

Order conferring biodiversity certification – 285 – 325 Pacific Highway and (part) 6W Kemira Road, Lake Munmorah

Under section 8.2 of the *Biodiversity Conservation Act 2016*

Under section 8.2 of the Act, I Brendan Bruce, Deputy Secretary, Biodiversity, Conservation and Science, Department of Climate Change, Energy, the Environment and Water, as delegate of the Minister for Environment, confer Biodiversity Certification on the Specified Land.

Under section 8.7(1) of the Act, I am satisfied, having considered the Biodiversity Certification Assessment Report, that the Approved Conservation Measures under the Biodiversity Certification adequately address the likely impacts on biodiversity values of the Biodiversity Certification of the Specified Land.

Under section 8.3(2) of the Act, I specify the measures listed in Schedule 3 of the Order as approved conservation measures under this Biodiversity Certification.

Under section 8.3(3) of the Act and clause 8.1 of the Regulation, I specify the measures listed in Schedule 4 of the Order as other approved measures on the Certified Land.

Under section 8.8(2) of the Act, I am of the opinion that the clearing of native vegetation and loss of habitat on the Certified Land is likely to have Serious and Irreversible Impacts on the Threatened Species, the Swift Parrot. I have taken those impacts into account and determine no additional or appropriate measures will minimise those impacts.

Under section 8.9(1) of the Act, I identify the parties to the Biodiversity Certification in Schedule 5 of the Order.

Under section 8.2 of the Act, I determine that Biodiversity Certification of the Specified Land is to take effect from the date of publication of this order in the NSW Government Gazette and is to remain in force indefinitely pursuant to section 8.10(1) of the Act.

Under section 8.12 of the Act, the Order will be reviewed every 5 years or at the discretion of the Minister.



BRENDAN BRUCE

Deputy Secretary Biodiversity Conservation and Science, NSW Department of Climate Change, Energy, the Environment and Water

As delegate of the Minister for Environment

Signed this 26th day of March 2024

Definitions

In this Order:

“**Act**” means the *Biodiversity Conservation Act 2016* (NSW).

“**Annual Report**” means a report in a format determined by the Environment Agency Head and contains reporting requirements as determined by the Certified Land Biodiversity Management Plan.

“**Approved Conservation Measures**” means any of the measures set out in section 8.3(2) of the Act.

“**Avoided Land**” means the land identified as Avoided Land in Schedule 2 to this Order.

“**Biodiversity Certification**” has the same meaning as in section 8.2 of the Act.

“**Biodiversity Certification Application**” means the biodiversity certification application received by the Department dated **6 April 2022** related to this Order.

“**Biodiversity Certification Assessment Report**” means a report prepared under section 8.7 of the Act and has the same meaning as in section 8.1 of the Act.

“**Biodiversity Credits**” means a biodiversity created under Part 6 Division 4 of the Act and includes an ecosystem credit and a species credit.

“**Biodiversity Management Plan**” means the plan contemplated by the BCAR and approved under Schedule 4A of this Order which will apply to the Certified Land during the Development Phase and the Conservation Land in perpetuity.

“**Certified Land**” means the land marked as “Certified Land” shown in Schedule 2 of this Order.

“**Clearing of native vegetation**” has the same meaning as in section 60B and 60C of the *Local Land Services Act 2013*.

“**Conservation Land**” means the land identified as Conservation Land in Schedule 2 of this Order. The Conservation Land includes the Avoided Land and other land of biodiversity value that cannot be defined as Avoided Land.

“**Department**” means the NSW Department of Climate Change, Energy, the Environment and Water and any name it may be known by in the future.

“**Development Completion**” means in relation to a residential subdivision development, the registration of the title for the Residential Lot.

“**Development Phase**” means in respect of each individual Residential Lot on the Residential Land, the period from the Effective Date until Development Completion for that Residential Lot.

“**Effective Date**” means the date on which Biodiversity Certification is conferred by the Minister on the Certified Land.

“**Environment Agency Head**” has the meaning given in section 6.1 of the Act.

“**Landowner**” means the parties to this agreement listed in Schedule 6 of this Order.

“**Minister**” means the Minister of the State of New South Wales administering the Act and includes his or her successors in office and where not repugnant to the context includes the servants and agents of the Minister.

“**Other Approved Measures**” means any of the measures set out at section 8.3(3) of the Act and clause 8.1 of the Regulation.

“Regulation” means the *Biodiversity Conservation Regulation 2017* (NSW).

