommended conditions, will not have an unacceptable impact on the Gang-gang Cockatoo.

## **Economic and social matters – section 136(1)(b)**

141) Under section 136(1)(b) of the EPBC Act, you must consider economic and social matters in deciding whether or not to approve an action and what conditions to attach to the approval.

142) The referral states that while not proceeding with the development would avoid environmental impacts, it would also forgo the economic, housing, and social benefits of the proposal.

143) The referral states that the project is consistent with the long-term land use planning intent for urban development in the region, subject to appropriate environmental protection and biodiversity offsetting as per statutory and policy requirements. The site is designated “land release area” within the *Eurobodalla Local Environmental Plan 2012*.

144) The proposed action will deliver a master-planned community which will contribute economically and social by providing an additional 741 residential lots, ancillary commercial facilities, public roads, and public open spaces, including managed parklands and pedestrian pathways, supporting NSW and Commonwealth government housing objectives.

145) The referral states that Walker Rosedale Pty Limited has been engaged in extensive consultation with stakeholders and members of the local community since the 2008 concept approval by NSW to address concerns, and where possible, to incorporate consultation input into the residential development to improve project outcomes and community benefits. They have engaged on multiple occasions with the following stakeholders:

- a) Eurobodalla Shire Council, to introduce the Project and discuss proposed schedules including traffic access and road upgrades.
- b) The local community group, Rosedale Community Association, to discuss the proposal, understand their concerns and implement amenities requested.

146) Initial issues and interests outlined included:

- a) changes in the visual landscape affecting how people experience their surroundings
- b) likelihood of causing intangible harm through physical loss and tangible harm to items of biodiversity and cultural significance
- c) potential impacts to water quality to Saltwater Creek and Bevia Wetland
- d) bushfire and asset protection zones
- e) public transport and access.

147) Consequently, this modification to the original approved development seeks to reduce impacts to native vegetation and biodiversity values and increase the amount of managed land for conservation.

148) The department notes these contributions and considers that the proposed action is acceptable when weighed against the environmental outcomes for EPBC Act protected matters.

# Factors to be taken into account – section 136

136(2) In considering those matters, the Minister must take into account:

## Principles of ecologically sustainable development – section 136(2)(a)

149) In deciding whether or not to approve the taking of an action and the conditions to attach to an approval, section 136(2)(a) of the EPBC Act provides that you are required to take into account the principles of ecologically sustainable development (ESD). The principles of ESD, as defined in Part 1, section 3A of the EPBC Act, are:

- a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;
- b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (precautionary principle);
- c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;
- d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making;
- e) improved valuation, pricing and incentive mechanisms should be promoted.

150) In addition, section 391 of the EPBC Act provides that you must take into account the precautionary principle in deciding whether or not to approve the taking of an action. The precautionary principle requires that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

151) In formulating this recommendation, the department has taken into account the principles of ecologically sustainable development:

*decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations*

- This report, and the documentation relied upon to prepare this report, provide sufficient information to allow you to conclude that the decision-making processes have effectively integrated long and short-term economic, social and environmental considerations.

- The department considers the likely impacts on the environment are acceptable in terms of the long and short-term economic, social, environmental and equitable impacts and that these impacts will be managed through the recommended conditions of approval.

*if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation*

- The department has taken account of the precautionary principle by considering whether there are threats of serious or irreversible environmental damage with respect to the relevant matters protected by the EPBC Act, and whether there is a lack of full scientific uncertainty as to the nature or scope of the threat of this damage. The application of the precautionary principle to the proposed action is discussed at paragraphs 152)-154).

*the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations*

- The recommended conditions of approval allow for the proposed action to be delivered and operated in a sustainable way to protect listed threatened species and communities and the environment more broadly for future generations.

*the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making*

- The department considers that biological diversity and ecological integrity were fundamental considerations in this assessment, evidenced by:
  - the assessment being undertaken in accordance with state and national regulatory requirements for environmental impact assessment and application of the mitigation hierarchy.
  - The application of proposed conditions to limit clearing in the project area, provide offsets and ensure approved management plans are prepared and implemented to manage indirect impacts.
  - the approach of incentivising the proponent to further reduce impacts of the project on biodiversity through detailed design works to avoid impacts where possible, thereby reducing the biodiversity credit liability.

*improved valuation, pricing and incentive mechanisms should be promoted.*

- The department considers that the costs of avoidance, mitigation and offset measures for the relevant impacts provide appropriate pricing and incentive mechanisms for the protection of the matters of national environmental significance and the environment.

## Precautionary principle – section 391

152) Section 391 of the EPBC Act states that you must consider the precautionary principle in deciding whether or not to approve the taking of an action to the extent that you can do so consistently with the other provisions of the EPBC Act. The precautionary principle requires that, if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

153) The department has taken account of the precautionary principle by considering whether there are threats of serious or irreversible environmental damage with respect to the relevant matters protected by the EPBC Act, and whether there is a lack of scientific certainty.

154) The department has taken into account the information provided in the referral (including the BDAR) and relevant statutory and guidance documents, and considers that the proposed action poses a threat of serious or irreversible environmental damage to listed threatened species and communities. The department therefore recommends that conditions be attached to the approval to address these threats ([Appendix A](#)). The conditions include clearance limits, requirement for the implementation of management plans, and retirement of biodiversity credits to reduce and offset the potential impacts to protected matters. Information on the threat of serious or irreversible damage to listed threatened species (Swift Parrot and Gang-gang Cockatoo) and communities (Coastal Swamp Sclerophyll Forest and Coastal Swamp Oak Forest) is discussed at paragraphs 37)-140).

