

## CHAPTER 3.4 CONSERVATION AREAS FOR NORTHERN WYONG SHIRE

### 1.0 INTRODUCTION

Through the preparation of the North Wyong Shire Structure Plan, October, 2012, the NSW Government has identified the potential value in creating a Green Corridor linking the uplands of Wyong with coastal National Parks. Such a corridor would provide areas suitable for the conservation of key plant and animal species, as well as provide connectivity for the movement of high value biodiversity, and improve the ability of organisms to adapt to climate change.

### 1.1 Objectives of this Chapter

The biodiversity and landscape planning objectives behind the establishment of a network of green corridors for the North Wyong Shire Structure Plan include:

- To improve the extent and condition of biodiversity in the region
- To ensure connectivity for organisms at a landscape and regional scale
- To provide landscape permeability to improve long-term ecological resilience
- To facilitate adaptation to climate change through the protection and conservation of areas which enable fauna migration and dispersal, and the dispersal of plants
- To maintain and enhance water flows, water quality, aquatic environments and ground water dependant ecosystems
- To protect and conserve Aboriginal cultural heritage
- To improve the visual amenity of the region, and provide an attractive landscape setting for future development, with vegetated waterways, ridges and large patches of tree coverage
- To identify and provide opportunities for public and private conservation
- To provide for a range of land uses, where appropriate that do not adversely affect the overall function of the corridor, including dwellings, passive recreation and critical infrastructure
- To improve the health and well-being of the human population
- To promote the use of "Green Corridor and habitat networks" as off-sets for developments outside of these areas but within Wyong Shire
- To establish performance requirements for land uses which are proposed to be located within the "Green Corridor, conservation links and habitat networks"

To satisfy the requirements of this Plan Council may require applicants to undertake additional studies, surveys and assessments to investigate the impacts of development on the identified green corridor habitat network and conservation links. To expedite the development approval process, applicants should consult with Council prior to DA lodgement to ensure that development proposals address all relevant matters.

## 1.2 Land to which this Chapter Applies

This Chapter applies to all lands identified on Figure 1 (see Appendix B) showing green hatching or arrows, referred to as either "Green Corridor, habitat network or conservation links", as defined in the North Wyong Shire Structure Plan, 2012.

This Chapter does not apply to developments identified under the exemptions outlined in Part 4 of Chapter 3.6 – Tree and Vegetation Management; or development which satisfies the minor development checklist in Council's Flora and Fauna Guidelines for Development. It does not apply to single dwelling houses on existing lots, additions and ancillary development. Council may make additional determinations that some forms of development also constitute minor development.

## 1.3 Relationship to other Chapters and Policies

Several other Acts and State Environmental Planning Policies (SEPPs) influence biodiversity and conservation decisions in Wyong Shire. Most contain separate assessment considerations and different development processes. A list of relevant legislation and policies is provided in Appendix A.

In addition to the requirements of this Chapter, other DCP Chapters and environmental policies must also be satisfied. In the event of any inconsistency with any other Chapter, this Chapter shall prevail to the extent of the inconsistency.

Other relevant Chapters include:

- Chapter 3.6 – Tree and Vegetation Management
- Chapter 3.7 – Heritage Conservation
- Chapter 3.10 – Wetlands Management

## 1.4 Glossary

*Note: Generally, the terms used in this Chapter have the same meaning as those terms are defined within the WLEP 2013. Where a term is defined within the WLEP 2013, it is not repeated here. The following additional terms are relevant to this Chapter:*

**biological diversity** means the diversity of life and is made up of the following components:

- genetic diversity - the variety of genes (or units of heredity) in any population
- species diversity - the variety of species
- ecosystem diversity - the variety of communities or ecosystems

**biodiversity values** include the composition, structure and function of ecosystems, and (but not limited to) threatened species, populations and ecological communities, and their habitats.

**compensatory habitat** means the restoration of habitat on a cleared or degraded site to reinstate the structure and dynamics of pre-existing habitat as a compensatory measure for the loss of an area of native vegetation

**connectivity** means the degree of interconnection of habitat utilised by a particular species A measure of the degree to which an area (or areas) of native vegetation is linked with other areas of vegetation

**ecological community** means an assemblage of species occupying a particular area

**ecological processes** means those processes that play an essential role in maintaining the integrity and continuity of an ecosystem

**fragmentation** means the process of progressive loss and isolation of habitat leading to reduction in habitat connectivity for some species

**green corridor, habitat network and conservation links** are lands which connect larger areas of native vegetation, as defined by Figure 1.

