

s22

From: s22
Sent: Friday, 18 May 2018 4:35 PM
To: s22 ; s22
Cc: s22 ; Farrant, Kim
Subject: RE: Manyana email response [SEC=UNCLASSIFIED]

Hi s22

As discussed – changes below for consideration.

s22

From: s22
Sent: Friday, 18 May 2018 4:11 PM
To: s22 ; s22
Cc: s22 ; Farrant, Kim
Subject: FW: Manyana email response [SEC=UNCLASSIFIED]
Importance: High

Hi s22 and s22 ,

Can we come down and discuss the draft email below please? I would like to send off shortly.

Cheers, s22

From: s22
Sent: Friday, 18 May 2018 3:01 PM
To: s22 <s22@environment.gov.au>
Subject: Manyana email response [SEC=UNCLASSIFIED]

Hi s22

Can you please have a look?

Ta

Dear s47F

s47C

s47C

Cheers, s22

s22

Director

Southern NSW and ACT Assessments Section

ESD

Department of the Environment and Energy

Office Phone (02) 6274 s22

Mobile: s22

s22

From: s22
Sent: Thursday, 31 May 2018 1:08 PM
To: s22
Subject: RE: Manyana , NSW - ref 171367 [SEC=UNCLASSIFIED]

s22 That looks good

s22 | **Assistant Director** |
Compliance Section
Office of Compliance
Department of Environment and Energy
GPO Box 787 Canberra ACT 2601
T: 02 6274 s22 | M: s22
s22 [@environment.gov.au](mailto:s22@environment.gov.au)

From: s22
Sent: Wednesday, 30 May 2018 4:20 PM
To: s22
Subject: FW: Manyana , NSW - ref 171367 [SEC=UNCLASSIFIED]

Hi s22, do you think the below response is ok? Or do we have to elaborate?

Cheers, s22

s22 - out of scope - irrelevant material

Dear s47F

I am writing to advise that the Department has reviewed the information provided by Ecoplaning, on behalf of Ozy Homes, for the proposed 182 lot subdivision at Berringer and Cunjurong Roads, Manyana.

The Department notes that the proponent has considered their obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and has concluded significant impacts on protected matters are unlikely. Based on the information provided, the Department will not request (under section 70 of the EPBC Act) that the project be referred.

Yours sincerely

From: s22
Sent: Friday, 18 May 2018 4:51 PM
To: s47F <@swaab.com.au>
Cc: s22 <@environment.gov.au>; Farrant, Kim
<Kim.Farrant@environment.gov.au>; s22 <@environment.gov.au>; s22
s22 <@environment.gov.au>
Subject: Manyana , NSW - ref 171367 [SEC=UNCLASSIFIED]

Dear s47F

The Department of the Environment and Energy is considering your letter of 14 May 2018, and Ecoplanning's letter of 17 April 2018, regarding the proposed 182 lot residential subdivision at Berringer and Cunjurong Point Roads, Manyana, NSW (your ref: 171367).

We note that your client has undertaken a self-assessment for impacts to matters of national environmental significance, setting out their belief that a referral is not required under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Whilst we are preparing a more thorough reply to your 14 May letter, the Department is yet to form a view whether the proposed subdivision requires referral under the Act. Please note that it is an offence under the EPBC Act to take an action which is likely to have a significant impact on a protected matter without approval.

Yours sincerely,

s22
Director
Southern NSW and ACT Assessments Section
ESD
Department of the Environment and Energy

Office Phone (02) 6274 s22
Mobile: s22

s22

From: s22
Sent: Tuesday, 12 May 2020 11:01 AM
To: s22
Subject: RE: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Yep it won't be any one we normally talk to. It will be the regional planning guys and I'm not sure who I would start with. Lets chat.

s22

From: s22
Sent: Tuesday, 12 May 2020 10:57 AM
To: s22
Cc: s22 ; s22 ; s22
Subject: RE: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

No it didn't get resolved. I'm waiting to hear back from Council about the potential swap of sites etc.

s22, do you know who in DPIE would be best to talk to about this? When we did the third party report back in 2018 I spoke to someone in compliance, but given the potential halt to clearing it might be another area of planning?

From: s22 <s22@environment.gov.au>
Sent: Tuesday, 12 May 2020 9:06 AM
To: s22 <s22@environment.gov.au>; s22 <s22@environment.gov.au>; s22 <s22@environment.gov.au>
Cc: s22 <s22@environment.gov.au>
Subject: FW: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Good morning all,

Does this require further discussion at 11:00 or was it fully resolved last week in my absence?

Cheers, s22

From: EPBC Referrals <EPBC.Referrals@environment.gov.au>
Sent: Tuesday, 12 May 2020 8:45 AM
To: Compliance <Compliance@environment.gov.au>
Cc: s22 <s22@environment.gov.au>; EPBC Referrals <EPBC.Referrals@environment.gov.au>
Subject: FW: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Hi s22 and Compliance Team

For appropriate action:

Please see the email trail below regarding a development known as the Manyana Beach Estate on the NSW south coast.

The complainant indicated that development is imminent and was to have commenced on 6 May 2020 but has been held up for a fortnight. Depending on the commencement of action, this could sit with either of your sections as a Third Party Report or as a potential breach of compliance with the EPBC Act.