- a) The department considers that while there is a risk of serious and irreversible impact due to the listing status under the EPBC Act of the above protected matters, there is not a lack of full scientific certainty about the likely nature and extent of the threat of serious or irreversible environmental damage, because:
  - i) there is sufficient evidence about the impacts of the proposed action, due to surveys of critical habitat and presence of species within and around the proposed action area.
  - ii) there is scientific certainty about the impacts of clearing habitat and the indirect impacts caused by construction activities.

For these reasons, the department considers that the precautionary principle does not apply.

## Referral information – section 136(2)(ba)

155) In accordance with section 136(2)(ba), the finalised version of this document (which will be updated to address any public comments) will form the recommendation report relating to the action given to the minister under section 93(5).

## Other information – section 136(2)(e)

156) The minister must take into account any other information the minister has on the relevant impacts of the action (including information in a report on the impacts of actions taken under a policy, plan or program under which the action is to be taken that was given to the minister under an agreement under Part 10 (about strategic assessments)).

157) All relevant information has been taken into account, including the referral documentation.  
There are no strategic assessments relevant to this decision.

### **Relevant comments – section 136(2)(f)**

Under section 131, the Minister must invite other ministers to give comments on the proposed decision within 10 business days. Following the publication of and invitation to comment on this draft recommendation report under section 93(3) of the EPBC Act, relevant ministers will be invited to comment on the proposed decision under 136(2)(f) of the EPBC Act.

### **Information in a notice – section 136(2)(g)**

158) No notice relating to the action was requested or given to the minister under subsection 132A(3).

# Other matters for decision making

## Person's environmental history – section 136(4)

*s136(4) In deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:*

*the person's history in relation to environmental matters; and*

*if the person is a body corporate – the history of its executive officers in relation to environmental matters; and*

*if the person is a body corporate that is a subsidiary of another body or company (the parent body) – the history in relation to environmental matters of the parent body and its executive officers.*

159) The Southern NSW Assessment Section has requested the department's Compliance and Enforcement Branch (CEB) conduct an environmental history check (EHC) on the proponent in accordance with section 136(4) of the EPBC Act. The outcome of the EHC is pending as at the date of drafting this report and will be provided in the final recommendation report.

160) In the referral, Walker Rosedale Pty Limited have stated:

- a) they understand and recognise their duty of care to the environment, and the importance of compliance with applicable environmental policies
- b) they and their executive officers do not have any past or ongoing proceedings or previous referred actions to disclose.

## Minister not to consider other matters – section 136(5)

*s136(5) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval, the Minister must not consider any matters that the Minister is not required or permitted to consider by Division 1, Part 9 of the EPBC Act.*

161) The department, in forming its recommendations whether or not to approve the proposed action, and what conditions (if any) to attach, has not considered any matters that you are not required or permitted to consider.

## Threatened species and endangered communities – section 139

*s139(1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the Minister must not act inconsistently with:*

*Australia's obligations under:*

- i) *the Biodiversity Convention; or*
- ii) *the Apia Convention; or*
- iii) *CITES; or*

*a recovery plan or threat abatement plan.*

*s139(2) If:*

- a) *the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and*
- b) *the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;*

*the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.*

## **Biodiversity Convention**

162) The objectives of the [Biodiversity Convention](#), to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

163) The recommendations in this report are not considered by the department to be inconsistent with the Biodiversity Convention, which promotes environmental impact assessment (such as this process) to avoid and minimise adverse impacts on biological diversity. The department has also given particular consideration to an appropriate combination of avoidance and mitigation measures for the management of species potentially impacted by the proposed action.

## **Apia Convention**

164) The [Convention on the Conservation of Nature in the South Pacific](#) (Apia Convention) encourages the creation of protected areas which together with existing protected areas will safeguard representative samples of the natural ecosystems occurring therein (particular attention being given to endangered species), as well as superlative scenery, striking geological formations, and regions and objects of aesthetic interest or historic, cultural, or scientific value.

165) The [Apia Convention](#) was suspended with effect from 13 September 2006. While this Convention has been suspended, Australia's obligations under the Convention have been taken into consideration. The recommendations of the Assessment Report are not inconsistent with the Convention which has the general aims of conservation of biodiversity.

## International trade in endangered species

166) The [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (CITES) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival.

167) The recommendations are not inconsistent with CITES as the proposed action does not involve international trade.

## Recovery Plans and Threat Abatement Plans

168) There is one Recovery Plan relevant to the proposed action:

- Department of Climate Change, Energy, the Environment and Water (2024). *National Recovery Plan for the Swift Parrot* (*Lathamus discolor*). Department of Climate Change, Energy, the Environment and Water, Canberra. Available from: <http://www.dcceew.gov.au/environment/biodiversity/threatened/recovery-plans/swift-parrot-2024>. In effect under the EPBC Act from 30-Apr-2024.

169) This Recommendation Report provides a discussion of the Recovery Plan in respect to the Swift parrot (see discussion in the Listed threatened species and communities (s18 & 18A) section of this report).

170) There is one Threat Abatement Plan (TAP) relevant to the proposed action:

- Department of Climate Change, Energy, the Environment and Water (2024). *Threat abatement plan for predation by feral cats 2024*. Canberra: Commonwealth of Australia. Available from: <http://www.dcceew.gov.au/environment/biodiversity/threatened/publications/tap/threat-abatement-plan-feral-cats>. In effect under the EPBC Act from 24-Dec-2024.

171) This Recommendation Report provides a discussion of the threat abatement plan for predation for feral cats with respect to Swift Parrot and Gang-gang Cockatoo, for which this TAP is adopted (see discussion in the Listed threatened species and communities (s18 & 18A) section of this report).

172) The department has considered all relevant Recovery Plans and TAPs, including relevant habitat requirements, threats to MNES and the objectives of the plans, and is of the view that the conditions of approval would mean this action would not be inconsistent with the above obligations.

