



**Office of  
Environment  
& Heritage**

DOC14/142730


**EXECUTIVE SUMMARY**

On 24 July 2014, the NSW Office of Environment and Heritage (OEH) received a concurrence application from Far South Region of the National Parks and Wildlife Service (NPWS) pursuant to Section 112C of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Concurrence was sought for a decision by the Director, Park Management Coastal Branch, NPWS to approve under Part 5 of the EP&A Act, the creation of Fire Buffer construction works in Eurobodalla National Park at Potato Point.

The activity is described in the EnviroKey (2014) *Review of Environmental Factors: Proposed Fire Buffer Construction Works (Stage 2)* Version 1.0 21/04/2014 and includes removing 80 percent of the cover of standing vegetation and all understorey vegetation for a total of 1.47 hectares. This is Stage 2 of the buffer construction works at Potato Point. Stage 1 was approved and carried out in December 2013 for the adjoining lands closer to the Potato Point Village.

OEH has considered the application from Far South Coast NPWS in accordance with Section 112D of the EP&A Act and I have decided to grant concurrence to this activity for the reasons set out in Section 6 and subject to the conditions set in Section 7 of this report.



25 JULY 2014

**MICHAEL SAXON**  
Regional Manager South East  
Regional Operations  
Office of Environment and Heritage  
*as delegate to the Director-General*

## 1 DESCRIPTION OF THE ACTIVITY AND THE ENVIRONMENT

The activity involves the creation of Fire Buffer construction works in Eurobodalla National Park adjacent to the Potato Point village. The activity is described in detail in the following documents:

- *EnviroKey (2014). Species Impact Statement: Potato Point Fire Buffer Construction Works (Stage 2), Eurobodalla National Park, Far South Coast Region. A report prepared by EnviroKey for NSW Office of Environment and Heritage. Report No. ECLA.0555. Final Report. Version 1.0. 21st April, 2014.*
- *EnviroKey (2014) Review of Environmental Factors: Proposed Fire Buffer Construction Works (Stage 2). A final report prepared by EnviroKey for NSW Office of Environment and Heritage. Report No. REF.0558. Final Report. Version 1.0 21/04/2014.*

The Review of Environmental Factors (REF) is subject to assessment under Part 5 of the EP&A Act, with NPWS as the proponent and determining authority. The REF indicates that the concurrence of the Director-General of the Office of Environment and Heritage (OEH) is required due to significant impacts on Swamp Oak Floodplain Forest (SOFF), an endangered ecological community (EEC) listed under the NSW *Threatened Species Conservation Act 1995*. A Species Impact Statement (SIS) was prepared to accompany the REF application.

### The Subject Site, Study Area and Locality

The subject site is described as the area of land directly affected by the proposed works, that is the land within Eurobodalla National Park that will be cleared or modified by the activity. The extent of the subject site is shown on Map 2, Page 5 of the SIS.

The study area is defined as including the subject site and any additional areas that are likely to be affected by the proposed activity, either directly or indirectly. This takes in all proposed options for the works considered in *Section 4.1 Analysis of the Options* of the REF. The extent of the study area is provided in Map 2, Page 5 of the SIS.

The locality is defined to be the area within a 5 kilometre radius of the proposed works and is shown Map 1, Page 4 of the SIS. This relates to the area where threatened species assessments were made in the SIS to determine the significance of the populations within the wider context.

### The Proposal

The proposed activity is the clearing of 80% of the cover of standing vegetation and removal of any understorey vegetation within the subject site to create a fire buffer. A total of 1.47 hectares of native vegetation will be removed including 1.03 hectares of SOFF EEC. It is likely that larger trees will be removed using a chainsaw. For the remainder of the vegetation, a tritter mulcher with rubber tracks would mulch all vegetation onsite. All ground cover and midstorey vegetation will be removed. This will result in a mulch layer up to 20 centimetres in depth. This approach will minimise ground disturbance and the potential for erosion. The area will require regular maintenance over the long term, given that native vegetation, in particular flammable species such as bracken fern, will continue to regenerate as they have done in the Stage 1 area. Maintenance will be undertaken by mechanical slashing.

There will be retention of the immediate area of Swamp Oak Forest EEC (SOFF EEC) either side of the drainage line east of the Jemisons Point Fire Trail.