Kind regards

Referrals Gateway | Environment Approvals Division
Department of Agriculture, Water and the Environment
GPO Box 787, CANBERRA ACT 2601

Email: EPBC.Referrals@environment.gov.au | Web: www.awe.gov.au | Phone: 02 6274 2496

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present



From: s47F

Sent: Thursday, 7 May 2020 11:21 AM

To: EPBC Referrals <EPBC.Referrals@awe.gov.au>

Cc: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: Re: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Thank you for your response.

This action was due to commence yesterday and has been postponed for 2 weeks for negotiations between the developer and the community.

Sent from my iPhone

On 7 May 2020, at 10:11 am, EPBC Referrals <EPBC.Referrals@awe.gov.au> wrote:

Good morning s47F

Thank you for your email. The Referrals Gateway does not have visibility of this action and will need to direct your email to the appropriate area within the Department for their consideration.

Could you please indicate whether this action is proposed or has commenced? We need this information to best direct your query.

Kind regards

Referrals Gateway | Assessments and Governance Branch

Department of Agriculture, Water and the Environment

✉ : GPO Box 787, CANBERRA ACT 2601

📧 : EPBC.Referrals@environment.gov.au | 🌐 : www.environment.gov.au | ☎ : 02 6274 2496

From: s47F

Sent: Wednesday, 6 May 2020 5:38 PM

To: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: Manyana Beach Estate - Impacts on MNES

I am writing to you to express my concern about the Manyana Beach Estate (you may have heard of this issue already). I'll be brief. There is a small patch of high quality remnant bush land approved to be cleared. This area is suitable for many threatened species (under the EPBC and BC Acts) with numerous historically and recent records. Following the bushfires that ravaged the area, this bush is even more critical to all species, threatened or protected.

Threatened species known to occur on the site listed under the **EPBC Act** and/or BC Act are as follows:

- Greater Glider
- Southern Brown Bandicoot
- Grey-headed Flying-fox
- Large-eared Pied Bat; and
- Swift Parrot.

Additional species known to occur in the locality, but not recorded on the site (yet!) including Giant Burrowing Frog, Stuttering Frog, Little John's Tree Frog, Eastern Bristlebird, Regent Honeyeater, Long-nosed Potoroo, Spotted-tail Quoll, New Holland Mouse and Smoky Mouse. Along with flora species: Biconvex Paperbark, Magenta Lilly Pilly, Dense Cordrush and Chef's Cap Correa, *Pterostylis vernalis*, *Genoplesium baueri*, *Rhizanthella slateri*, *Caladenia tessellata*, *Cryptostylis hunteriana*; and *Genoplesium vernale*.

It is imperative that this area be saved and the DA approval be re-assessed. The original environmental assessment was disgustingly vague and did not provide accurate assessment. **There will be serious and irreversible impacts on MNES** if this goes ahead! Please find attached, for your reference, another senior ecologist's summarized points on the matter.

Can you please stop or pause this work and have this land reassessed. This clearing and loss of incredibly important bushland will have irreversible impacts!! Please confirm your receipt of this email and a reply with your proposed actions.

Kind regards

s47F

s22

From: s22
Sent: Wednesday, 13 May 2020 9:33 AM
To: s22
Subject: FW: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

FYI response from s22 /s22 . I just spoke to the enviro manager at Shoalhaven Council (nothing they can do as it's a NSW Govt approved development but they're concerned about the level of development in the region, particularly from a bushfire recovery perspective) and she'll get me a contact at DPIE to see where the negotiations are at.

From: s22 @environment.gov.au>
Sent: Wednesday, 13 May 2020 8:41 AM
To: s22 @environment.gov.au>
Cc: s22 @environment.gov.au>
Subject: RE: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

H s22

Just to add to s22 advice, the priority plants for emergency intervention following the 2019/20 bushfires have been published here: <http://www.environment.gov.au/biodiversity/bushfire-recovery/priority-plants>

Regards, s22 .

s22
Director, Species Information and Policy Section, Protected Species and Communities Branch
s22
Working from home as a COVID-19 precaution

From: s22 @environment.gov.au>
Sent: Tuesday, 12 May 2020 7:37 PM
To: s22 @environment.gov.au>
Cc: s22 @environment.gov.au>
Subject: RE: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Hi s22

Yes I remember this one. Very different context now.

My advice would be to frame your approach /response as follows:

Of the species formerly of interest and declared not be significantly impacted (mainly due to ample adjacent habitat in national parks which is now not there) many have now been identified by the Bushfire Response Expert Panel as species requiring urgent management intervention (greater glider, grey-headed flying-fox, spot tailed quoll, koala). Plant priorities are yet to be publicly announced but currently in process of being identified.

