

Order conferring biodiversity certification – 45 Mulloway Road, Chain Valley Bay

Under section 8.2 of the *Biodiversity Conservation Act 2016*

Under section 8.2 of the Act, I Brendan Bruce, Acting Deputy Secretary Biodiversity, Conservation and Science, Department of Planning and Environment, as delegate of the Minister for Environment and Heritage, confer Biodiversity Certification on the Certified 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 Certified Land.

Under section 8.3 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)(c) 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 to avoid or minimise impacts of clearing and loss of habitat.

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 Certified Land is to take effect from the date of publication of the 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 five years or at the discretion of the Minister.



BRENDAN BRUCE

Acting Deputy Secretary Biodiversity, Conservation and Science, Department of Planning and Environment

Signed this 24th day of March 2023

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 at section 8.3(2) of the Act.

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

“**Biodiversity Certification Assessment Area**” means Lot 5 in Deposited Plan 1228880.

“**Biodiversity Certification Assessment Report**” means the biodiversity certification assessment report within the meaning of the Act dated 28 January 2022 prepared for the purposes of the application for this Biodiversity Certification.

“**Biodiversity Credit**” means a biodiversity credit created under Part 6 Division 4 of the Act and includes a reference to an Ecosystem Credit and a Species Credit.

“**Biodiversity Stewardship Agreement**” has the same meaning as in section 1.6 of the Act.

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

Certified Land Biodiversity Management Plan means a plan prepared, submitted and approved in accordance with Schedule 4 and Schedule 4A of this Order which contains measures to manage biodiversity identified in the “Vegetation Management Plan” in section 6.2 of the Biodiversity Certification Assessment Report to the extent those measures apply to the Certified Land.

“**Construction Certificate**” means a certificate issued under the provisions of section 6.8 of the *Environmental Planning and Assessment Act 1979*.

“**Department**” means the NSW Department of Planning and Environment and any name it may be known by in the future.

“**Development Completion**” means:

- (i) in relation to a residential subdivision development, the registration of the title for the Residential Lot; and
- (ii) in relation to a manufactured home development, the issuing of an approval to operate a manufactured home estate under section 68 of the *Local Government Act 1993* (NSW).

“**Development Phase**” means:

- (i) in respect of each individual Residential Lot on the Residential Land, the period from the Effective Date until Development Completion for that Residential Lot; and
- (ii) in respect of the MHE Land, the period from the Effective Date until the issuing of an approval to operate a manufactured home estate under section 68 of the *Local Government Act 1993* (NSW).

“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 Carol Ann Cecilia Richardson.

“MHE Land” means the land upon which the manufactured home estate will be constructed, as depicted at Schedule 2.

MHE Land Biodiversity Credits means the number and type of Biodiversity Credits listed in the Table at Schedule 4A of this Order applicable to the MHE Land.

“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.

“Proponent” means MHE Property Co Pty Ltd as trustee for MHE Land Trust 3.

“Proposed Biodiversity Stewardship Site” means the land marked “Avoided land” and “Conservation land” in Schedule 2 which is intended to be a “biodiversity stewardship site” within the meaning of section 1.6 of the Act.

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

“Residential Land” means the land upon which the residential subdivision is to occur, as depicted at Schedule 2.

“Residential Land Biodiversity Credits” means the number and type of Biodiversity Credits listed in the Table at Schedule 4A of this Order applicable to the Residential Land.

“Residential Lot” means a lot created in the Biodiversity Certification Assessment Area as a result of a residential subdivision approved under the *Environmental Planning and Assessment Act 1979*.

