



Our ref: DOC20/1051295

Your ref: SSD 10452

Mr Javier Canon
Senior Policy Officer
Resource Assessments
Department of Planning, Industry and Environment
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Dear Mr Canon

Stubbo Solar Farm – Exhibition of Environmental Impact Statement

Thank you for your email dated 18 December 2020 to the Biodiversity, Conservation and Science Directorate (BCS) of the Department of Planning, Industry and Environment (formerly the Office of Environment and Heritage) inviting comments on the Environmental Impact Statement (EIS) for the Stubbo Solar Farm.

BCS has reviewed the Biodiversity Development Assessment Report (BDAR) and our biodiversity recommendations are provided in **Attachment A**, with detailed comments provided in **Attachment B**.

If you require any further information regarding this matter, please contact Michelle Howarth, Senior Conservation Planning Officer, via michelle.howarth@environment.nsw.gov.au or (02) 6883 5339.

Yours sincerely

A handwritten signature in blue ink that reads 'Renee Shepherd'.

Renee Shepherd
Acting Senior Team Leader Planning North West
Biodiversity, Conservation and Science Directorate

29 January 2021

Attachment A – BCS's Recommendations

Attachment B – BCS's Detailed Comments

BCS's recommendations

Proposal name – Environmental Impact Statement

Recommendations

- 1.1. The accredited assessor should adequately justify the classification of Category 1-exempt as required by section 60H of the *Local Land Services Act 2013*. Multiple pieces of evidence should be provided in the justification.
- 2.1 In order to exclude *Euphrasia arguta* from the candidate list based on the absence or degradation of habitat constraints not listed in the TBDC the assessor must provide adequate justification in the BDAR. As a minimum, the justification must include;
 - i. the specific habitat constraint(s) or microhabitat missing on the subject land; **and**
 - ii. a description of the field technique used to assess the presence of or degradation of the constraint or microhabitat and any other data or information used to make the decision

BCS's detailed comments

Stubbo Solar Farm – Environmental Impact Statement

1. The BDAR must adequately demonstrate a Category 1-exempt land designation

BCS notes that a large portion of the development site has been designated as Category 1-exempt land by the accredited assessor. BCS acknowledges that the development site is predominately disturbed, and that some justification has been provided for the categorisation given to the site. However, multiple pieces of evidence should be provided to demonstrate the Category 1-exempt designation. The accredited assessor must adequately demonstrate that this portion of the site that has been designated as Category 1-exempt meets the criteria as set out in section 60H of the *Local Land Services Act 2013* (LLS Act). This might include;

- aerial photography showing the land was cleared of native vegetation as at 1 January 1990
- publicly available spatial datasets highlighting the disturbed nature of the site
- evidence the land has been lawfully cleared of native vegetation since 1 January 1990
- determining the site to be low conservation grasslands or low conservation groundcover (not grasslands) under the *Interim Grasslands and other Groundcover Assessment Method 2017*.

BCS recommends that the published layers of the Native Vegetation Regulatory Map are reviewed to determine whether any of the published categories (Category 2-vulnerable regulated, Category 2-sensitive regulated, excluded land) apply to the project site.

The designation of final land categories should be precautionary. Where in doubt, or where data are conflicting, land should be mapped as Category 2-regulated land.

Recommendation:

- 1.1 The accredited assessor should adequately justify the classification of Category 1-exempt as required by section 60H of the *Local Land Services Act 2013*. Multiple pieces of evidence should be provided in the justification.

2. Removal of species from candidate list must be adequately justified

Table 19 on page 41 of the BDAR states that the species *Euphrasia arguta* has been excluded from further assessment due to habitat that has been 'too degraded'. This is not an adequate justification for the removal of the species. The removal of this species must be consistent with the assessment requirements set out in steps 2 and 3 of chapter 6 of the BAM. A species can only be removed from the list if the species:

- a. has habitat constraints listed in the TBDC and none of these constraints are present on the site. Documentation in the BDAR should reflect the TBDC information and evidence that the features are not present (field data); or
- b. where habitat constraints are not listed in the TBDC and the assessor proposes to remove the species based on absence of habitat constraints or known microhabitats that the species requires to persist, the assessor must provide adequate justification in the BDAR. As a minimum, the justification must include;
 - i. the specific habitat constraint(s) or microhabitat missing on the subject land; and

- ii. a description of the field technique used to assess the presence of the constraint or microhabitat (eg the survey effort and technique used to assess hollow-bearing trees) and any other data or information used to make the decision
- c. has geographic limitations listed in the species' NSW profile and the site is outside of the defined geographic area (note listed geographic limitations may be specific to IBRA sub regions); or
- d. is vagrant to the area. Vagrancy is taken as the record being well outside the species range or natural distribution. The suspect record will need to be reviewed against the species known distribution and the assessor will need to confirm with species experts that it is likely to be a vagrant. If agreed by experts the assessor should contact BCS to have the record quarantined from BioNet Atlas and re-labelled as vagrant. The BDAR will need to contain supporting information such as who was contacted, when, their credentials and the resultant response from BCS; or
- e. the habitat constraints listed in the TBDC or known microhabitats that the species requires to persist are degraded to the point where the species will no longer be present. Evidence in the BDAR could include reference to the attribute scores for the vegetation integrity assessment to illustrate the poor condition of the site. Other information sources include peer-reviewed or other published information relating to the microhabitats used by the species, photographic evidence and maps etc that illustrate these features are significantly degraded.

Euphrasia arguta does not have habitat constraints or geographic limitations listed in the TBDC or NSW profile and is not considered vagrant. As a result, if the assessor proposes to exclude this species adequate justification must be provided in the BDAR (see point b and e above);

Recommendation:

- 2.1. In order to exclude *Euphrasia arguta* from the candidate list based on the absence or degradation of habitat constraints not listed in the TBDC the assessor must provide adequate justification in the BDAR. As a minimum, the justification must include;
- iii. the specific habitat constraint(s) or microhabitat missing on the subject land; **and**
 - iv. a description of the field technique used to assess the presence of or degradation of the constraint or microhabitat and any other data or information used to make the decision.