Although yet to be outlined in detail, the Panels report outlines 2 key actions for these species as follows:

‘Two priority actions should be carried out for all high priority species: 1) Rapid on-ground surveys to establish extent of population loss and provide a baseline for ongoing monitoring. 2) Protecting unburnt areas within or adjacent to recently burnt ground that provide refuge, as well as unburnt areas that are not adjacent to burnt areas, especially from extensive, intense fire.

s47C

All this is available here : <https://www.environment.gov.au/biodiversity/bushfire-recovery/priority-animals>

Hope this helps.

s22

Threatened Species Officer
Department of Agriculture, Water and the Environment
02 6275 s22
s22 [@awe.gov.au](mailto:s22@awe.gov.au)

From: s22 [@environment.gov.au](mailto:s22@environment.gov.au)>

Sent: Tuesday, 12 May 2020 6:07 PM

To: s22 [@environment.gov.au](mailto:s22@environment.gov.au)>

Subject: FW: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Hi s22

Hope you're well 😊

Can I please get your advice on the potential impacts of a residential subdivision at Manyana on threatened species – you may recall providing advice on this a couple of years ago when we responded to a third party report from the public. We have recently received further corro, including the below, about the development. I understand the site is the only patch of vegetation left after the fires in the region, so we need to determine whether the patch is now important refugia for MNES and the action should be referred. I've attached the original ecological report, and our responses for your info.

In summary:

- DA was approved by NSW in 2008, but they're only starting to develop now
- Council has agreed to a moratorium on clearing in the area
- NSW Government (Planning Minister) may negotiate with the developer to move to another site outside of Manyana: <https://www.newcastleherald.com.au/story/6752877/stokes-to-discuss-nsw-land-clearing-halt/>
- I'm waiting to hear back from Council/ NSW about where the project is at; it might not proceed in the current location, but we'll still need to respond to the corro

Thanks and happy to discuss

s22

From: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Sent: Tuesday, 12 May 2020 8:45 AM

To: Compliance <Compliance@environment.gov.au>

Cc: s22 [@environment.gov.au](mailto:s22@environment.gov.au); EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: FW: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Hi s22 and Compliance Team

For appropriate action:

Please see the email trail below regarding a development known as the Manyana Beach Estate on the NSW south coast.

The complainant indicated that development is imminent and was to have commenced on 6 May 2020 but has been held up for a fortnight. Depending on the commencement of action, this could sit with either of your sections as a Third Party Report or as a potential breach of compliance with the EPBC Act.

Kind regards

Referrals Gateway | Environment Approvals Division
Department of Agriculture, Water and the Environment
GPO Box 787, CANBERRA ACT 2601
Email: EPBC.Referrals@environment.gov.au | Web: www.awe.gov.au | Phone: 02 6274 2496



From: s47F
Sent: Thursday, 7 May 2020 11:21 AM
To: EPBC Referrals <EPBC.Referrals@awe.gov.au>
Cc: EPBC Referrals <EPBC.Referrals@environment.gov.au>
Subject: Re: Manyana Beach Estate - Impacts on MNES [SEC=OFFICIAL]

Thank you for your response.

This action was due to commence yesterday and has been postponed for 2 weeks for negotiations between the developer and the community.

Sent from my iPhone

On 7 May 2020, at 10:11 am, EPBC Referrals <EPBC.Referrals@awe.gov.au> wrote:

Good morning s47F

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Could you please indicate whether this action is proposed or has commenced? We need this information to best direct your query.

Kind regards

Referrals Gateway | Assessments and Governance Branch
Department of Agriculture, Water and the Environment
✉ : GPO Box 787, CANBERRA ACT 2601
📧 : EPBC.Referrals@environment.gov.au | 🌐 : www.environment.gov.au | ☎ : 02 6274 2496

<image001.jpg>

From: s47F

Sent: Wednesday, 6 May 2020 5:38 PM

To: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: Manyana Beach Estate - Impacts on MNES

I am writing to you to express my concern about the Manyana Beach Estate (you may have heard of this issue already). I'll be brief. There is a small patch of high quality remnant bush land approved to be cleared. This area is suitable for many threatened species (under the EPBC and BE Acts) with numerous historically and recent records. Following the bushfires that ravaged the area, this bush is even more critical to all species, threatened or protected.

Threatened species known to occur on the site listed under the **EPBC Act** and/or BC Act are as follows:

- Greater Glider
- Southern Brown Bandicoot
- Grey-headed Flying-fox
- Large-eared Pied Bat; and
- Swift Parrot.

Additional species known to occur in the locality, but not recorded on the site (yet!) including Giant Burrowing Frog, Stuttering Frog, Little John's Tree Frog, Eastern Bristlebird, Regent Honeyeater, Long-nosed Potoroo, Spotted-tail Quoll, New Holland Mouse and Smoky Mouse. Along with flora species: Biconvex Paperbark, Magenta Lilly Pilly, Dense Cordrush and Chef's Cap Correa, *Pterostylis vernalis*, *Genoplesium baueri*, *Rhizanthella slateri*, *Caladenia tessellata*, *Cryptostylis hunteriana*; and *Genoplesium vernale*.

It is imperative that this area be saved and the DA approval be re-assessed. The original environmental assessment was disgustingly vague and did not provide accurate assessment. **There will be serious and irreversible impacts on MNES** if this goes ahead! Please find attached, for you reference, another senior ecologist's summarized points on the matter.

Can you please stop or pause this work and have this land reassessed. This clearing and loss of incredibly important bushland will have irreversible impacts!! Please confirm your receipt of this email and a reply with your proposed actions.