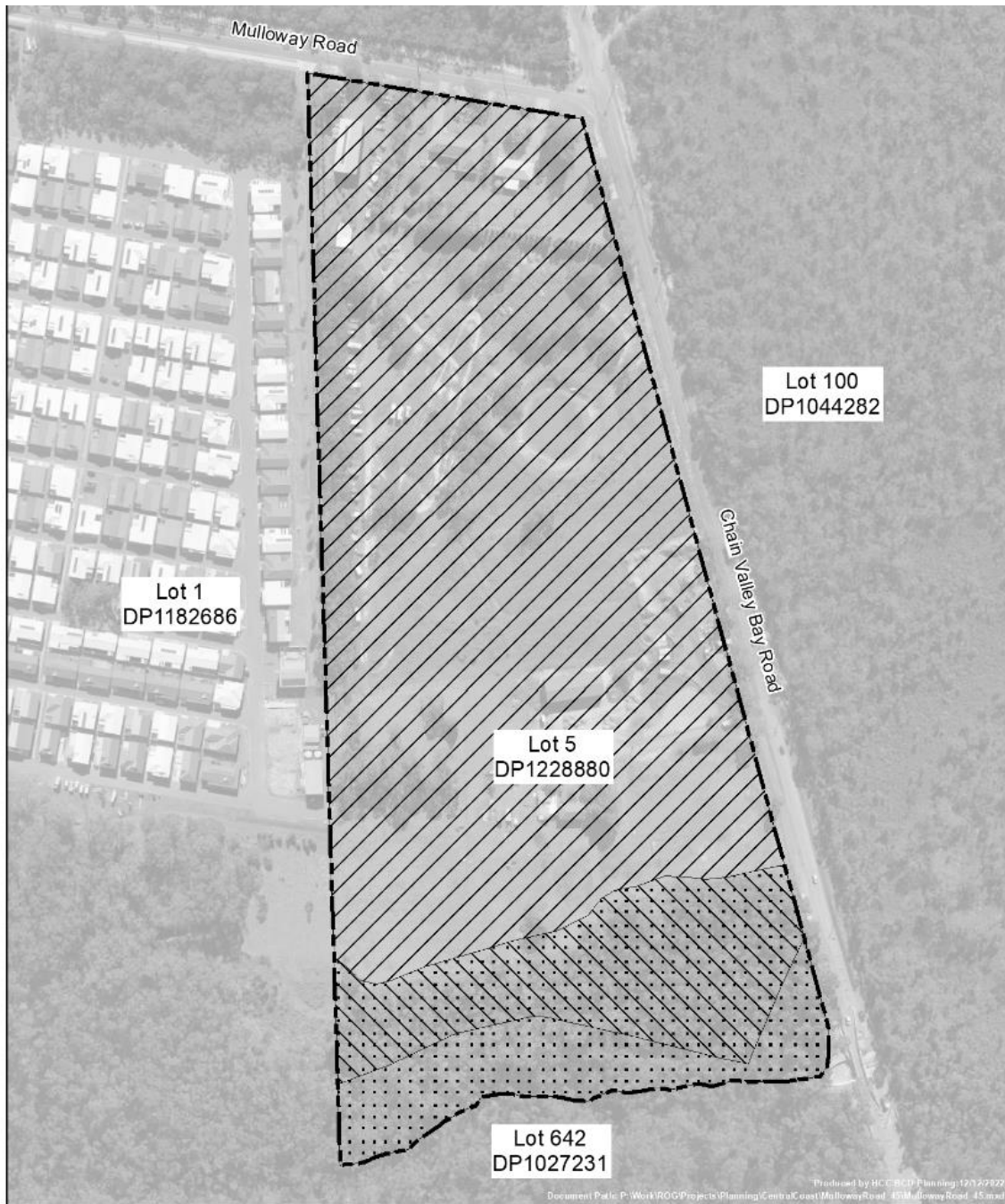
“Stormwater Strategy” means the stormwater strategy prepared by Northrop Consulting Engineers Pty Ltd on 21 December 2021.

“Subdivision Certificate” means a certificate issued under the provisions of section 6.15 of the *Environmental Planning and Assessment Act 1979*.





