

## Questions and Answers

### Biodiversity Values Map Updates

#### **Are all serious and irreversible impact entities included on the Biodiversity Values Map?**

No. However, DPIE has a workplan in place that will continue to add the habitat area of entities at risk of a serious and irreversible impact (SAII) to the Biodiversity Values (BV) Map over time.

Requests for SAII entity mapping can be sent to the Map Review Team. The relevant threatened species officer will advise on the mapping availability and any licencing conditions. Mapping may not be provided for species covered by the Sensitive Species Data Policy due to the risk of illegal collection.

#### **Are endangered ecological communities included on the BV Map?**

Yes. Of the 53 threatened ecological communities (TECs) at risk of a SAII, 29 are endangered ecological communities (EECs) – nine of these are currently included in the BV Map.

#### **What new SAII species and revised SAII TEC mapping will be included on the BV map?**

Mapping for the following species is under development and will likely be included in the BV Map update scheduled for November 2020 (version 11):

- Eucalyptus sp. Cattai (revised)
- Myriophyllum implicatum (revised)
- Zieria obcordata (new)
- Bellinger River Snapping Turtle (new)
- Curlew Sandpiper (new).

We also plan to deliver new mapping for nine unmapped SAII entities and revised mapping for ten SAII entities and 15 SAII TECs in the BV Map V.11 (scheduled for November 2020) and V.12 updates (scheduled for June 2021).

#### **Are any high conservation value grasslands areas included in the BV Map?**

Currently, no high conservation value (HCV) grasslands or groundcover (Clause 7.3(3)(f) of the Biodiversity Conservation Regulation 2017 (BC Regulation)) are included on the BV Map.

#### **Why are some riparian zones not mapped on the BV Map?**

When the BV Map was first developed in August 2017, several data layers including zoning, lot size, and estuary, harbour and bay mapping were used to minimise developed land occurring in the mapped BV areas. In some cases, however, using these layers caused removal of areas with native vegetation. Consequently, we chose to exclude the riparian mapping from these areas and instead develop a new riparian vegetation layer (identified as a future improvement to the BV map).

### **For areas added to the BV Map, does the 90-day colour change happen automatically on day 90 (or 91) after it was added?**

Yes, the 90-day colour change (from dark to light purple) happens automatically on the 91<sup>st</sup> day.

### **Does the BV Map utilise the State Environmental Planning Policy (Koala Habitat Protection) 2019 mapping, or will it be updated to utilise this mapping?**

The *Site Investigation Area Map for Koala Plans of Management* associated with the State Environmental Planning Policy (Koala Habitat Protection) 2019 (Koala Habitat Protection SEPP) identifies areas councils should investigate when identifying core koala habitat in Koala Plans of Management (KPoMs). The core koala habitat identified in new KPoMs approved by the Secretary of Planning, Infrastructure and Environment will be included on the BV Map.

As of 5<sup>th</sup> August 2020, no new KPoMs have been approved under the Koala Habitat Protection SEPP. KPoMs developed under the former SEPP 44 – Koala Habitat Protection continue to apply (with six included on the BV Map). For further details on the mapping, refer to the [Types of land on the Biodiversity Values Map](#).

The *Koala Development Application Map* associated with the Koala Habitat Protection SEPP supports identification of highly suitable koala habitat and areas likely to be occupied by koalas. For land where there is no approved KPoM, the map is used to identify areas where the development assessment requirements detailed in the Koala Habitat Protection SEPP guideline must be applied. These development controls are not related to the role that the BV Map plays as a threshold for development assessment under the BOS.

## **Local Government**

### **How can councils add areas to the BV Map?**

One of the types of land that is eligible for the BV Map are council nominated areas with vegetation connectivity or threatened species habitat that the Minister for Energy and Environment considers will conserve biodiversity at bioregional or state scale (BC Regulation, Clause 7.3(3)(j)). Some councils have expressed interest in nominating areas for the BV Map and we have kept a record of these contacts. At this stage however, the Department of Planning, Industry & Environment's (the Department) is focussed on developing and refining mapping for SAll species over the next year.

In future, guidelines will be developed for councils wishing to nominate areas for inclusion in the BV Map. These will support councils to identify and meet the criteria for connectivity features and threatened species habitat, as well as the requirements for bioregional or State scale conservation significance (BC Regulation 2017, Clause 7.3 (3)(j)). Once the guidelines are completed, we will call for nominations from councils to add areas to the BV Map.

### **How do councils submit updated vegetation maps for inclusion on the BV Map?**

Vegetation maps are not included in the 11 categories of land for the BV Map (BC Regulation 2017 (Clause 7.3(3))). Vegetation maps do however inform the development of threatened species mapping. Councils are welcome to provide their vegetation mapping (or updates to their vegetation mapping) to the Department's [Data Broker](#).

### **Can council GIS staff receive notification of monthly updates to the BV Map through a data sharing agreement?**

BV Map and BMAT tool updates are included in the Department's [Biodiversity Offsets Scheme Local Government updates](#) and the [Local Government NSW's NRM Update](#) (both e-newsletters, subscription available via links). The most current version of the BV Map will always be available via the [SEED portal](#).