Kind regards

s47F

s22

From: s22
Sent: Wednesday, 20 May 2020 5:36 PM
To: s22
Subject: RE: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Thanks

From: s22
Sent: Wednesday, 20 May 2020 5:22 PM
To: s22
Subject: RE: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Yep looks good

From: s22 <[REDACTED]@environment.gov.au>
Sent: Wednesday, 20 May 2020 5:17 PM
To: s22 <[REDACTED]@environment.gov.au>
Cc: s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>
Subject: FW: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Hi all,

My response to the questions (yellow highlight) is in **Green** highlight and I have altered the 2nd dot point for accuracy. Need to get to Louise by 6pm if possible can you guys check quickly please.

Cheers, s22

From: Media <media@environment.gov.au>
Sent: Wednesday, 20 May 2020 4:40 PM
To: Louise Vickery <Louise.Vickery@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>
Cc: Geoff Richardson <Geoff.Richardson@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; Michelle Croker <Michelle.Croker@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>; Monica Collins <Monica.Collins@environment.gov.au>; s22 <[REDACTED]@environment.gov.au>
Subject: RE: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]
Importance: High

Hi Louise and s22

Apologies for sending this through now, we have only just received it back from the MO. s22 has asked for a fact check and for the highlighted questions below to be answered as best as possible.

Could we please have by **6:30pm tonight** – apologies for this deadline, if there is any issues with this please let me know.

s47B(a)

- The approval for the development consent was issued on 8 July 2008 by NSW and did not require was not referred for assessment under the EPBC Act. The development was brought to the Department's attention in late 2017 by a third party and at the time we formed the view that we did not require a referral, but advised the developer of their obligations under the EPBC Act as is our standard practice.
- The Minister has asked the Department to prepare advice in relation the position put forward by the Environmental Defenders Office on May 14 (do we have a time frame). By the end of the week we should be able to provide further advice however we will have two ministerial replies in the meantime in response to Local Member and EDO enquiries. We have now received over 60 pieces of ministerial correspondence on this matter.
- The Morrison Government is investing \$200 million in wildlife and habitat recovery following the bushfires.
- This has included detailed assessments of species impacts

Background:

- On 14 May 2020, Minister Ley was contacted by the Environmental Defenders Office (EDO) on behalf of Manyana Matters, a local community group based in the Shoalhaven region concerned about impacts to federally listed species as a result of the Manyana residential subdivision.
- The EDO requested that the Minister require the proponent of the Manyana proposal to refer it for assessment under the Environment Protection and Biodiversity Conservation Act (EPBC Act). The EDO provided additional information relating to potential impacts of the Manyana proposal on EPBC Act listed threatened species.
- The Minister is currently considering this request and has asked the Department for advice on options in response to the additional information provided, especially in light of the recommendations of the Bushfire Response Expert Panel on the impacts of the 2019/2020 bushfires on listed threatened species.
- The Minister understands that the NSW government is also considering its response as the planning consent authority.

Thanks,

s22

Communications Officer

Communications and Engagement Branch

Department of Agriculture, Water and the Environment

GPO Box 787, CANBERRA ACT 2601

T: 02 6274 s22

Media line: 6275 9880

Unless otherwise instructed, this email is background information and not for attribution.

From: Media <media@environment.gov.au>

Sent: Friday, 15 May 2020 12:45 PM

To: Louise Vickery <Louise.Vickery@environment.gov.au>; s22 @environment.gov.au; s22 @environment.gov.au

Cc: Geoff Richardson <Geoff.Richardson@environment.gov.au>; s22 @environment.gov.au; s22 @environment.gov.au; Michelle Croker <Michelle.Croker@environment.gov.au>; s22

; Monica Collins

<Monica.Collins@environment.gov.au>; s22 @environment.gov.au>; Media
<media@environment.gov.au>

Subject: RE: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Thanks Louise, s22, s22 and team for this response, much appreciated.

Kind regards

s22

From: Louise Vickery s22

Sent: Friday, 15 May 2020 11:13 AM

To: s22 @environment.gov.au>; s22 @environment.gov.au>; Media
<media@environment.gov.au>

Cc: Geoff Richardson <Geoff.Richardson@environment.gov.au>; s22 @environment.gov.au>;
s22 @environment.gov.au>; s22 @environment.gov.au>; Michelle
Croker <Michelle.Croker@environment.gov.au>; s22 @environment.gov.au>; Monica Collins

<Monica.Collins@environment.gov.au>; s22 @environment.gov.au>

Subject: FW: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Good response thank you all for your input / quick turnaround.

FYI on below.

s47B(a)

Regards Louise

From: Louise Vickery <Louise.Vickery@environment.gov.au>

Sent: Friday, 15 May 2020 11:02 AM

To: Media <media@environment.gov.au>

Cc: Michelle Croker <Michelle.Croker@environment.gov.au>; s22 @environment.gov.au>

Subject: Fwd: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Dear Media

Please find cleared response below.

Apologies I am sending by phone as just lost connection to outlook on computer.