The activity aims to achieve enhanced bushfire protection for Potato Point village and the protection of core environmental values by:

- Reduction of fuel loads in close proximity to Potato Point village;
- Ongoing maintenance of Asset Protection Zones (APZs), Mechanically Treated Strategic Fire Advantage Zones; and Strategic Fire Advantage Zones (SFAZ);
- Fire Trail Maintenance;
- Protection of core Swamp Oak Forest EEC within the works area;
- Protection of SEPP14 wetland No. 136 and associated drainage lines;

- Retention of habitat critical to the survival of the endangered Striated Fieldwren;
- Protection of the threatened White-Footed Dunnart which is considered a species that cannot withstand further loss; and
- retention of known foraging habitat of the vulnerable Glossy Black Cockatoo.

### Draft Determination report

A Draft Determination Report was provided with the request for concurrence on 24 July 2014. NPWS advise that they intend to implement as conditions the ecological safeguards and mitigation measures described in Section 6.3.1 “Proposed Safeguards” of the REF and Section 7 “Impact Amelioration Measures”. The SIS includes measures aimed at managing the spread and establishment of weeds and feral animals, the requirement for pre-clearance survey and to develop and implement a Threatened Species Monitoring Plan. The draft REF determination includes a condition (5) to preferentially retain mature *Allocasuarina littoralis* as potential feed trees for Glossy Black Cockatoos within the Stage 2 clearing area.

## **2 THE PUBLIC SUBMISSIONS**

Section 112D of the EP&A Act requires that the Director-General in deciding whether or not to grant concurrence must take into account any representations concerning the SIS. A Review of Environmental Factors and Species Impact Statement for the stage two works was publicly exhibited between 28 April 2014 and 27 May 2014.

A total of 33 submissions were received. Of these 23 opposed further clearing and nine argued for more extensive clearing than that proposed in the environmental assessment documentation. One submission is neutral on both counts. The Potato Point Community Association (PPCA) submission supports more extensive clearing, as does the Eurobodalla Shire Council’s submission.

A detailed submissions report has been prepared to assess the matters raised in submissions by *EnviroKey (2014) Submissions Report: Proposed Fire Buffer Construction Works (Stage 2)*. A report prepared by *EnviroKey for NSW Office of Environment & Heritage June 2014*. It includes consideration of the issues raised by submissions including providing a response on how that particular matter has been addressed in the supporting documentation.

In regard to specific threatened species matters, the extent further clearing would impact on the population of fauna and the integrity of the threatened ecological community was raised as an issue in 19 of submissions as described in the Submissions Report Page 4. The matters raised are considered to be addressed in the SIS which concludes that the potential impacts of the proposed works on threatened species and their habitats can be mitigated through appropriate safeguards to reduce these to acceptable levels. The SIS includes a range of impact amelioration measures designed specifically to mitigate any adverse effect of the proposed works on threatened biota.

## **3 CONSIDERATION OF THREATENED SPECIES ISSUES**

In deciding whether or not concurrence should be granted, Section 112D of the EP&A Act requires that the Director-General take the following matters into consideration:

- a) any species impact statement,
- b) any assessment report prepared by or on behalf of the proponent,
- c) any representations made under section 113 concerning the species impact statement,
- d) any relevant recovery plan or threat abatement plan,
- e) whether the activity is likely to reduce the long-term viability of the species, population or ecological community in the region,
- f) whether the activity is likely to accelerate the extinction of the species, population or ecological community or place it at risk of extinction

- g) the principles of ecologically sustainable development, and
- h) the likely social and economic consequences of granting or not granting concurrence.

The following section considers the impact of the activity at the local and regional levels and addresses points (a) to (f) above.

The SIS in accordance with the Director-Generals Requirements (DGR), makes an assessment of the potential impacts to SOFF EEC, along with all species, populations and ecological communities required by the DGR and any additional species listed under the TSC Act and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) with a likelihood of being affected by the proposed works.