### **How do councils deal with bushfire affected land and the BV Map?**

At this stage, no land affected by the 2019-2020 bushfires has been removed from the BV Map. In general, we expect the biodiversity values of the land (that resulted in its inclusion in the BV Map) will return with time. If a landowner considers the values are no longer present or are unlikely to return, they can seek a map review. Experts for that biodiversity value will assess the land in question and any supporting evidence to determine whether the value is present, likely to return or advise whether an amendment to the map is justified.

## **BOS Thresholds**

### **How is 'native vegetation' defined for determining whether a development exceeds the clearing threshold?**

'Native Vegetation' is defined in Part 5A of the Local Land Services Act 2013 (Section 60B). The Local Land Services Regulation 2014 (Part 14 (106)) recognises the [New South Wales Flora Online](#) (also known as 'PlantNET'), maintained by the Royal Botanic Gardens and Domain Trust, as the official database of plant species native to NSW.

The Department is developing advice on an operational definition of native vegetation for applying the clearing area threshold.

### **For the clearing threshold (based on MLS), is the calculation of area cleared based on native vegetation cover? For example, would the calculation of area cleared for a native tree be based on the canopy (e.g. 10m<sup>2</sup>) or trunk diameter (e.g. 1m<sup>2</sup>)?**

The area cleared calculation is based on cover determined by native vegetation canopy. The [BMAT tool user guide](#) provides guidance for calculating area cleared of patchy vegetation (e.g. scattered trees).

### **What should I do if the ePlanning Spatial Viewer's property report states a minimum lot size that differs from the council's Local Environmental Plan?**

Use the minimum lot size (MLS) stated in the Local Environmental Plan (LEP). Clause 7.2(2)(a) of the BC Regulation states the MLS of any land to be cleared that is prescribed in an environmental planning instrument must be used as the MLS.

**Does the area clearing threshold calculation include non-development areas, such as an APZ?**

Yes, all clearing associated with the development proposal should be included in determining whether the clearing area threshold will be triggered.

**Are existing developments included in the area clearing threshold calculation? For example, a second dwelling is proposed for a property with an existing dwelling, driveway, APZ etc.**

No. If approval is sought for a second dwelling with a subsequent DA, calculations for the area clearing threshold need only include the area of clearing that applies to the new DA for the building, any associated structures, access and APZ.

**What is the process for Local Government when a development is approved with a clearing area under the MLS (e.g. not triggering a BDAR), but the on-ground works have exceeded the MLS threshold?**

This scenario appears to be describing a development that has not been carried out in accordance with the consent. As the consent authority under the *Environmental Planning and Assessment Act 1979*, council would need to determine whether or not to compliance action is required.

**Why is the BMAT evaluation report saying the area trigger is unknown?**

Because the BMAT tool does not have a native vegetation extant layer to intersect with the development footprint (for calculating area of cleared native vegetation and if this exceeds the clearing area threshold). A native vegetation layer for the BMAT tool is under development and in the meantime, the [BMAT Tool User Guide](#) (pp. 20-21) provides options for calculating the area of native vegetation that would be cleared by a proposal.

Where the size of the development footprint is less than the applicable area clearing threshold, both of which are stated on the evaluation report generated by the BMAT tool, the development proposal will not trigger the area clearing threshold.

**I have a designated development project under Part 4 of the Environmental Planning and Assessment (EP&A) Act 1979, assessed via an EIS. Secretary's Environmental Assessment Requirements (SEARs) have been issued, requiring assessment under the BAM. What is the trigger for a BDAR – the SEARs or the BV Map?**

In the case of designated development, the SEARs should only require assessment with the BAM if the BOS is triggered. For designated development, the same BOS triggers apply as for local development: clearing or a prescribed impact on the BV Map, clearing in excess of the area clearing threshold and the test of significance. Please contact the Department if the designated development does not trigger the BOS, but the SEARs require preparation of a BDAR.

### Mapping Tools

#### Are there any tricks to plotting an accurate polygon?

No. We acknowledge it can be difficult to accurately plot a polygon, particularly in urban areas where lots are small. Functionality has been improved with an increased zoom (increasing the BMAT scale from 1:8,000 to 1:2,000). As any overlap between the development footprint and areas included on the BV Map for >90 days (light purple) will trigger the BOS, a GIS assessment may be undertaken using the BV Map spatial data (available for download in [SEED](#)) and spatially accurate mapping of the development proposal.

### Compliance

#### What happens to people who provide false information to the BV Map (e.g. polygon is incorrectly drawn)?

The Department recommends that this should be considered as an unintentional error. This is because the BMAT is a support tool and councils, as the consent authority, must still determine if the BOS is triggered. Furthermore, there is the ability to more accurately overlay development proposal footprints with the spatial BV Map data in cases where it appears that the BMAT report is not providing an accurate outcome.

#### How can councils obtain copies of previous versions of the BV map (e.g. where a court matter requires an assessment against the controls applied at the time of lodgement)?

Councils are encouraged to request applicants to use the BMAT Tool to develop an evaluation report (which states the date it was produced) and provide this with their DA. Where the report has not been provided, Councils should contact the [Map Review Team](#).

#### Must an application for planning approval be lodged with the consent authority before the 90-day period expires on land added to the BV Map to potentially avoid exceeding the BV Map trigger for entry into the BOS?

Correct. The status of the BV Map applies according to the date that the DA was lodged. Please note that, the area clearing threshold still applies.

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