Louise Vickery

Louise Vickery

Assistant Secretary | Environment Approvals and Wildlife Trade Branch

Environment Approvals Division

Department of Agriculture, Water and Environment

t +61 2 6274 s22 | m s22 | e louise.vickery@environment.gov.au

Sent from my iPhone

Begin forwarded message:

From: s22

Date: 15 May 2020 at 10:56:48 am AEST

To: Louise Vickery <Louise.Vickery@environment.gov.au>

Cc: Geoff Richardson <Geoff.Richardson@environment.gov.au>, s22
s22 <s22@environment.gov.au>, s22 <s22@environment.gov.au>, Media
<Media@environment.gov.au>, s22 <s22@environment.gov.au>, s22
s22 <s22@environment.gov.au>
Subject: FW: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Hi Louise,

As discussed, here is a draft media response for your clearance to the media team to the Manyana query from AAP (I have cc'd s22 in the media team to keep her in the loop). I have cc'd BCD colleagues as well.

Cheers, s22.

s22

Director NSW (South) and ACT Assessments Section | (02) 6274 s22 | Mobile: s22
Department of Agriculture, Water and the Environment
Environment Approvals and Wildlife Trade Branch | Environment Approvals Division
John Gorton Building, King Edward Terrace, Parkes ACT 2600
PO Box 787, CANBERRA ACT 2601

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

From: s22 <s22@environment.gov.au>
Sent: Friday, 15 May 2020 10:30 AM
To: s22 <s22@environment.gov.au>
Subject: FW: MEDIA ENQUIRY due 10.30am - Manyana assessment referral [SEC=OFFICIAL]

Hi s22

See below as requested

Cheers

s22

I'm just reaching out regarding a parcel of land in Manyana, on the NSW South Coast. Locals in the area are concerned over plans by developer Ozy Homes to raze 20 hectares of unburnt mature growth forest to make way for nearly 180 housing lots, given so much local bushland has recently been burnt. Community group Manyana Matters has engaged the Environmental Defenders Office over the matter. I understand the organisation has written to Ms Ley, calling for an assessment referral for the project under the Environment Protection and Biodiversity Conservation Act over concerns it could impact a number of threatened species listed under the legislation. I was hoping to get a response from Ms Ley about the matter, and have listed a number of questions below. AAP will be publishing a story on the matter within the hour, and I am keen to include comment from the minister.

1. Has Ms Ley received a letter from the Environmental Defenders Office regarding plans by Ozy Homes for a parcel of land in Manyana, calling for an assessment referral for the project under the Environment Protection and Biodiversity Conservation Act over concerns it could impact a number of threatened species listed under the legislation?
2. Will Ms Ley make such a referral?

3. Will Ms Ley call for work on the project to halt until a referral/assessment can be made?

- On 14 May 2020, Minister Ley was contacted by the Environmental Defenders Office (EDO) on behalf of Manyana Matters, a local community group based in the Shoalhaven region concerned about impacts to federally listed species as a result of the Manyana residential subdivision.
- The EDO requested that the Minister require the proponent of the Manyana proposal to refer it for assessment under the Environment Protection and Biodiversity Conservation Act (EPBC Act). The EDO provided additional information relating to potential impacts of the Manyana proposal on EPBC Act listed threatened species.
- The Minister is currently considering this request and has asked the Department for advice on options in response to the additional information provided, especially in light of the recommendations of the Bushfire Response Expert Panel on the impacts of the 2019/2020 bushfires on listed threatened species.
- The Minister understands that the NSW government is also considering its response as the planning consent authority.

s22

From: s22
Sent: Friday, 15 May 2020 4:13 PM
To: s22
Subject: Manyana briefing [SEC=OFFICIAL]

Hi s22
See below re Manyana. I will finalise Monday morning.
Cheers
s22

Key issues

Background

- The proposed Manyana residential sub-division (the proposal) is located on a 20.4 ha development site across two lots (Lot 172 DP 755923 and Lot 823 DP 247285), on Berringer and Cunjurong Point Roads, Manyana approximately 12km north of Uludulla, NSW, within the Shoalhaven Local Government Area. The proposal is to subdivide the two lots into one hundred and eighty-two (182) residential allotments.



Figure 1 – Aerial Photo of Manyana showing the Subject Site

- The proponent for the proposal is Ozy Homes Pty Ltd represented by the planning company Allen Price & Associates.
- On 8 July 2008, the sub-division received approval under Part 3A of the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act)(NSW Major project MP05_0059)(Ref 1).
- On 6 December 2017, the Department received a third party report (Ref 2) from local resident and ecologist, s47F in relation to concerns about impacts of the proposal on the Southern Brown Bandicoot.
- On 22 December 2017, the Department wrote to the proponent requesting the proponent consider referring the action (Ref 3), noting potential significant impacts to the following EPBC Act listed threatened ecological communities and species (Illawarra and south coast lowland forest and woodland – critically endangered ecological community, Greater Glider, Southern Brown Bandicoot, Grey-headed Flying Fox, and Large-eared Pied Bat).