Schedule 1 – Description of the specified land

Lots within deposited plans	
DP Number	Lot
1228880	5

Schedule 2 – Map of the 45 Mulloway Road, Chain Valley Bay Biodiversity Certification



Legend

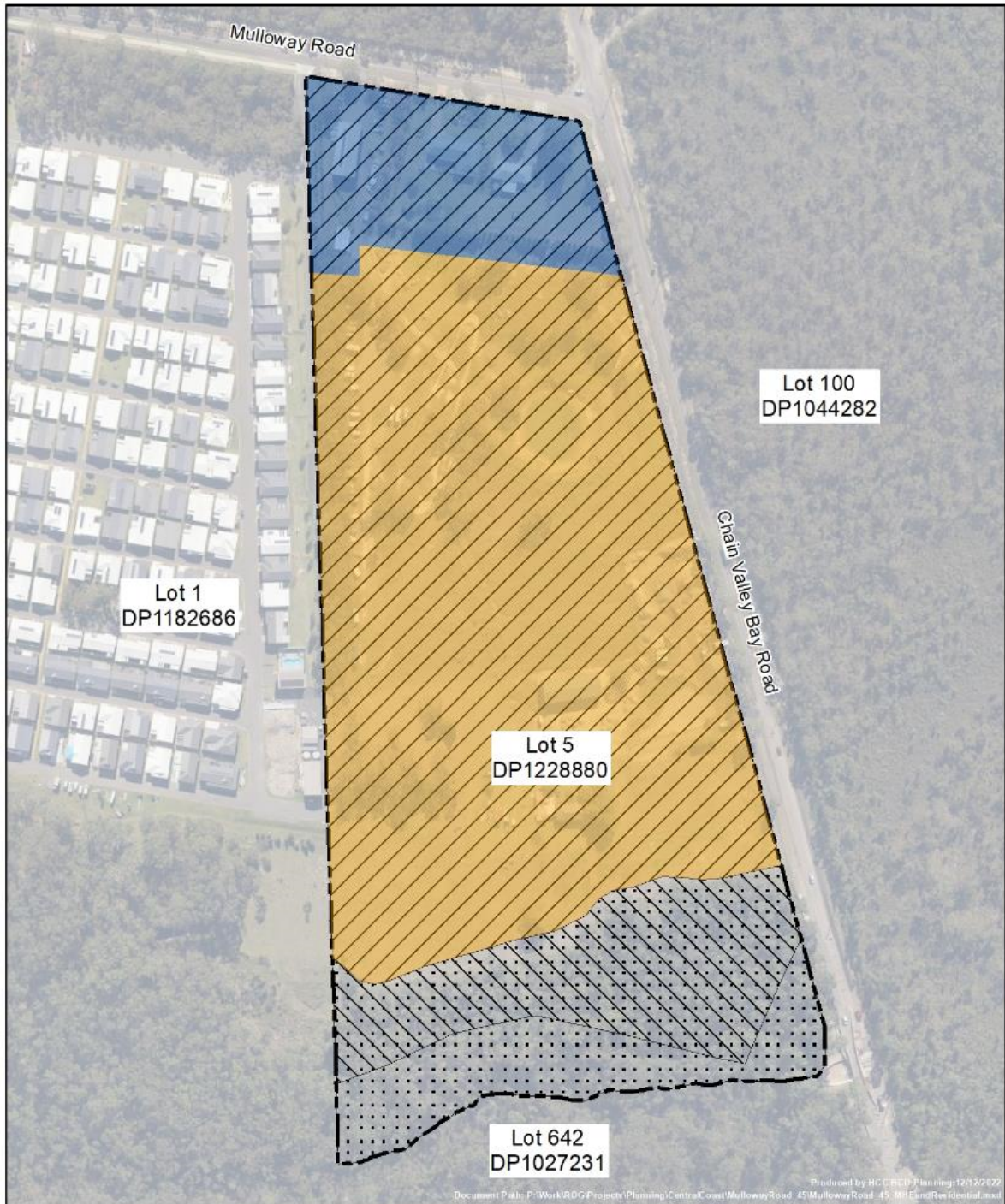
-  Biodiversity certification assessment area
-  Land proposed for biodiversity certification
-  Avoided land
-  Conservation land