## Conservation Advice

173) The approved conservation advices relevant to the proposed action are:

- Department of Agriculture, Water and the Environment (2021). *Conservation Advice for the Coastal Swamp Sclerophyll Forest of New South Wales and South East Queensland*. Canberra: Department of Agriculture, Water and the Environment. Available

from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/171-conservation-advice.pdf>. In effect under the EPBC Act from 08-Dec-2021.

- Department of the Environment and Energy (2018). *Conservation advice (incorporating listing advice) for the Coastal Swamp Oak (Casuarina glauca) Forest of New South Wales and South East Queensland ecological community*. Canberra: Department of the Environment and Energy. Available from: <http://www.environment.gov.au/biodiversity/threatened/communities/pubs/141-conservation-advice.pdf>. In effect under the EPBC Act from 20-Mar-2018.
- Threatened Species Scientific Committee (2016). *Conservation Advice* Lathamus discolor swift parrot. Canberra: Department of the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/744-conservation-advice-05052016.pdf>. In effect under the EPBC Act from 05-May-2016.
- Department of Agriculture, Water and the Environment (2022). *Conservation Advice for Callocephalon fimbriatum (Gang-gang Cockatoo)*. Canberra: Department of Agriculture, Water and the Environment. Available from: <http://www.environment.gov.au/biodiversity/threatened/species/pubs/768-conservation-advice-02032022.pdf>. In effect under the EPBC Act from 02-Mar-2022.

174) The department has had regard to the approved conservation advice(s) relevant to the proposed action and has given consideration to the likely impacts of the proposed Action on listed threatened species and endangered ecological communities. The department is of the view that approval of this action would not be inconsistent with the conservation advice (see discussion in the Listed threatened species and communities (s18 & 18A) section of this report).

## Bioregional plans - section 176(5)

*s176(5) Subject to this Act (the EPBC Act), the Minister must have regard to a bioregional plan in making any decision under this Act (the EPBC Act) to which the plan is relevant.*

175) The proposed action is not located within or near an area designated by a bioregional plan. The department considers that there are no bioregional plans relevant to the proposed action.

# Conditions of approval – section 134

*s134(1) The Minister may attach a condition to the approval of the action if he or she is satisfied that the condition is necessary or convenient for:*

*protecting a matter protected by a provision of Part 3 for which the approval has effect (whether or not the protection is protection from the action); or*

*repairing or mitigating damage to a matter protected by a provision of Part 3 for which the approval has effect (whether or not the damage has been, will be or is likely to be caused by the action).*

## Department's recommended conditions

176) The department has considered the likely scope and severity of the impacts to MNES, and the proposed avoidance and mitigation measures, and determined that it is likely the proposed action will result in residual significant impact to listed threatened species and ecological communities.

177) The department considers that it is necessary or convenient to apply approval conditions to this project. The key conditions relating to protected matters have been discussed under each controlling provision.

178) As detailed in the listed threatened species and ecological communities section above, all recommended conditions attached to this report (at [Appendix A](#)) are necessary or convenient to compensate, protect and/or mitigate impacts on a matter protected by a provision of Part 3 for which this proposed approval would have effect.

179) In recommending conditions, the department has had regard to the EPBC Act Condition-setting Policy 2020. The department notes that the NSW BOS, which provides biodiversity offset credits for impacts to species and ecological communities, is recognised in the EPBC Act Condition-setting Policy as being consistent with key policy principles of the department and Australian Government standards.

## Additional considerations for conditions

180) In accordance with section 134(4), in deciding whether to attach a condition to an approval, the Minister must consider all of the following:

*s134(4)(a) Any relevant conditions that have been imposed, or the Minister considers are likely to be imposed, under a law of a state or self-governing territory or another law of the Commonwealth on the taking of the action.*

181) The proposed action is a modification to an existing residential development proposal approved under the NSW EP&A Act. The modification (MP05\_0199-Mod-2) is currently under assessment by NSW and no state conditions are yet imposed for the modification. It is expected that NSW will impose their own conditions that may be relevant to MNES under the NSW *Biodiversity Conservation Act 2016*, however the department's proposed conditions of consent for the

proposed action are not considered likely to conflict with any conditions likely to be imposed by the NSW consent authority.

*s134(4)(aa) Information provided by the person proposing to take the action or by the designated proponent of the action.*

182) The formal assessment documentation provided by the person proposing to take the action is the referral information. This information has been taken into account in drafting this recommendation.

*s134(4)(b) The desirability of ensuring as far as practicable that the condition is a cost-effective means for the Commonwealth and the person taking the action to achieve the object of the condition.*

183) The department considers that the conditions proposed are reasonable and appropriate having regard to the nature and scale of potential impacts from the proposed action and will ensure that listed threatened species and ecological communities are protected long term. The department considers that the conditions proposed are a cost-effective means of achieving their purpose.

# Material used to prepare this report

- Referral documentation and attachments
- Relevant conservation advices, recovery plans, and threat abatement plans

# Appendices

Appendix A - Draft Proposed Approval Conditions (including condition definitions and attachments).

Appendix B – Map of Action area (direct impact area) including layout

Appendix C – Map of Threatened Ecological Communities

Appendix D – Map of Swift Parrot habitat

Appendix E – Map of Gang-gang Cockatoo habitat

## Appendix A - Draft Proposed Approval Conditions

**Note:** Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them at **Part C – Definitions**.

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### Part A – Avoidance, mitigation, and compensation conditions

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#### CLEARING LIMITS

- 1) The approval holder must not **clear** or **construct** outside of the **Action area**.
- 2) The approval holder must not **clear** more than:
  - a) 11.5 ha of Coastal Swamp Sclerophyll Forest.
  - b) 1.5 ha of Coastal Swamp Oak Forest.
  - c) 20 ha of Swift Parrot habitat.
  - d) 39.6 ha of Gang-gang Cockatoo habitat.