The methodology used was to refine the list of subject species provided within the DGR through a series of preliminary habitat assessments to develop a list of target species. The target species comprised 23 species of fauna, five species of flora and one EEC. Subsequently, the field surveys were designed to specifically target these biota. Four general fauna habitats were recorded within the study area (Casuarina Forest, Wetland, Forest and Cleared Land). Targeted threatened fauna surveys resulted in the detection of 11 threatened fauna species (6 within the study area). The threatened fauna detected within the study area being:

- Glossy Black-cockatoo, vulnerable TSC Act.
- Square-tailed Kite, vulnerable TSC Act.
- Striated Fieldwren, endangered TSC Act.
- Eastern Bentwing Bat, vulnerable TSC Act.
- Large-footed Myotis, vulnerable TSC Act.
- White-footed Dunnart, vulnerable TSC Act.

At the completion of the field surveys, the list of target species was further refined to include an assessment of affected species. The affected species were the subject of further detailed assessment within the SIS..

A series of impact amelioration measures are proposed in the SIS to mitigate any adverse effect of the proposed works on threatened biota. These include long-term management strategies and ongoing monitoring. No compensatory strategies such as biodiversity offsetting were considered warranted and I concur.

The SIS concludes the proposed works are considered unlikely to result in a significant effect on the target species with the exception of the Striated Fieldwren. The SIS finds the proposed works may be likely to result in a significant effect on the Striated Fieldwren.

### **3.1 Striated Fieldwren**

The SIS identified Wetland and Casuarina Forest vegetation types as known habitat for Striated Fieldwren within the study area (Map 18) Page 86 . Discussion of the general condition and habitat features within these habitats and vegetation communities is provided in SIS document at Section 4.3.2 and Section 4.3.5.

A total of 1.03 hectares of known habitat for the Striated Fieldwren will be affected by the proposed works. All vegetation communities and habitat within the study area are generally in moderate to good condition. With exclusive breeding territories ranging between 0.2 hectares and 0.8 hectares, it is likely that at least two, possibly three breeding territories are present within the study area based on the location of each individual sighted. This represents 26.6 percent of the potential habitat available for Striated Fieldwren within the study area.

The SIS concludes the proposed works may be 'likely' to result in a 'significant effect' on Striated Fieldwren as:

- The species is relatively restricted having low mobility.
- Up to 1.03 hectares of known habitat would be removed.
- Loss of at least one breeding territory of a possible three (perhaps only two) within the study area and habitat directly adjoining.

Nonetheless, the following factors are contributing to the retention of habitat for Striated Fieldwren based on the current design of the proposed works:

- The core area of SOFF EEC within the drainage line will be retained.
- Amelioration measures that have been designed to reduce negative impacts will be implemented.

### **3.2 Glossy Black-cockatoo**

The SIS describes the area mapped as Forest Map 16 Page 84 as known foraging habitat for Glossy Black-cockatoo within the study area while potential and known foraging habitat in the locality is detailed on Map 14 Page 82 of the SIS. Discussion of the general condition and habitat features within these habitats and vegetation communities is provided in Section 4.3.2 and Section 4.3.5.

A total of 0.44 hectares of potential foraging habitat for the Glossy Black-cockatoo will be affected by the proposed works. This represents 19.9 percent of the potential foraging habitat available for Glossy Black-cockatoo within the study area. However, no known foraging habitat will be affected by the proposed works. All known feeding locations are away from the proposed works area, with the closest around 20 metres from the clearing boundary.

The SIS concludes the proposed works are considered ‘unlikely’ to result in a ‘significant effect’ on Glossy Black-cockatoo as:

- Locally important foraging habitat for Glossy Black-cockatoo in the study area will be retained.
- Only 20 percent of the native vegetation in the study area will be removed.
- Bodalla SF (24,100 hectares) and Eurobodalla NP (2,200 hectares) will continue to provide potential and known foraging habitat for these species.
- No breeding sites are present in the study area.
- Amelioration measures designed to reduce any negative impacts will be implemented.

### **3.3 White-footed Dunnart**

The SIS describes the area mapped as Forest Map 17 Page 86 as known foraging habitat for White-footed Dunnart occurs within the study area . One White-footed Dunnart was trapped in a pitfall bucket within this area. This capture triggered additional requirements within the DGRs notably additional field surveys within the locality to determine the significance of the population within the study area.