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



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Figure 1 – Biodiversity Certification assessment area including land proposed for biodiversity certification, land to be avoided and other land to be conserved



Legend

-  Biodiversity certification assessment area
-  Land proposed for biodiversity certification
-  Avoided land
-  Conservation land
-  Manufactured Housing Estate (MHE) Land
-  Residential Land

0 25 50 75 100 Meters
Datum/Projection: GCS GDA 1994



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Figure 2 – Identification of MHE Land (orange) and Residential Land (blue)

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, as set out at Schedule 4A below, are:

- (a) Requirements as to the timing and implementation of the conservation measures,
- (b) Preparation, submission and implementation of the Certified Land Biodiversity Management Plan.
- (c) Implementation of the Stormwater Strategy.

Schedule 4A – Timing and Implementation

Timing and implementation of retirement of biodiversity credits

- a) All Residential Land Biodiversity Credits must be retired by the Landowner upon issue of the first Subdivision Certificate for any residential subdivision and establishment of the proposed Biodiversity Stewardship Site.

All MHE Land Biodiversity Credits must be retired by the Proponent upon issue of the Proponent of the first Construction Certificate for construction works for the manufactured home estate on the MHE Land.

- b) If, after 2 calendar years from the Effective Date, the total amount of:
 - i. Residential Land Biodiversity Credits specified at Table 1 have not been retired, the Landowner must retire all outstanding Residential Land Biodiversity Credits within fourteen (14) days, and
 - ii. MHE Land Biodiversity Credits specified at Table 1 have not been retired, the Proponent must retire all outstanding MHE Land Biodiversity Credits within fourteen (14) days.
- c) Proof of issue of the first Subdivision Certificate on the Residential Land must be provided to the Minister by the Landowner in writing within fourteen (14) days of issue.
- d) Proof of issue of the first Construction Certificate for the manufactured home estate on the MHE Land must be provided to the Minister by the Proponent in writing within fourteen (14) days of issue.
- e) Proof of entry into the proposed Biodiversity Stewardship Agreement must be provided to the Minister in writing within fourteen (14) days of execution.
- f) Proof of record of the retirement of:
 - i. Residential Land Biodiversity Credits must be provided to the Minister by the Landowner in writing within fourteen (14) days after retirement of the Residential Land Biodiversity Credits, and
 - ii. MHE Land Biodiversity Credits must be provided to the Minister by the Proponent in writing within fourteen (14) days after retirement of the MHE Land Biodiversity Credits.

Table 1: Biodiversity Credits to be retired by the Proponent and Landowner

Land	Ecosystem Credits	Species Credits				Total Biodiversity Credits to be retired
	PCT 1636	Swift Parrot	Southern Myotis	Masked Owl	Brushed-tailed Phascogale	
Residential Land	2	0	4	0	2	8
MHE Land	30	1	45	1	33	110
Total	32	1	49	1	35	118

Timing and implementation of Certified Land Biodiversity Management Plan

- a) The Proponent must:
 - i. within six (6) months of the Effective Date, prepare and submit to the Department for approval a draft Certified Land Biodiversity Management Plan to apply to the Certified Land during the Development Phase,
 - ii. implement and comply with the Certified Land Biodiversity Management Plan immediately upon approval until the completion of the Development Phase

- b) The Department will, in good faith, make all reasonable attempts to approve the draft Certified Land Biodiversity Management Plan within three months of the draft Certified Land Biodiversity Management Plan being submitted to the Department by the Proponent. If the draft Certified Land 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 Proponent 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.

- e) 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.

Timing and implementation of the Stormwater Strategy

- a) The Proponent must implement and comply with the Stormwater Strategy from the Effective Date until the completion of the Development Phase.

Schedule 5 – Parties to the biodiversity certification

Party name	ACN/ABN (if relevant)
Carol Ann Cecilia Richardson as the landowner of 45 Mulloway Road Chain Valley Bay	N/A
MHE Property Co Pty Ltd as trustee for MHE Land Trust 3	ABN 32 817 137 052