#### ACTION MANAGEMENT PLANS

##### Biodiversity Management Plan

- 3) To avoid and mitigate **harm** as a result of the Action on **protected matters**, the approval holder must develop and implement a **Biodiversity Management Plan (BMP)** consistent with the **Environmental Management Plan Guidelines**, and **Threat abatement plan for predation by feral cats**, which must:
  - a) be prepared in accordance with any mitigation measures outlined in the **Biodiversity Development Assessment Report**
  - a) include a description of the measures and timeframes that would be implemented for:
    - i) minimising the impacts of the action on listed threatened species within the **Action area**, including the **Swift Parrot** and the **Gang-gang Cockatoo**
    - ii) the conservation management of the retained areas of **Coastal Swamp Sclerophyll Forest** and **Coastal Swamp Oak Forest** within the **Action area** to ensure they continue to meet their original EPBC Act condition thresholds for listing for the duration of this approval
    - iii) controlling weeds and feral pests
    - iv) rehabilitating and revegetating temporary disturbance areas
  - b) include a detailed program to monitor and report on the effectiveness of these measures; and

- c) include details of who would be responsible for monitoring reviewing and implementing the plan.

The approval holder must commence implementing the Biodiversity Management Plan no later than the **commencement of the Action** and continue to implement the Biodiversity Management Plan until the expiry date of this approval.

#### BIODIVERSITY OFFSETS

- 4) To offset the **clearing** of up to 11.5 ha of **Coastal Swamp Sclerophyll Forest**, the approval holder must, prior to the **commencement of the Action**, **retire** the number of **biodiversity credits** determined under the **NSW Biodiversity Offsets Scheme** to compensate for the loss of and impact of the Action on up to 11.5 ha of **Coastal Swamp Sclerophyll Forest**.
- 5) To offset the **clearing** of up to 1.5 ha of **Coastal Swamp Oak Forest**, the approval holder must, prior to the **commencement of the Action**, **retire** the number of **biodiversity credits** determined under the **NSW Biodiversity Offsets Scheme** to compensate for the loss of and impact of the Action on up to 1.5 ha of **Coastal Swamp Oak Forest**.
- 6) To offset the **clearing** of up to 20 ha of **Swift Parrot habitat**, the approval holder must, prior to the **commencement of the Action**, **retire** the number of **biodiversity credits** determined by the **NSW Biodiversity Offsets Scheme** to compensate for the loss of and impact of the Action on up to 20 ha of **Swift Parrot habitat**.
- 7) To offset the **clearing** of up to 39.6 ha of **Gang-gang Cockatoo habitat**, the approval holder must, prior to the **commencement of the Action**, **retire** the number of **biodiversity credits** determined under the **NSW Biodiversity Offsets Scheme** to compensate for the loss of and impact of the Action on up to 39.6 ha of **Gang-gang Cockatoo habitat**.

#### Part B – Administrative conditions

##### PUBLICATION OF PLANS

- 8) The approval holder must keep all **plans** published on the **website**, in a format that is easily accessible and downloadable, from the first date which that **plan** must be published and until the expiry date of this approval. This requirement applies to all current and superseded versions of **plans**.
- 9) The approval holder is required to exclude or redact **sensitive biodiversity data** from any version of a **plan** before that **plan** is published on the **website** or otherwise provided to a member of the public.

##### COMMENCEMENT OF THE ACTION

- 10) The approval holder must notify the **department** electronically of the date of **commencement of the Action**, within 5 **business days** following **commencement of the Action**.

- 11) The approval holder must not **commence the Action** later than 5 years after the date of this approval decision.

## COMPLIANCE RECORDS

- 12) The approval holder must maintain accurate and complete **compliance records** and document the procedure for recording and storing **compliance records**.
- 13) If the **department** makes a request in writing, the approval holder must provide electronic copies of **compliance records** to the **department** within the timeframe specified in the request.

**Note: Compliance records** may be subject to audit by the **department**, or by an **independent auditor** in accordance with section 458 of the **EPBC Act**, and/or be used to verify compliance with the conditions. Summaries of the results of an audit may be published on the **department's** website or through the general media.

- 14) The approval holder must ensure that any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guidelines for biological survey and mapped data*, Commonwealth of Australia 2018, or as otherwise specified by the **Minister** in writing.
- 15) The approval holder must ensure that any **monitoring data**, surveys, maps, and other spatial and metadata required under the conditions of this approval are prepared in accordance with the *Guide to providing maps and boundary data for EPBC Act projects*, Commonwealth of Australia 2021, or as otherwise specified by the **Minister** in writing.
- 16) The approval holder must submit all **monitoring data**, surveys, maps, other spatial and metadata and all species occurrence record data (sightings and evidence of presence) electronically to the **department** within 20 business days of each anniversary of the date of this approval decision except where otherwise specified in a **plan**.

## ANNUAL COMPLIANCE REPORTING

- 17) The approval holder must prepare a **compliance report** for each **Annual Compliance Report period (ACR period)**.
- 18) The approval holder must ensure each **compliance report** includes:
  - a) accurate and complete details of compliance and any non-compliance with:
    - i) each condition attached to this approval decision, and
    - ii) all commitments made in each **plan**,
  - b) a schedule of all **plans** in effect in relation to these conditions during the **ACR period**,
  - c) accurate and complete details of how each **plan** was implemented during the **ACR period**, and
  - d) if any **incident** occurred, accurate and complete details of each **incident**.