**habitat** means an area or place occupied by a particular species, population or ecological community

**habitat corridor** means an area or network of areas of native vegetation or habitat that enables migration, colonisation or interbreeding of plants and animals between two or more larger areas of habitat

**improve or maintain outcome** means that the loss in biodiversity values on or off a development site are counter-balanced (less or equivalent to) by the gain in biodiversity values at an offset site

**no net loss** means that an equivalent portion of habitat will be required to be restored or created as part of any compensatory habitat measure

**potential conservation investigation area** means the areas shown in the colour red on the map titled "potential conservation investigation area" which is attached to this plan

**riparian land** means any land which adjoins, directly influences, or is influenced by a body of water

**species** means a group of organisms capable of interbreeding freely with each other but (usually) not with members of other species, and includes any recognised sub-species and taxon below a sub-species, and any recognisable variant of a sub-species of a taxon

**threatened species** means a species listed under the *Threatened Species Conservation Act 1995*, and the *Environment Protection and Biodiversity Conservation Act, 1999*, being a species considered to be at risk of becoming extinct, or of becoming endangered

**threatened species, population or community** means any species, population or ecological community which is scheduled under the *Threatened Species Conservation Act, 1995*

**threatening process** means a process that threatens, or may have the capability to threaten, the survival or evolutionary development of a species, populations or ecological communities

**viability** means the ability of biodiversity values in an area to persist for many generations or over long periods of time

## 2.0 ENVIRONMENTAL PLANNING CRITERIA

### 2.1 Environmental Planning Criteria which are to be applied to lands within "Green Corridor, Habitat Network or Conservation Links"

The following criteria shall apply to the determination of any development application on lands identified on Figure 1 by green hatching or arrows, referred to as either "Green Corridor, habitat network or conservation links". A range of physical, ecological and threatened species constraints may exist within these areas. Some locations may also contain wildlife corridors or possess regenerative potential.

The environmental performance criteria outlined in Section 2.2 identify the environmental outcomes which must be satisfied by development proposals.

### 2.2 Environmental Performance Criteria

#### 2.2.1 Survey and Assessment

##### OBJECTIVE

- To establish whether the land contains or is likely to contain species, communities, populations or critical habitat listed under the Threatened Species Conservation Act, 1995 or Environment Protection and Biodiversity Conservation Act, 1999

##### REQUIREMENTS

- a Any impacts on threatened species, populations, ecological communities, or critical habitat are assessed in full compliance with the Threatened Species Conservation Act, 1995 and Environment Protection and Biodiversity Conservation Act, 1999 and all surveys are conducted in accordance with Council's Flora and Fauna Guidelines for Development and any other Council guidelines for threatened species.
- b Any significant impacts on any threatened species, populations, ecological communities and critical habitat within the context of Section 5A of the Environmental Planning and Assessment Act, 1979 are effectively managed until such time that specific conservation strategies are implemented.
- c Ensure proposed developments are consistent with the objectives or actions of a relevant Recovery Plan, Threat Abatement Plan or Priority Action Statement.

## 2.2.2 Connectivity

### OBJECTIVE

- To ensure that native vegetation, corridor linkages or lands which may contribute to the provision of a link in the future are not affected by premature development decisions

### REQUIREMENTS

- a Retain, enhance and provide ecologically sustainable fauna habitats and corridors.
- b Ensure that areas identified on Figure 1 do not experience any significant fragmentation by critical infrastructure which will diminish the conservation values and potential for fauna movement. Services should be co-located, designed to minimise clearing and maximise fauna movement and strategically located where alternative corridors are available.
- c Ensure that bushland fragments which occur within potential conservation areas are not reduced in size. Length to width ratios of bushland fragments should not be substantially increased.
- d Ensure that land which has the potential to be augmented or rehabilitated to form critical wildlife linkages between bushland fragments is not affected by pre-mature development decisions.
- e Ensure that no additional clearing of native vegetation occurs to provide pasture for stock or animals in any of the areas identified in Figure 1 as within the green hatching or arrows, referred to as either "Green Corridor, habitat network or conservation links".