Previous data was available on White-footed Dunnart in the locality from the research of Korn (1999). Key sites where White-footed Dunnart was captured by Korn included Brou Lake – Dune Complex (DC1), Coastal Woodland Complex – Brou Lake Road (CWC1) and Blackfellow’s Point (CWC2). These sites were resurveyed as part of the SIS. White-footed Dunnart were captured at all but two of the seven survey locations (Table 28, page 157 of the SIS). It was concluded that the regional distribution of White-footed Dunnart is “reasonably extensive” with the species being known from the Eurobodalla National Park and Bodalla SF.

The SIS concludes for that the proposed works will have the following impacts on White-footed Dunnart:

- 0.44 hectares of potential habitat will be removed.
- Increase in the impact of some key threatening processes such as predation by feral cats and foxes, competition with feral European rabbits.

The proposed works are considered '*unlikely*' to result in a '*significant effect*' on White-footed Dunnart as:

- The main areas of known habitat within the study area are to be retained (disturbed forest west of Jemison's Point Road).
- Extant populations in the locality will continue unaffected by the proposed works.
- Amelioration measures designed to mitigate any negative impacts will be implemented.

### 3.4 Swamp Oak Floodplain Forest ECC

The SIS describes Swamp Oak Floodplain Forest ECC (SOFF ECC) as occurring within the 3.88 hectares of the study area and 231 hectares within the locality as shown in Map 22 Page 165. The study area ECC was found to be in moderate to good condition. The proposed works will result in the loss of 1.03 hectares of SOFF ECC within Eurobodalla NP. This equates to about 25.7 percent of the SOFF ECC within the study area, 0.45 percent of SOFF ECC within the locality, 0.02 percent within the region and less than 0.8 percent of the SOFF ECC within Eurobodalla NP.

The SIS concludes the proposed works would have the following impacts on SOFF ECC:

- About 1.03 hectares of SOFF ECC would be partially removed.
- Increase in the impact of some Key Threatening Processes.

The proposed works are considered '*unlikely*' to result in a '*significant effect*' on SOFF ECC as:

- Only 0.45 percent of the total SOFF ECC in the locality would be removed.
- The core area of SOFF ECC within the drainage line would be retained.
- Amelioration measures designed to mitigate any negative impacts would be implemented.

### 3.5 OEH Summary

In summary, OEH considers that the SIS is a comprehensive document that fully addresses the DG's requirements in accordance with the requirements of Sections 109 and 110 of the NSW *Threatened Species Conservation Act 1999* and enables the concurrence authority to make an informed decision on the matter to fullest extent possible as required under the Act. The activity is not consistent with any action in the relevant recovery or threat abatement plans. The main points are:

- OEH concurs that the affected threatened entities of most concern are the Swamp Oak Floodplain Forest ECC, the endangered Striated Fieldwren, the vulnerable White-footed Dunnart and the vulnerable Glossy Black-cockatoo.
- OEH agrees with the Assessment of Likely Impacts on threatened species and populations and on endangered ecological communities (Section 8 of the SIS) and the conclusion that the impacts on regional populations and communities are likely to be low, therefore an EIS is not required.
- However, on a local scale, the impact on the Striated Field Wren are likely to be high and impacts may also occur to potential Glossy Black-cockatoo feed trees and the habitat of the White-footed Dunnart.
- OEH points out that, although the regional impact on threatened species of clearing 1.47 ha of land within Eurobodalla National Park would appear to be small, cumulative impacts of any further clearing within the region could be highly significant.
- OEH concurs that the proposed amelioration measures within Section 7 of the SIS should be implemented. Specifically, monitoring of the impacts of works through biannual weed monitoring, biannual feral animal monitoring through scat counts and implementation of a Threatened Species Monitoring Plan. Those aspects related to more research on the specified species are not considered warranted in the circumstances.

- OEH concurs that clearing the understory vegetation and opening the canopy in the Stage 2 subject area is likely to favour the ingress of weeds and increase the effects of predation by feral cats and the European Red Fox. Therefore weed control and feral animal management strategies are warranted. Note that feral animal monitoring should also involve the use of cameras, in addition to scat counts (page 169 of the SIS).
- OEH endorses the proposed safeguards for environmental management of the proposed works (page 59 of the REF). Note that the washing down of vehicles by high pressure spray to remove potential weed seeds will also be relevant for prevention of potential spread or introduction of Cinnamon fungus *Phytophthora cinnamomi* to the subject site.