- 19) The approval holder must ensure each **compliance report** is completed to the satisfaction of the **Minister** and is consistent with the *Annual Compliance Report Guidelines, Commonwealth of Australia 2023*.
- 20) The approval holder must, within 20 **business days** following the end of each **ACR period**, in a format that is easily accessible and downloadable, publish on the **website**:
- a) each **compliance report**, and
  - b) a **shapefile** showing all **clearing of protected matters**, and their habitat, undertaken within the **ACR period**.
  - c) The approval holder must:
  - d) Exclude or redact **sensitive biodiversity data** from each **compliance report** and **shapefile** published on the **website** or otherwise provided to a member of the public.
  - e) If **sensitive biodiversity data** is excluded or redacted from a version of a **compliance report** published or otherwise provided to a member of the public, submit the full **compliance report** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website** or otherwise provided to a member of the public.
  - f) If **sensitive biodiversity data** is excluded or redacted from a version of a **shapefile** published or otherwise provided to a member of the public, submit the full **shapefile** to the **department** within 5 **business days** of its publication on the **website** and notify the **department** in writing what exclusions and redactions have been made in the version published on the **website** or otherwise provided to a member of the public.
- 21) The approval holder must notify the **department** electronically, within 5 **business days** of each date of publication that the **compliance report** has been published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **compliance report** and related **shapefile** are published on the **website**.
- 22) The approval holder must keep each **compliance report** and related **shapefile** published on the **website** from the first date which that **compliance report** must be published and until the expiry date of this approval.

**Note:** **Compliance reports** may be published on the **department's** website.

#### **REPORTING NON-COMPLIANCE**

- 23) The approval holder must notify the **department** electronically, within 2 **business days** of becoming aware of any **incident**. The approval holder must specify in each notification:
- a) any condition or commitment made in a **plan** which has not been, or may have not been, complied with,
  - b) a short description of the **incident**, and

- c) the location (if applicable, including co-ordinates), date and time of the **incident**.
- 24) The approval holder must provide to the **department** in writing, within 12 **business days** of becoming aware of an **incident**, the details of that **incident**. The approval holder must specify:
- a) all corrective measures and investigations which the approval holder has already taken in respect of the **incident**,
  - b) the potential impacts of the **incident**,
  - c) the method and timing of any corrective measures that the approval holder proposes to undertake to address the **incident**, and
  - d) any variation of these conditions or revision of a **plan** that will be required to prevent recurrence of the **incident** and/or to address its consequences.

#### INDEPENDENT AUDIT

- 25) The approval holder must ensure that an **independent audit** of compliance with the conditions is conducted for every **audit period**.
- 26) The approval holder must submit details of the proposed **independent auditor** and their qualifications to the **department** within 10 **business days** following the end of each **audit period**.
- 27) The approval holder must ensure the scope of each **independent audit** is sufficient to determine the compliance status for each condition of approval, and each commitment made in each **plan**.
- 28) The approval holder must ensure the criteria for each **independent audit** and the undertaking of each **independent audit** are consistent with the **Independent Audit and Audit Report Guidelines**.
- 29) The approval holder must submit an **audit report** to the **department** for written agreement from the **department** within 3 months following the end of each **audit period**, or as otherwise directed by the **Minister** in writing.
- 30) The approval holder must ensure each **audit report** is completed to the satisfaction of the **Minister** and is consistent with the **Independent Audit and Audit Report Guidelines** to the extent that the **Independent Audit and Audit Report Guidelines** are consistent with these conditions.
- 31) The approval holder must publish each **audit report** on the **website**, in a format that is easily accessible and downloadable, within 10 **business days** of the date the **department** agrees to that **audit report** in writing.
- 32) The approval holder must notify the **department** within 5 **business days** of the date the **audit report** is published on the **website**. In this notification, the approval holder must provide the **department** with the web address for where the **audit report** is published on the **website**.
- 33) The approval holder must keep each **audit report** published on the **website** from the first date which that **audit report** must be published and until the expiry date of this approval.

#### COMPLETION OF THE ACTION

- 34) Within 20 **business days** after the **completion of the Action**, and, in any event, at least 20 **business days** prior to the expiry date of this approval, the approval holder must notify the **department** electronically of the date of **completion of the Action** and provide **completion data**. The approval holder must submit any spatial data that comprises **completion data** as a **shapefile**.
- 35) The approval holder must notify the **department** electronically at least 60, but not more than 70, **business days** prior to the expiry date of this approval, that the approval is due to expire.

**Note:** Section 145C of the **EPBC Act** entitles the approval holder to request an extension to the period of effect of this approval.

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## Part C – Definitions

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Words and terms appearing in **bold** (excluding headings) have the meaning assigned to them in the list below:

**Action area** means the location of the Action, represented in [Appendix B](#) by the zone enclosed by the yellow dashed line designated as the Direct Impact Area.

**Annual Compliance Report period** or **ACR period** means each subsequent 12-month period following the date of this approval decision until the expiry date of this approval, unless otherwise specified in writing by the **Minister**.

**Audit period** means each subsequent three-year period following the **commencement of the Action** until the expiry date of this approval unless otherwise specified in writing by the **Minister**.

**Audit report** means a written report of an **independent audit**.

**Biodiversity credits** means ecosystem credit units issued in accordance with the Biodiversity Offsets Scheme established under the *Biodiversity Conservation Act 2016* (NSW).

**Biodiversity data** means ‘biodiversity data’ as described in the *Policy on Accessing and Sharing Biodiversity Data*, Commonwealth of Australia 2024.

**Biodiversity Development Assessment Report** means the Biodiversity Development Assessment Report dated 30 April 2025, provided to the department as part of the referral documentation.

**Biodiversity Management Plan** means any action management plan or strategy that the approval holder is required by these conditions to implement.

**Business day** means a day that is not a Saturday, a Sunday, or a public holiday in New South Wales.

**Clear, cleared** or **clearing** means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, or burning of vegetation.

**Coastal Swamp Sclerophyll Forest** means the means the **EPBC Act** listed endangered ecological community Coastal swamp sclerophyll forest of New South Wales and South East Queensland, shown as light orange polygons at [Appendix C](#).