## 2.2.3 Biodiversity Conservation

### OBJECTIVE

- To ensure that development decisions facilitate biodiversity conservation and that appropriate restoration and strategies are adopted

### REQUIREMENTS

- a Ensure that fauna habitat attributes are retained. In particular, old trees with hollows (both living and dead) and a diverse vegetation structure which maintains the diversity of understorey vegetation.
- b Where environmental offsets are proposed they must meet an 'improve or maintain' outcome. This means that the gains for biodiversity must be greater than or equal to any losses resulting from clearing or any other forms of degradation of biodiversity values.

Offsetting is a practical tool for decision makers who balance the relative environmental, social and economic merits of development proposals. Formal offset arrangements are a feature of:

- i developments under the EP&A Act using the Biobanking Scheme;
- ii land use planning under the EP&A Act using biodiversity certification;
- iii native vegetation regulation under the Native Vegetation Act 2003.

A number of regulatory schemes exist which use a range of mechanisms to secure offsets and measure whether the 'improve or maintain' outcome has been achieved. These include biobanking agreements, biodiversity certification agreements and property vegetation plans.

- c Promote use of lands identified in Figure 1 as within the green hatching or arrows, referred to as either "Green Corridor, habitat network or conservation links", as environmental offsets for development which involves removal of native vegetation elsewhere in Wyong Shire.
- d Ensure that weed control techniques are undertaken in a manner which minimises negative environmental effects.
- e Ensure that restoration or landscaping works associated with developments within "Green Corridor, habitat network or conservation links" only use endemic plants grown from local seed.
- f Ensure that landscaping proposed in association with development proposals adjoining the "Green Corridor, habitat network or conservation links", provides habitat for an appropriate range of native fauna through the use of endemic plant species.
- g Retain and enhance natural links between bushland areas to facilitate dispersal of genetic material and fauna movement.
- h Ensure buffers are retained or restored between proposed developments and identified "Green Corridor, habitat network or conservation links", to minimise edge effects. Buffers should be designed based on the urban interface area model detailed in Part 4 - Subdivision
- i Ensure that key threatening processes are avoided or minimised, or where not possible suitable compensatory measures are proposed to reduce the impact of the key threatening process.

## 2.2.4 Hydrology

### OBJECTIVE

- To protect lands which have a direct association through physical or ecological processes with wetlands, creeks and riparian areas

### REQUIREMENTS

- a Ensure that natural hydrological processes are maintained. Natural vegetation and flow regimes are to be maintained to ensure creek line stability and protect the health of terrestrial and aquatic ecosystems.
- b Maintain natural flows by ensuring post-development flows equal pre-development flows discharged into natural wetland and riparian plant communities.
- c Retain native vegetation to promote bank stability and ensuring that accelerated bank or bed erosion does not occur.
- d Ensure that vegetation along riparian areas and creeks is retained to link vegetated land to other vegetation linkages and bushland patches.
- e Ensure that the removal or disturbance of vegetation will not result in significant changes to wetland or riparian vegetation as a result of sedimentation, runoff flow or bank stability.
- f Ensuring that vegetation or cleared lands which could potentially provide a buffering capacity to natural wetlands and riparian vegetation are retained.

### 2.2.5 Context

#### OBJECTIVE

- To establish whether the land makes a significant contribution to the landscape and amenity of the local area or contains items of cultural significance to the locality

#### REQUIREMENTS

- a Ensure that the visual and landscape functions of the site are properly investigated.
- b Ensure that development proposals make a positive contribution to the environment and local amenity.
- c Consider the impact on items of heritage or cultural significance that might result from any alteration to the context or setting of the site.

## 3.0 MAKING DEVELOPMENT APPLICATIONS

### 3.1 Information Required to Accompany Development Applications

When this Chapter applies, additional environmental information may be required to be submitted to allow Council to properly assess the application.

All proposals will be assessed to ensure consistency with the environmental performance criteria outlined in Section 2.2.