- On 3 May 2018, the proponent replied to the Department's email and provided an ecological report (Ecoplanning dated 17 April 2018)(Ref 4) which includes further analysis of the potential for Matters of National Environmental Significance (MNES) as listed in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The ecological report concluded that impacts of the proposal are not considered significant and hence a referral is not recommended.
- On 9 May 2018, the Department received further third party reports from the Red Head Villages Association concerned about impacts of the proposal to listed threatened species.
- On 14 May 2018, the Department received a letter from Swaab lawyers (Ref 4), acting for the proponent confirming that a referral to the Department under the Act is not required.
- On 4 June 2018, the Department wrote to Swaab layers (Ref 5) stating that the Department is unable to establish that the development would be unlikely to require further assessment and approval under the EPBC Act and informing the proponent of the risks of progressing with this development without a decision under the EPBC Act.
- The area surrounding the proposal area was heavily affected by the 2019/2020 bushfires which had led to calls from local community groups for a moratorium on land clearing and media reporting (<https://www.abc.net.au/news/2020-02-13/residents-attempt-to-stall-land-clearing-for-nsw-development/11960526>), <https://www.abc.net.au/news/2020-05-03/last-unburnt-bush-near-conjola-national-park-set-for-clearing/12209818>
- The Construction Certificate for Stage 1 of the development was issued by Shoalhaven City Council on 19 November 2019.
- On 11 May 2020, the NSW government was quoted in the media as being in talks with the developer over acquisition of the proposal site <https://www.newcastleherald.com.au/story/6752877/stokes-to-discuss-nsw-land-clearing-halt/?cs=7>
- On 12 May 2020 the Shoalhaven City Council discussed the development proposal at an Extraordinary Meeting (Ref X). At the meeting, the Council agreed to:
 - Acknowledge that it has no legal pathway to impose a moratorium for land clearing on approved development that is deemed commenced,
 - Supports the Manyana community in its ongoing representations to the State Government seeking a moratorium on the Manyana Estate given the current fragile state of the land post bushfire,
 - Make representations to the State Government on behalf of the community requesting further verification of threatened species distribution in the Manyana Estate in order to avoid the destruction of any threatened species on the site that contravenes current law and
 - Request that the NSW State Government consider purchase of the land for conservation.
- The Department notes that additional blocks of land in the immediate vicinity of the Manyana development are proposed for development (Inyadda Drive Planning Proposal >50ha in area) and are currently going through the NSW and Shoalhaven city council approval pathways. These projects have not been referred to the Department for assessment under the EPBC Act <https://getinvolved.shoalhaven.nsw.gov.au/innyadda-drive-planning-proposal-manyana>
- On 14 May 2020, Minister Ley was contacted by the Environmental Defenders Office (EDO) on behalf of Manyana Matters, a local community group based in the Shoalhaven region concerned about impacts to federally listed species as a result of the Manyana residential subdivision. The EDO requested that the Minister require the proponent of the Manyana proposal to refer it for assessment under the Environment Protection and Biodiversity Conservation Act (EPBC Act). The EDO provided additional information from Birdlife Australia, OMVI Ecological (a local environmental consulting firm) and s47F s47F an ecologist from the Australian National University, relating to potential impacts of the Manyana proposal on EPBC Act listed threatened species, especially in the context of the 2019/2020 bushfires which affected up to 80% of the Shoalhaven LGA. The EDO's letter states that as a result, the Manyana proposal area is now surrounded by fire-affected forest, and has become an important refuge for wildlife, including a number of EPBC Act listed species. including:
 - Swift Parrot
 - Greater Glider
 - The Spotted-tail Quoll.

s47E(d)

s47E(d)

s22

From: Louise Vickery
Sent: Monday, 18 May 2020 1:04 PM
To: s22; s22
Cc: s22; s22; s22
Subject: RE: Manyana Development [SEC=OFFICIAL]

Thanks

Regards Louise

From: s22 <s22@environment.gov.au>
Sent: Monday, 18 May 2020 8:44 AM
To: s22 <s22@environment.gov.au>
Cc: s22 <s22@environment.gov.au>; Geoff Richardson <Geoff.Richardson@environment.gov.au>; Louise Vickery <Louise.Vickery@environment.gov.au>; s22 <s22@environment.gov.au>
Subject: RE: Manyana Development [SEC=OFFICIAL]

Hi all

The correspondence with the TSSC Chair on this matter is attached, for information.

Regards, s22.

s22
Director, Species Information and Policy Section, Protected Species and Communities Branch
M: s22
Working from home as a COVID-19 precaution

From: s22
Sent: Friday, 15 May 2020 10:27 AM
To: s22 <s22@environment.gov.au>; Geoff Richardson <Geoff.Richardson@environment.gov.au>
Cc: s22 <s22@environment.gov.au>; Louise Vickery <Louise.Vickery@environment.gov.au>; s22 <s22@environment.gov.au>
Subject: RE: Manyana Development [SEC=OFFICIAL]

Hi all

FYI, the Chair of the Threatened Species Scientific Committee, Emeritus Professor Helene Marsh, has been approached by a NSW resident today about this development. After discussion with me, Prof Marsh has advised the person who contacted her that 'the Department was aware of the issue and is in the process of briefing the Minister'.

