

Department of Planning and Environment  
Energy Resource Industry Assessments  
Locked Bag 5022  
PARRAMATTA NSW 2150

Attention: Ms Rose-Anne Hawkeswood

Dear Ms Hawkeswood

**RE: Crescent Head Ilmenite Stockpile Rehabilitation, (SSD-30956841)**

Thank you for your e-mail dated 29 July 2022 about the Ilmenite stockpile rehabilitation at Crescent Head seeking comments on the Environmental Impact Statement (EIS) from the Biodiversity and Conservation Division (BCD) of the Biodiversity, Conservation and Science Directorate in the Environment and Heritage Group of the Department of Planning and Environment. I appreciate the opportunity to provide input.

We have reviewed the documents supplied and advise that several issues are apparent with the assessments for biodiversity and National Parks and Wildlife Service (NPWS) Estate. These issues are discussed in detail in **Attachment 1** to this letter.

In summary, the BCD recommends that:

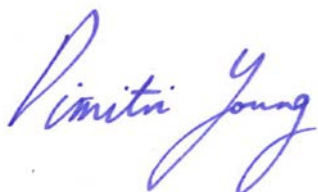
1. The BDAR must be revised to:
  - a. Map the species polygon for the Swift parrot in accordance with section 5.2.5 of the Biodiversity Assessment Method (BAM), and
  - b. Update the BAM calculator for the impacts of the proposal on the Swift parrot, and
  - c. Include an assessment for Serious and Irreversible Impact to the Swift parrot in accordance with section 9.1 of the BAM.
2. The Project Execution Plan must be revised to include:
  - a. The identical impact area as indicated in the BDAR, and
  - b. Details of the methods for the stockpile removal that will enable the preservation and stabilisation of the retained vegetation within the stockpile.
3. The Rehabilitation Strategy must be revised to include the following information:
  - a. The target Plant Community Type proposed for restoration.
  - b. Grass seed species used for restoration being native endemic species recorded on and surrounding the site.

- c. The target stem densities for restoration, which should be significantly greater than the proposed 300 stems per hectare.
  - d. The process for site assessment post stockpile removal and site preparation techniques.
  - e. How the rehabilitation of the site is to be carried out in accordance with the *Guidelines for restoring Native Vegetation* (Biodiversity Conservation Trust, August 2019).
  - f. Confirmation that if using seeding techniques, then seed must be a mix of each stratum of the target Plant Community Type and sourced from local provenance.
  - g. Details of the proposed maintenance and monitoring program for the rehabilitation area, including, but not limited to:
    - i. Responsibilities of various stakeholders for each component of the rehabilitation works, maintenance, monitoring and reporting over time.
    - ii. The duration of the monitoring and maintenance program for a minimum of 5 years.
    - iii. Success benchmarks including diversity of species, composition targets, stem densities and minimal signs of erosion.
    - iv. Detailed contingency protocols in the event of restoration failure.
    - v. Responsible parties for rehabilitation and maintenance of site at the end of the monitoring and maintenance program.
    - vi. More frequent monitoring intervals during the early stages of the rehabilitation program.
4. The EIS must be revised to include the following matters regarding the NPWS estate:
- a. The proponent be required to continue negotiations with the NPWS for entering into a Mining Lease Compensation Agreement with the Minister administering the National Parks and Wildlife Act 1974, that should include a compensation payment of \$10,000/year, in addition to implementation of the rehabilitation plan.
  - b. Details of the history of engagement and consultation with the NPWS in the EIS preparation process.
  - c. Amend the incorrect reference to land tenure of the subject land.
  - d. The NPWS to be involved in an onsite meeting prior to site establishment and in regular site meetings for the term of the lease.
  - e. The area is to be secured by a type of fencing and locked gate to the satisfaction of the NPWS for the duration of the lease period.
  - f. Any public signage or community engagement to clearly indicate the land is Crown Reserve and not National Park or Regional Park or gazetted under the *National Parks and Wildlife Act 1974*.
  - g. Written agreement from the NPWS that adequate regeneration has occurred post site rehabilitation and prior to relinquishing the mining lease.
  - h. Monitoring intervals for rehabilitation works indicated in the EIS (12 monthly) must be consistent with monitoring intervals indicated in the rehabilitation strategy (3 monthly).

- i. Procedure for unexpected finds (e.g. contaminant materials) that may occur within the stockpile during project activities.

If you have any questions about this advice, please do not hesitate to contact Mr Bill Larkin, Senior Conservation Planning Officer, at [bill.larkin@environment.nsw.gov.au](mailto:bill.larkin@environment.nsw.gov.au) or 6659 8216.

Yours sincerely



29 August 2022

**DIMITRI YOUNG**  
**Senior Team Leader Planning, North East Branch**  
**Biodiversity and Conservation**

Enclosure: Attachment 1 – Detailed BCD Comments – EIS Crescent Head Ilmenite Stockpile Rehabilitation

## **Attachment 1: Detailed BCD Comments – EIS Crescent Head Ilmenite Stockpile Rehabilitation**

The Biodiversity and Conservation Division (BCD) has reviewed the Environmental Impact Statement (EIS) prepared by Pandanus Solutions (June 2022) and associated documentation provided with the development application for the Crescent Head ilmenite stockpile rehabilitation project at Point Plomer Road Crescent Head and we provide the following comments.

### Exclusion of Swift parrot as a species credit species

The Biodiversity Development Assessment Report (BDAR) prepared by Greenloaning Biostudies dated 6 June 2022 has incorrectly excluded the Swift parrot (*Lathamus discolor*) as a species credit species on the basis that the species would be a vagrant to the area.