#### **4 ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

Section 112D(1)(g) of the EP&A Act requires that the Director-General consider the principles of ecologically sustainable development as defined in the objectives of the *Protection of the Environment Administration Act 1991*. The principles of ecologically sustainable development have been applied to this activity as follows:

*As described in the REF the principles of ESD in relation to the activity have been addressed by the aims, structure and content of this REF are guided by these principles. The precautionary principle has been adopted in the assessment of impact; all potential impacts have been considered and mitigated where a risk is present. Where uncertainty exists, measures have been suggested to address it Page14.*

#### **5 SOCIAL AND ECONOMIC CONSEQUENCES**

In deciding whether or not concurrence should be granted, Section 112D of the EP&A Act requires that the Director-General take into consideration the likely social and economic consequences.

Economic consequences refer to the net effect of the development activity on the local or regional economy. It is considered that that the activity will have minimal effect on the local or regional economy.

Social consequences refer to the net effect of the development activity on community well-being. The proposal is not contrary to the wider public interest. The proposed works are intended to enhance bushfire protection for Potato Point village and address the concerns of Potato Point residents while protecting core environmental values. The proposed works would result in the Potato Point fire buffer being constructed beyond the requirements of the *Planning for Bushfire Protection Guidelines* and the Eurobodalla Bush Fire Risk Management Plan.

A Bushfire Risk Assessment (BRA) was also prepared by Dr Kevin Tolhurst from the University of Melbourne for the activity. This BRA concludes in a landscape context, Potato Point is a relatively low bushfire risk location. Potential fire severity at Potato Point is also much reduced compared with elsewhere due to the lack to significant terrain and relatively moderate level of fuel, which supports OEH proceeding with the minimum impact Option 1.

#### **6 REASONS FOR THE DIRECTOR-GENERAL'S DECISION**

Following consideration of the REF, SIS, and other matters provided for by the EP&A Act, I have decided to grant concurrence to the proposed activity, subject to the conditions outlined in Section 7 of this report, for the following reasons:

1. The preferred option maintains core environmental values present minimise the impact on known threatened fauna habitat and the endangered ecological community.
2. The activity is unlikely to reduce long term viability or accelerate the risk of extinction of the Swamp Oak Floodplain Forest EEC, and populations of the Striated Fieldwren, White-footed Dunnart and Glossy Black-cockatoo within the region.
3. The activity will minimise any potential adverse social or economic impacts of the proposed development

## 7 CONDITIONS OF CONCURRENCE

This concurrence is granted subject to the following conditions:

### **Condition 1:**

The proponent must carry out the project in accordance with the REF, SIS, and the conditions of this concurrence and the REF Determination Report. In the event of any inconsistency between the conditions of this concurrence and the REF and SIS, the conditions of this concurrence shall prevail to the extent of the inconsistency.

*Reason: To ensure that the works are undertaken in accordance with the modified environmental safeguards in , and to ensure the primacy of concurrence conditions.*

### **Condition 2:**

In regard section 7.1.4 *Threatened Species Monitoring Plan* of the SIS, OEH Regional Operations will not be undertaking a detailed habitat study of the Striated Fieldwren nor collect hair samples for genetic studies for White Footed Dunnarts in the study area and the locality or are those recommendations considered necessary.

*Reason: To provide clear distinction between required monitoring and those actions considered optional as more research orientated.*

## REFERENCES

- EnviroKey (2014). Species Impact Statement: Potato Point Fire Buffer Construction Works (Stage 2), Eurobodalla National Park, Far South Coast Region. A report prepared by EnviroKey for NSW Office of Environment and Heritage. Report No. EclA.0555. Final Report. Version 1.0. 21st April, 2014.
- EnviroKey (2014) Review of Environmental Factors: Proposed Fire Buffer Construction Works (Stage 2). A final report prepared by EnviroKey for NSW Office of Environment and Heritage. Report No. REF.0558. Final Report. Version 1.0 21/04/2014.
- Korn R. (1999) Aspects of the ecology of the White-footed dunnart *Sminthopsis leucopus* and other small terrestrial mammals in southern coastal New South Wales. Honours thesis, Charles Sturt University.