Regards, s22.

s22
Director, Species Information and Policy Section, Protected Species and Communities Branch
M: s22
Working from home as a COVID-19 precaution

From: s22 <s22@environment.gov.au>
Sent: Friday, 15 May 2020 10:08 AM
To: Geoff Richardson <Geoff.Richardson@environment.gov.au>

Cc: s22 @environment.gov.au>; s22 @environment.gov.au>; Louise Vickery <Louise.Vickery@environment.gov.au>; s22 @environment.gov.au>
Subject: Manyana Development [SEC=OFFICIAL]

G'day Geoff,

Further to our conversation and my email yesterday, I was advised that s22 from Minister Ley's office spoke to NSW Planning Minister Stokes' Office late yesterday on a range of issues including Manyana. Previous media reports indicated that Minister Stokes was prepared to intervene to avoid further impact on what is now more important remaining bushland habitat in the area, post fires. s47B(a) apparently there is now a reduced risk of clearing commencing Monday as suggested in the corro the Minister/Department received from the EDO. I have been asked to prepare some background material for the MO, and s47E(d) s47E(d) I will keep you/s22 /s22 in the loop and seek your input/clearance of background if that's ok.

There has also been a media request on this issue this morning and we are preparing a response now which we might run by you too as we may use some of s22 previous advice.

Very grateful for your assistance.

Cheers, s22

s22

Director NSW (South) and ACT Assessments Section | (02) 6274 s22 | Mobile: s22
Department of Agriculture, Water and the Environment
Environment Approvals and Wildlife Trade Branch | Environment Approvals Division
John Gorton Building, King Edward Terrace, Parkes ACT 2600
PO Box 787, CANBERRA ACT 2601

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

s22

From: s47F
Sent: Saturday, 5 May 2018 12:03 PM
To: s22
Subject: RE: EPBC Act potential compliance issue, Manyana NSW. [SEC=UNCLASSIFIED]

G'day s22 ,

Thanks very much for the update. Will the response from the proponent (Ozy Homes) be made available to the public? There are a lot of current residents and the local community organisation that would be very interested in the results.

Thanks again

s47F

From: s22
Sent: Thursday, 3 May 2018 8:42 AM
To: s47F
Cc: s22 EPBC Referrals
Subject: RE: EPBC Act potential compliance issue, Manyana NSW. [SEC=UNCLASSIFIED]

Hi s47F

Thanks for your email. The Department wrote to Ozy Homes last year about the proposed development at Berringer and Cunjurong Roads, Manyana, and their obligations under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). We have been advised that a site investigation was undertaken earlier this year, and we expect to receive further information from the proponent shortly.

The Department is following up on the matter, including with Shoalhaven Council.

Cheers

s22

s22

Southern NSW & ACT Assessments
(02) 6274 s22 | s22 @environment.gov.au

From: EPBC Referrals
Sent: Friday, 27 April 2018 3:58 PM
To: s22 @environment.gov.au>
Cc: EPBC Referrals <EPBC.Referrals@environment.gov.au>; s22 @environment.gov.au>
Subject: FW: EPBC Act potential compliance issue, Manyana NSW. [SEC=UNCLASSIFIED]

Hi s22,

Please see below correspondence received from a consultant regarding a third-party report made for a proposal in Manyana, NSW.

The consultant is after an update on the outcome, as they were contacted by the proponent's ecologist regarding the matter. Seeking your advice on this one – please let me know if you'd like me to provide a response back.

Kind regards,

s22

Referrals Gateway

Department of the Environment and Energy

P: 02 6274 2496 | E: EPBC.Referrals@environment.gov.au

From: s47F

Sent: Monday, 23 April 2018 12:03 PM

To: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: RE: EPBC Act potential compliance issue, Manyana NSW. [SEC=UNCLASSIFIED]

G'day s22

I am wondering if I may be able to get an update from the NSW Assessment Officer that is dealing with this project please? A short time ago I was directly contacted by the proponents Ecologist, who wanted to know about various local MNES so I assume the Department has contacted the proponent for clarification? I am wondering how this matter is progressing, as there have also been a few recent EPBC listed species recorded on or near the property in question that did not make it into my letter.

Also will the information supplied to the Department in answer to your questions be made publicly available? Possibly on the referrals notices page?

Thanks in advance for any information.

Cheers

s47F

Ph: s47F

Email: s47F

From: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Sent: Friday, 22 December 2017 12:21 PM

To: s47F

Cc: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: RE: EPBC Act potential compliance issue, Manyana NSW. [SEC=UNCLASSIFIED]

Hi s47F

Thank you for your submission. I have forwarded your email and attachment to the NSW Assessments area for action.

Kind regards,

s22

Referrals Gateway

Department of the Environment and Energy

From: s47F

Sent: Thursday, 21 December 2017 2:31 PM

To: EPBC Referrals <EPBC.Referrals@environment.gov.au>

Subject: FW: EPBC Act potential compliance issue, Manyana NSW.

G'day s22,

Thanks for discussing this matter with me earlier. As I mentioned this matter is now a little more critical that I first thought as the signs for the lots for sale went up around the development this week and you can buy the proposed

lots beginning the end of this week!. We have not been notified by the proponent and Shoalhaven Council has not delivered its approval for the construction certificates as yet as is required under NSW legislation (or so we have been advised by Shoalhaven City Council earlier this week).

Please find a letter outlining of my concerns attached. Please also note the email I send the compliance sections below on the 6th December

As we discussed I would like to remain anonymous, but provide my contact details to assist you in investigating, in the knowledge that my identity will be kept completely confidential.