“Serious and Irreversible Impacts” has the same meaning given in section 8.8(1) of the Act.

“Specified Land” means that part of Lot 1 in Deposited Plan 626787, Lots 27, 437 and 438 of Deposited Plan 755266, Lot 83 of Deposited Plan 650114 and (part) Lot 79 of Deposited Plan 217918 described in Schedule 1 to this Order that is also identified as ‘land proposed for certification’ in Schedule 2.

“Subdivision Works Certificate” means a certificate issued under section 6.13 of the *Environmental Planning and Assessment Act 1979* (NSW).

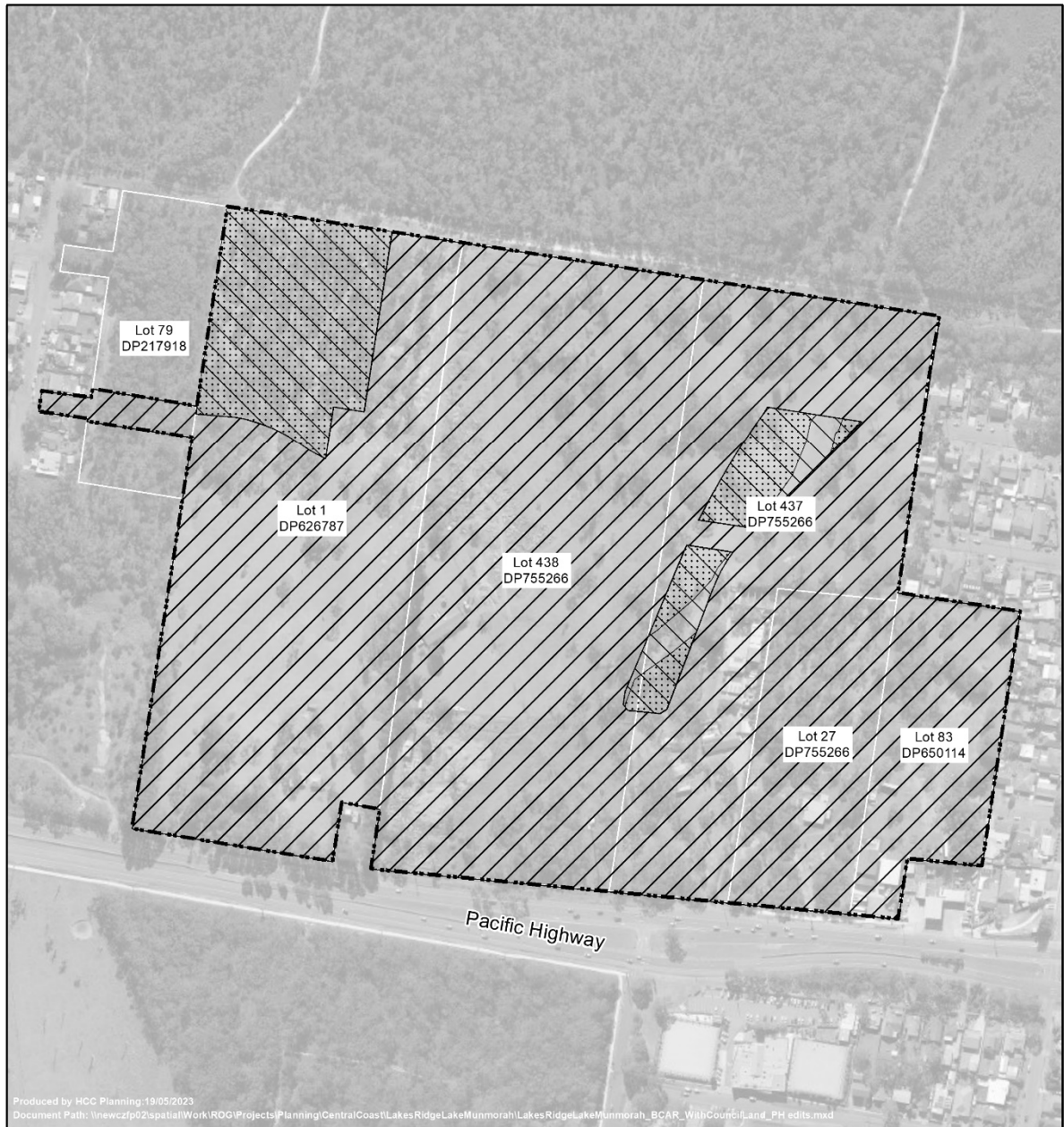
“Threatened Species” has the same meaning as in section 1.6 of the Act.