We note that the entire subject land is mapped as important habitat on the Department's *Swift parrot important habitat map* and hence in accordance with section 5.2.5 of the Biodiversity Assessment Method (BAM), the Swift parrot is considered present on the subject land. The part of the subject land that is within the important habitat map (in this case, the entire subject land) forms the species polygon used to generate species credits for the swift parrot.

Furthermore, the Swift parrot is a species at risk of Serious and Irreversible Impact (SAIL), hence the area mapped as important habitat is the area identified as potential SAIL and Section 9.1 of the BAM must be addressed.

### *BCD Recommendation*

1. The BDAR must be revised to:
  - a. Map the species polygon for the Swift parrot in accordance with section 5.2.5 of the Biodiversity Assessment Method (BAM), and
  - b. Update the BAM calculator for the impacts of the proposal on the Swift parrot, and
  - c. Include an assessment for Serious and Irreversible Impact to the Swift parrot in accordance with section 9.1 of the BAM.

### Area of impact

Figure 18 of the BDAR details the Ilmenite stockpile impact areas and remnant vegetation within the stockpile area proposed to be retained. However, Figure 4 contained in the Project Execution Plan (Greencoast Environmental, May 2021) shows a larger area of impact, which includes removal of vegetation that the BDAR indicates will be retained.

Further, Figure 18 of the BDAR shows vegetation within the significantly elevated ilmenite stockpile in zones 3Ra, and 7R, 7Ra to be retained and excluded from requiring impacts to be offset. In addition, no information in the BDAR or Project Execution Plan provides details for the practicalities of how the remaining vegetation in the elevated locations of the stockpile can be retained without being compromised, considering aeolian processes and the unstable nature of the stockpile material, once the surrounding stockpile is removed to natural ground level around the vegetation remnants.

### *BCD Recommendation*

2. The Project Execution Plan must be revised to include:
  - a. The identical impact area as indicated in the BDAR, and
  - b. Details of the methods for the stockpile removal that will enable the preservation and stabilisation of the retained vegetation within the stockpile.

## Rehabilitation Strategy

A Rehabilitation Strategy has been prepared for the project by Pandanus Solutions (May 2021). Our review indicates the strategy is lacking critical information required to guide successful rehabilitation of the site, post stockpile removal.

### *BCD Recommendation*

3. The Rehabilitation Strategy must be revised to include the following information:
  - a. The target Plant Community Type proposed for restoration.
  - b. Grass seed species used for restoration being native endemic species recorded on and surrounding the site.
  - c. The target stem densities for restoration, which should be significantly greater than the proposed 300 stems per hectare.
  - d. The process for site assessment post stockpile removal and site preparation techniques.
  - e. How the rehabilitation of the site is to be carried out in accordance with the *Guidelines for restoring Native Vegetation* (Biodiversity Conservation Trust, August 2019).
  - f. Confirmation that if using seeding techniques, then seed must be a mix of each stratum of the target Plant Community Type and sourced from local provenance.
  - g. Details of the proposed maintenance and monitoring program for the rehabilitation area, including, but not limited to:
    - i. Responsibilities of various stakeholders for each component of the rehabilitation works, maintenance, monitoring and reporting over time.
    - ii. The duration of the monitoring and maintenance program for a minimum of five years.
    - iii. Success benchmarks including diversity of species, composition targets, stem densities and minimal signs of erosion.
    - iv. Detailed contingency protocols in the event of restoration failure.
    - v. Responsible parties for rehabilitation and maintenance of the site at the end of the monitoring and maintenance program.
    - vi. More frequent monitoring intervals during the early stages of the rehabilitation program.

### National Parks and Wildlife Service (NPWS) estate

The EIS needs to be revised to include details involving the NPWS estate including the requirement for a Mining Lease Compensation Agreement, details of the history of engagement with the NPWS, site meetings with the NPWS pre-establishment and throughout the process, securing of the site, signage, and a procedure for unexpected finds.

In addition, the EIS contains incorrect references to the tenure of the land. The land is Crown Reserve (not Crown Land) and the Minister for the Environment was appointed as the Reserve Trust in 2010, hence the Minister for the Environment is considered the Crown Land Manager of the land for the purposes of the *Crown Land Management Act 2016*. Officially, the NPWS exercises the functions for the care, control and management of the land on behalf of the Minister for the Environment. The EIS refers to Crown Lands as the owner and custodian of the land, however the NSW Government is the owner, and the Minister for the Environment has responsibility for the land.

### *BCD Recommendation*

4. The EIS must be revised to include the following matters regarding NPWS estate:
  - a. The proponent be required to continue negotiations with the NPWS for entering into a Mining Lease Compensation Agreement with the Minister administering the *National Parks and Wildlife Act 1974*, that should include a compensation payment of \$10,000/year, in addition to implementation of the rehabilitation plan.
  - b. Details of the history of engagement and consultation with the NPWS in the EIS preparation process.
  - c. Amend the incorrect reference to land tenure of the subject land.
  - d. The NPWS to be involved in an onsite meeting prior to site establishment and in regular site meetings for the term of the lease.
  - e. The area is to be secured by a type of fencing and locked gate to the satisfaction of the NPWS for the duration of the lease period.
  - f. Any public signage or community engagement to clearly indicate the land is Crown Reserve and not National Park or Regional Park or gazetted under the *National Parks and Wildlife Act 1974*.
  - g. Written agreement to be obtained from the NPWS that adequate regeneration has occurred post site rehabilitation and prior to relinquishing the mining lease.
  - h. Monitoring intervals for rehabilitation works indicated in the EIS (12 monthly) must be consistent with monitoring intervals indicated in the rehabilitation strategy (3 monthly).
  - i. Procedure for unexpected finds (e.g. contaminant materials) that may occur within the stockpile during project activities.