**Coastal Swamp Oak Forest** means the means the **EPBC Act** listed endangered ecological community Coastal Swamp Oak (*Casuarina glauca*) of New South Wales and South East Queensland, shown as dark orange polygons at [Appendix C](#).

**Commence the Action** or **commences the Action** means the first instance of any on-site **clearing, construction** or other physical activity associated with the Action, but does not include minor physical disturbance necessary to:

- Undertake pre-clearance surveys or monitoring programs.
- Install signage and/or temporary fencing to prevent unapproved use of the **Action area**, so long as the signage and/or temporary fencing is located where it does not **harm any protected matter**.
- Protect environmental and property assets from fire, weeds, and feral animals, including use of existing surface access tracks.
- Install temporary site facilities for persons undertaking pre-commencement activities so long as these facilities are located where they do not **harm any protected matter**.

**Commencement of the Action** means the date on which the approval holder **commences the Action**.

**Completion data** means an environmental report and spatial data clearly detailing how the conditions of this approval have been met.

**Completion of the Action** means the date on which all activities associated with the approved Action, other than those which provide compensation for the impacts of the Action, have permanently ceased and/or been completed.

**Compliance records** means all documentation or other material in whatever form required to demonstrate compliance with these conditions of approval (including compliance with commitments made in **plans**) in the approval holder's possession, or that are within the approval holder's power to obtain lawfully.

**Compliance report** means a written report of compliance with, and fulfilment of, these conditions (including compliance with commitments made in **plans**).

**Construct/construction** means:

- the erection of a building or structure that is, or is to be, fixed to the ground and wholly or partially fabricated on-site,
- the alteration, maintenance, repair or demolition of any building or structure,
- any work which involves breaking of the ground (including pile driving) or bulk earthworks,
- the laying of pipes and other prefabricated materials in the ground, and
- any associated excavation work.

**Construction** does not include minor physical disturbance for undertaking surveys, installation of temporary or permanent fences or signage, so long as the signage and/or fencing is located where it does not **harm any protected matter**.

**Department** means the Australian Government agency responsible for administering the **EPBC Act**.

**Environmental Management Plan Guidelines** means the *Environmental Management Plan Guidelines*, Commonwealth of Australia 2024.

**EPBC Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

**Gang-gang Cockatoo** means the **EPBC Act** listed endangered species *Callocephalon fimbriatum*.

**Gang-gang Cockatoo habitat** means the vegetation zones identified in the **Biodiversity Development Assessment Report** as 3274\_good, 3274\_regen, 3275\_good, 3275\_moderate, 3275\_regen, 4056\_good, 4056\_low, and 3045\_good, and shown as pink polygons within the **Action area** at Appendix E.

**Harm** means to cause any measurable direct or indirect disturbance or deleterious change as a result of any activity associated with the Action.

**Incident** means any:

- event which has the potential to, or does, **harm any protected matter**,
- potential non-compliance with these conditions, including the administrative requirements,
- actual non-compliance with these conditions, including the administrative requirements,
- potential non-compliance with one or more commitment made in a **plan**, and/or
- actual non-compliance with one or more commitment made in a **plan**.

**Independent audit** means an audit, conducted by an **independent auditor**, of compliance with and fulfilment of these conditions and the commitments made in **plans**, objectively evaluated against the audit criteria developed by the **independent auditor**, in accordance with the **Independent Audit and Audit Report Guidelines** to the extent that the **Independent Audit and Audit Report Guidelines** are consistent with these conditions.

**Independent Audit and Audit Report Guidelines** means the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines*, Commonwealth of Australia 2019.

**Independent auditor** means a person, or firm, who:

- does not have any individual, financial\*, employment\* or family affiliation or any conflicting interests with the Action, the approval holder or the approval holder's staff, representatives, or associated persons,
- has demonstrated experience in undertaking government-regulated environmental compliance audits, and
- holds relevant professional qualifications and accreditations.

\*Other than for the purpose of undertaking the role for which the person, or firm, is required.

**Minister** means the Australian Government Minister administering the **EPBC Act**, including any delegate thereof.

**Monitoring data** means the data required to be recorded under the conditions of this approval, including **sensitive biodiversity data**.

**NSW Biodiversity Offsets Scheme** means the Biodiversity Offsets Scheme under the NSW *Biodiversity Conservation Act 2016 (NSW)*.

**Plan** means any action management plan or strategy that the approval holder is required by these conditions to implement.

**Protected matter** means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

**Retire, retired** means retirement of **biodiversity credits** in accordance with the Biodiversity Offset Scheme under the *Biodiversity Conservation Act 2016 (NSW)*, such that the **biodiversity credits** can no longer be bought or sold.

**Sensitive biodiversity data** means **biodiversity data** which, if released, published or otherwise exposed, may result in **harm** to the relevant **protected matter** as a result of the intentional or unintentional misuse of that **biodiversity data**.

**Shapefile** means location and attribute information about the Action provided in an Esri shapefile format containing:

- '.shp', '.shx', '.dbf' files,
- a '.prj' file which specifies the projection or geographic coordinate system used, and
- an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