Schedule 1 – Description of the Specified Land

Lots within deposited plans	
DP Number	Lot
626787	1
755266	437
755266	438
755266	27
650114	83
217918	(part) 79





Schedule 2 – Map of the specified land

285 - 325 Pacific Highway, Lake Munmorah NSW



0 25 50 75 100
Meters
Datum/Projection: GCS GDA 1984

Legend

-  Biodiversity certification assessment area
-  Land proposed for biodiversity certification
-  Conservation land
-  Avoided land



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This map is not guaranteed to be free from error or omission. The Department and its employees disclaim

Schedule 3 – Approved conservation measures

The approved conservation measures are:

1. The retirement of the Biodiversity Credits set out at Schedule 4A, Table 1.

Schedule 4 – Other approved measures

The other approved measures (to be addressed in accordance with Schedule 4A) are:

- a) Requirements as to the timing and implementation of the conservation measures,
- b) Preparation, submission and implementation of the conservation measures, and
- c) Implementation of a Biodiversity Management Plan on the Certified Land that:
 - i. contains measures to minimise impacts to the Swift Parrot, including to install nest boxes and replant Swift Parrot habitat on the Certified Land.

Schedule 4A – Timing

Timing of retirement of Biodiversity Credits

- a) All Biodiversity Credits must be retired upon issue of the first Subdivision Works Certificate and prior to clearing of any native vegetation within the Biodiversity Certification area.
- b) Proof to issue of the first Subdivision Works Certificate must be provided to the Minister in writing within fourteen (14) days of issue.
- c) If, after 2 calendar years from the date of this Order, the total amount of Biodiversity Credits specified at Table 1 have not been retired, the Landowner, excluding Central Coast Council, must, retire all outstanding Biodiversity Credits specified at Table 1 within fourteen (14) days.
- d) Proof of record of the retirement of Biodiversity Credits in clauses a) or c) above, must be provided to the Minister in writing within fourteen (14) days after retirement of the Biodiversity Credits.

Table 1: Biodiversity Credits to be retired by the Landowner

Ecosystem Credits	PCT 1649	7
	PCT 1638	171
	PCT 1737 (Threatened Ecological Community)	8
	PCT 1649 (Threatened Ecological Community)	23
Species Credits	<i>Angophora inopina</i> (Charmhaven Apple)	224
	<i>Lathamus discolor</i> (Swift Parrot)	160
	<i>Myotis Macropus</i> (Southern Myotis)	192
Total Biodiversity Credits to be retired		785

Timing and implementation of Biodiversity Management Plan

- a) The Landowner, excluding Central Coast Council, must:
 - i. within six (6) months of the Effective Date, and prior to issue of the first Subdivision Works Certificate, and prior to clearing of any native vegetation on site, prepare and submit to the Department for approval a draft Biodiversity Management Plan to apply to the Certified Land during the Development Phase in perpetuity, and
 - ii. not clear native vegetation on the Certification Land until the Biodiversity Management Plan is approved by the Department, and
 - iii. commence implementation and comply with the Biodiversity Management Plan immediately upon approval by the Department until commencement of the Occupation Phase.
- b) The Department will, in good faith, make all reasonable attempts to approve the draft Biodiversity Management Plan within three (3) months of the Biodiversity Management Plan being submitted to the Department by the Landowner. If the Biodiversity Management Plan is not approved, the Department will provide reasons why it is not approved.
- c) During the period from the Effective Date to Development Completion, the Landowner, excluding Central Coast Council, must complete and submit an Annual Report in the form requested by, and to the satisfaction of, the Environment Agency Head.
- d) An Annual Report must be prepared for each reporting period. A reporting period means the period of 12 months after the Effective Date, and each subsequent period of 12 months.

The Annual Report for the reporting period must be provided to the Environment Agency Head within 60 days after the end of each reporting period.

Schedule5– Parties to the biodiversity certification

Party name	ACN/ABN (if relevant)
Minister for Environment as the Minister administering the <i>Biodiversity Conservation Act 2016</i> (NSW)	N/A
Central Coast Council* *For the avoidance of doubt, the Central Coast Council is a party to this Agreement in its capacity as landowner and not as consent authority under NSW legislation.	73 149 644 003
Alda Properties (Lake Munmorah) Pty Ltd	657 729 630
Rose Living Pty Ltd	628 415 823
Urban Land Redevelopment Pty Ltd	645 826 160
Robin Ernest Becker and Roxanne Annette Becker	N/A