Development applications for sites within or adjoining "Green Corridor, habitat network or conservation links", must demonstrate consistency with the objectives and requirements of Section 2.2 of this Chapter.

Developments in areas shown as "Green Corridor, habitat network or conservation links", require careful consideration by Council to ensure that natural values are retained and enhanced. Management and approvals over this area requires a high level of attention to detail. As a result development applications can be complex and may have substantial information requirements. It is recommended that owners/developers consult with Council before finalising development applications or rezonings if they are proposed in any area shown as "Green Corridor, habitat network or conservation links".

Any development application within "Green Corridor, habitat network or conservation links" must be submitted with an Ecological Report. The information requirements, for every application will be different. Each site has its own characteristics and no two development proposals are identical. The requirements for preparing an Ecological Report are outlined by Council's Flora and Fauna Guidelines for Development.

An Ecological Report is a document that details what plants and animals (flora and fauna) and ecological communities occur or are likely to occur in a particular locality, the effects that a development proposal may have on them and recommendations to minimise the impacts. They are also known as Flora and Fauna Reports, Threatened Species Reports or Biodiversity Assessment Reports. They can be stand-alone documents or they can be integrated into more complex reports that may be required under relevant legislation including Environmental Impact Statements (EISs) and Species Impact Statements (SISs).

All proposals will be assessed to ensure consistency with the environmental performance criteria outlined in Part 3. The information contained in an Ecological Report needs to address the specific objectives and requirements to ensure that Council can make the decisions outlined in Section 3.

### 3.1.1 Proposal Objectives and Alternatives

- a The relationship of a development or an activity to the objectives provided in Section 1.1 of this plan and the specific environmental performance criteria outlined in Section 2.2.
- b An analysis of any feasible alternatives to the proposed development or alternatives to the site, having regard to its objectives, including an explanation of reasons justifying the carrying out of the development, and the consequences of not carrying out the development

### 3.1.2 Description of Site and Locality

- a A site survey showing all natural features such as landform (contours), natural features (creeks, gullies, trees and other bushland), existing structures, land uses, access points, fences and roads.
- b A locality map showing significant features in the surrounding area e.g. creeks that the land drains to, adjoining vegetation or known threatened species habitat, and wildlife corridors that run through the land.
- c A site analysis:
  - i addressing slope, access, aspect, prevailing winds, fire hazard, conservation values, natural features and drainage; and
  - ii identifying preferred sites for development and the management issues that will need to be addressed.

### 3.1.3 A Description of the Proposed Development

- a Plans showing the elevations and location of all proposed structures plus roads, driveways, and other proposed uses of the land.
- b All proposed associated works such as drainage, water and sewerage, electricity, landscaping, earthmoving or fill, asset protection zones.

### 3.1.4 Environmental Impact Assessment

- a An assessment is required of the direct and indirect impacts of all proposals and remedial measures needed to mitigate those impacts. The assessment is to include the following information, **where relevant to the proposal**:
  - i the size of the areas (in m<sup>2</sup> or ha) proposed to be cleared or modified in any way by the proposal and distance (in metres) to nearby remnant patches of vegetation shall be provided;
  - ii a report describing the flora, fish, amphibians, reptiles, birds (both indigenous and migratory), and mammals (including bats) which occur or have the potential to occur in the study area and the occurrence of any organism listed under the Threatened Species Conservation Act, 1995, Environmental Protection and Biodiversity Conservation Act, 1999 or Fisheries Management Act, 1994 (if relevant) or any species which is known to have local, regional, state or national conservation significance;
  - iii detailed vegetation community descriptions and mapping for the study area;



- iv an assessment of the habitat and corridor roles of vegetation where it is to be cleared, modified or affected by development. Factors to be examined include:
  - species which are likely to utilise vegetation in the corridor for dispersal;
  - habitat quality and food resource availability; and
  - the restoration potential and requirements of degraded areas of vegetation.
- v details of the disturbance history of the site (how long has the period of any disturbance been occurring and what form has this taken e.g. grazing, clearing of understorey, mowing, tree removal);
- vi the hydrological conditions that exist on the site and whether the land has a direct association with plant communities that are reliant on the maintenance of existing hydrological conditions. All ecosystems are sensitive to hydrological modifications but wetlands, riparian and drainage line vegetation are the most sensitive;
- vii assessment of the amenity values and cultural significance of land is required. Relevant factors include:
  - Does the land provide a link between existing public reserve, parcel of land owned by a government authority or area of public open space?
  - Does the land contain, or provide a context or setting for, a heritage item, Aboriginal landscape or site?