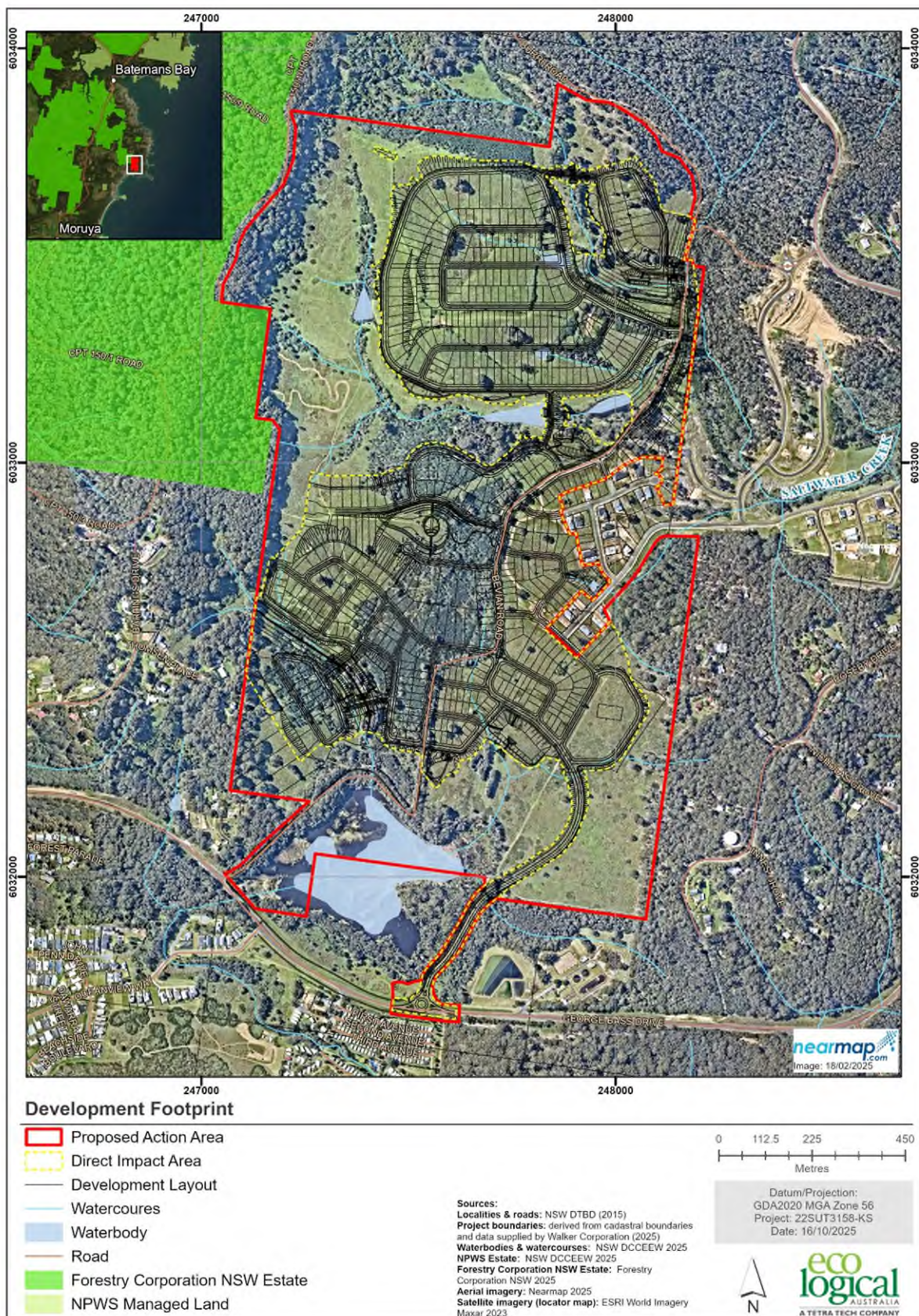
**Swift Parrot** means the **EPBC Act** listed critically endangered species *Lathamus discolor*.

**Swift Parrot habitat** means the vegetation zones identified in the **Biodiversity Development Assessment Report** as 3274\_good, 3275\_good, 3275\_moderate, and shown as aqua polygons within the **Action area** at Appendix D.

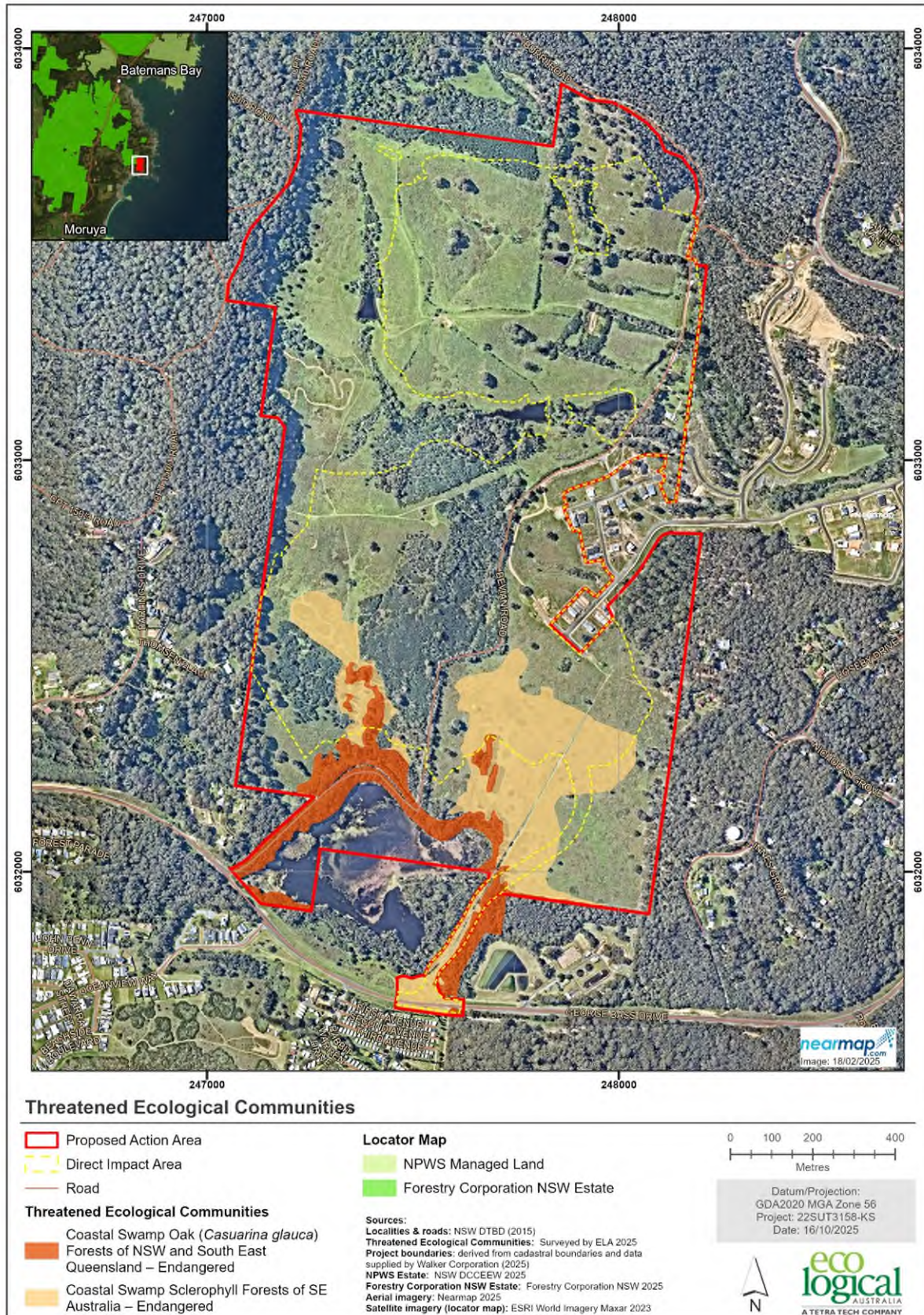
**Threat abatement plan for predation by feral cats** means the Australian Government's *Threat abatement plan for predation by feral cats 2024*, available at <https://www.dcceew.gov.au/environment/biodiversity/threatened/publications/tap/threat-abatement-plan-feral-cats>)