Cheers

s47F

s47F

Ecological consultant

Ph: s47F

Email: S4 / F

From: s47F

Sent: Wednesday, 6 December 2017 1:42 PM

To: compliance@environment.gov.au

Cc: s47F

Subject: EPBC Act potential compliance issue, Manyana NSW.

To whom it may concern,

I would like to bring to your attention a possible EPBC Act compliance issue. I believe that it is likely that Matters of National Environmental Significance will be impacted if the NSW approved residential sub-division (approval given 10 years ago, under the now repealed part 3A Major projects legislation), is allowed to proceed. Given that the proponent is about to commence the sub-division in the coming weeks, and that no referral to your department is listed on the DEE referrals list, this matter is of the utmost urgency.

Due to privacy concerns I would like to remain anonymous, but provide my contact details to assist you in investigating, in the knowledge that my identity will be kept completely confidential.

Please find a letter attached regarding the MNES outlining in detail all of my concerns.

Regards

s47F

s47F

Ecological consultant

Ph: s47F

Email: s47F



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**THE HON SUSSAN LEY MP
MINISTER FOR THE ENVIRONMENT
MEMBER FOR FARRER**

MC20-006579

s47F

Principal Lawyer
Environmental Defenders Office
Level 5, 263 Clarence St
SYDNEY NSW 2000

Dear s47F

Thank you for your letter of 14 May 2020 on behalf of the Manyana Matters community group regarding their concerns about the proposed clearing of bushland at Manyana, NSW, and your request that I require the developer to refer the proposal for consideration under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). I note your letter includes additional new information in relation to the development.

I am aware of the proposed development by Ozy Homes Pty Ltd at Manyana and the concerns of local residents with regard to the clearing of remnant bushland that survived the recent bushfires. You can be assured that I am particularly concerned about the devastating impact the bushfires have had on our threatened flora and fauna.

As you are aware it is only likely impacts to nationally listed threatened species and communities that require my approval, under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Whilst the development was approved under state law in 2008, Ozy Homes did not refer the development to the Australian Government for consideration under the EPBC Act on the basis that they did not consider there to be likely significant impacts to EPBC-listed threatened species and communities.

I have asked the Department to urgently review the additional information you have provided to determine whether the EPBC Act applies. I have particularly asked them to consider this information in light of the recommendations of the Wildlife and Threatened Species Bushfire Recovery Expert Panel on the impacts of the 2019/2020 bushfires on listed threatened species.

I established the Wildlife and Threatened Species Bushfire Recovery Expert Panel in February 2020, to provide advice on critical interventions required to support the immediate survival of affected animals, plants and ecological communities and to control pests. Additionally, the Panel is assessing the scale of the bushfires on our environment to assist with the prioritisation of recovery efforts. Further information on the Panel is available at:

<http://www.environment.gov.au/biodiversity/bushfire-recovery>.

I understand that NSW Minister for Planning and Public Places, the Hon Rob Stokes MP is also considering his options for the future of this development in NSW.

Thank you for raising this matter with me. The Department will be in contact with you when the additional information has been reviewed and we have determined the options available to me under the EPBC Act.

Yours sincerely

SUSSAN LEY



**THE HON SUSSAN LEY MP
MINISTER FOR THE ENVIRONMENT
MEMBER FOR FARRER**

MC20-006740

Mrs Fiona Phillips MP
ALP
PO Box 1009
NOWRA NSW 2450

fiona.phillips.mp@aph.gov.au

Dear Mrs Phillips

Thank you for your representation of 15 May 2020 on behalf of several of your constituents concerning the proposed clearing of bushland at Manyana, NSW. I note your letter includes a copy of a submission from the Shoalhaven Branch of Birdlife Australia to the NSW Minister for Planning, the Hon Rob Stokes MP and Shoalhaven Mayor, Ms Amanda Findley.

I am aware of the proposed development by Ozy Homes Pty Ltd at Manyana and the concerns of residents about the clearing of remnant bushland that survived the recent bushfires. You can be assured that I am particularly concerned about the devastating impact the bushfires have had on our threatened flora and fauna.

You would likely be aware, that it is only impacts to nationally listed threatened species and communities that require my approval, under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Whilst the development was approved under state law in 2008, Ozy Homes did not refer the development to the Australian Government for consideration under the EPBC Act on the basis that they did not consider there to be likely significant impacts to EPBC-listed threatened species and communities.

The Department has recently received some additional information in relation to the proposed development. I have consequently asked the Department to urgently review this additional information to determine whether the EPBC Act applies. I have particularly asked them to consider this information in light of the recommendations of the Wildlife and Threatened Species Bushfire Recovery Expert Panel on the impacts of the 2019/2020 bushfires on listed threatened species.

I established the Wildlife and Threatened Species Bushfire Recovery Expert Panel in February 2020, to provide advice on critical interventions required to support the immediate survival of affected animals, plants and ecological communities and to control pests. Additionally, the Panel is assessing the scale of the bushfires on our environment to assist with the prioritisation of recovery efforts. Further information on the Panel is available at:
<http://www.environment.gov.au/biodiversity/bushfire-recovery>.

I understand that the NSW Minister for Planning and Public Places, the Hon Rob Stokes MP is also considering his options for the future of this development in NSW.

Thank you for bringing the concerns of your constituents to my attention.

Yours sincerely

SUSSAN LEY