### 3.1.5 Management and Offsetting

- a Outline land management and monitoring actions proposed to be taken to reduce actual and potential impacts to vegetation, fauna, water quality and hydrological regime during the construction and operational stages of the proposed development (e.g. weed control, replanting, collection and propagation of native seed stock, creek line rehabilitation, fencing off habitat with significant conservation values)
- b Should the development proposal involve the establishment of permanent conservation offsets, a copy of the Biobanking Agreement, Biocertification Documentation, or Property Vegetation Plan is to be submitted.

## APPENDIX A RELEVANT LEGISLATION, PLANNING INSTRUMENTS AND POLICIES

### Federal Government Legislation

- **Environmental Protection and Biodiversity Conservation Act, 1999** – Identifies eight matters of national environmental significance, including world heritage properties, national heritage places, wetlands of international importance, nationally listed threatened species and ecological communities, migratory species, Commonwealth marine areas, The Great Barrier Reef Marine Park, and nuclear actions, and requires an environmental assessment and approval for actions that have, or are likely to have a significant impact on such matters

### NSW Government Legislation

In addition to the requirements of the *Environmental Planning and Assessment Act, 1979* other legislation is relevant to the development of land containing natural assets and may require licences or other approvals in addition to a development consent from Council. Applicants should consult with relevant agencies prior to lodgement of a DA in relation to the following legislation:

- **Threatened Species Conservation Act, 1995** (NSW Office of Environment and Heritage) - Identifies threatened species, populations, ecological communities, critical habitat and key threatening processes
- **Native Vegetation Act, 2003** (NSW Office of Environment and Heritage) - Aims to improve the management of native vegetation in non-urban areas. Development consent may be required from the Hunter-Central Rivers Catchment Management Authority for clearing native vegetation in Wyong Shire
- **National Parks and Wildlife Act, 1974** (NSW Office of Environment and Heritage) - requires a permit to remove, damage, destroy or otherwise alter threatened species, populations or ecological communities, protected species or Aboriginal sites
- **Protection of the Environment Operations Act, 1997** (NSW Office of Environment and Heritage) - Provides for comprehensive control over polluting activities and includes air, water, noise and land pollution
- **Heritage Act, 1977** (NSW Office of Environment and Heritage) - Controls development which may impact on identified heritage items by requiring the consent of the NSW Heritage Office
- **Fisheries Management Act, 1994** (NSW Department of Industry and Investment - Fisheries) - Includes provisions similar to the Threatened Species Conservation Act in relation to the protection of aquatic species
- **Water Management Act, 2000** (NSW Office of Water) – Provides for the sustainable and integrated management of water resources. Part 3 requires approval from the Office of Water to carry out a controlled activity in, on or under water front land. Approval is also required to carry out an activity that interferes with an aquifer under Part 5 of the Water Act, 1912

## State Environmental Planning Policies (SEPPs)

- **SEPP 14** - Coastal Wetlands
- **SEPP 26** - Littoral Rainforests
- **SEPP 44** - Koala Habitat Protection

## Local Environmental Plan

- Wyong Local Environmental Plan 2013

## Local Policies and Guidelines

- Wyong DCP 2013: Chapter 3.6 – Tree and Vegetation Management
- Wyong DCP 2013: Chapter 3.7 – Heritage Conservation
- Wyong DCP 2013: Chapter 3.10 – Wetlands Management
- Wyong Council Flora and Fauna Guidelines for Development
- Green Corridors Policy - G1
- Interim Ecological Assessment Information Required to Assess Clearing Impacts within Squirrel Glider Habitat within Wyong Shire.
- Interim Survey Guidelines for Ground Orchids which are listed under the Threatened Species Conservation Act, 1995 Act, 1995 in Wyong Shire

## APPENDIX B CONSERVATION AREAS FOR NORTHERN WYONG SHIRE



**Figure 1**      **North Wyong Shire Structure Plan, October, 2012**