**Website** means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

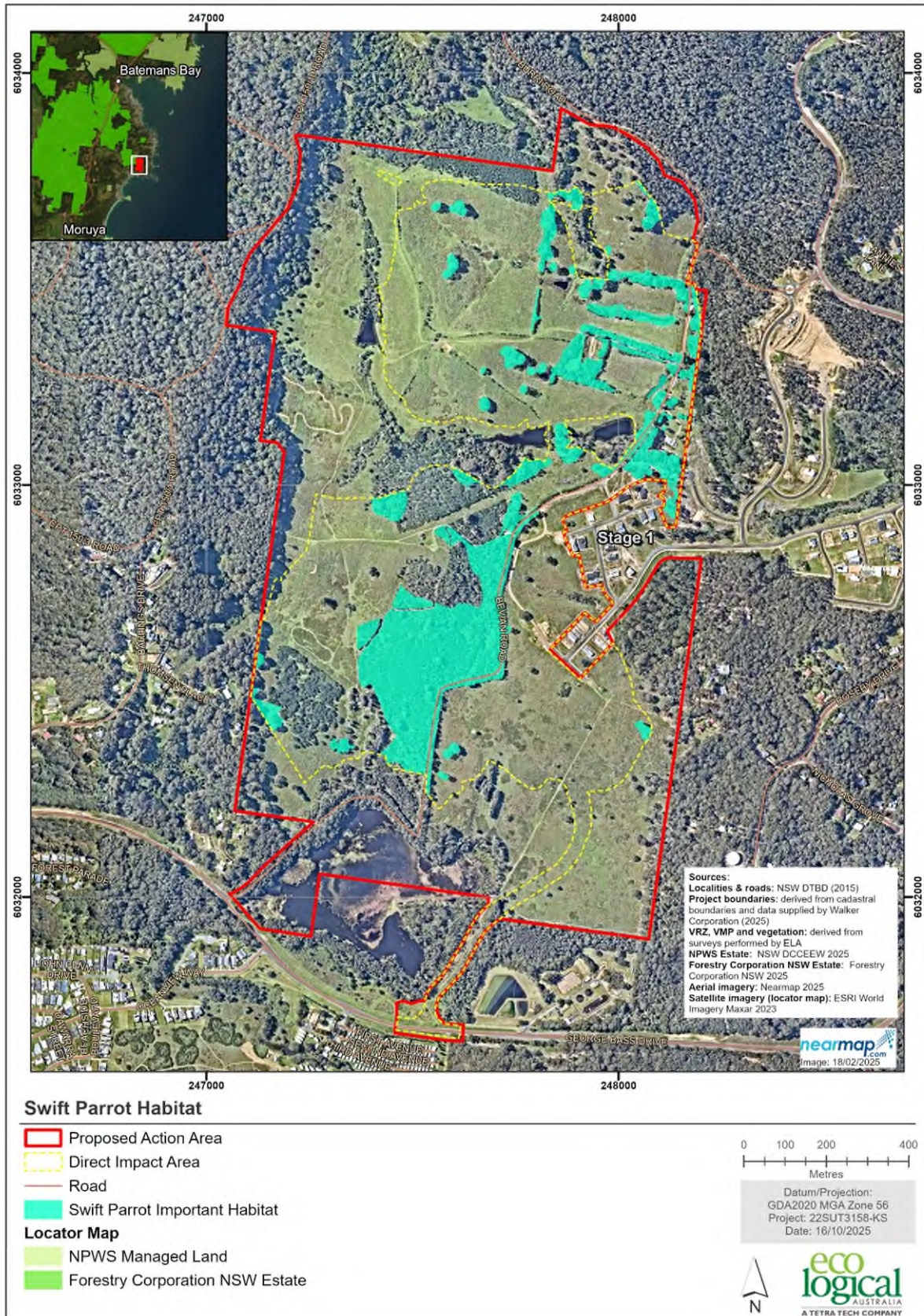
### Appendix B – Map of Action area (direct impact area) including layout



# Appendix C – Map of Threatened Ecological Communities



## Appendix D – Map of Swift Parrot habitat



## Appendix E – Map of Gang-gang Cockatoo habitat

