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Mr Lloyd Eley-Smith
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Department of Planning and Environment
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Via Major Projects Portal: PAE-47210957
14 September 2022

Dear Lloyd

Subject: Review of exhibited Environmental Impact Statement – Inland Rail (Albury to Illabo) (SSI-10055) - Biodiversity

Thank you for your email dated 11 August 2022 seeking comments from the Biodiversity and Conservation Division (BCD) of the Department of Planning and Environment (the department) on the Environmental Impact Statement (EIS) and accompanying Biodiversity Development Assessment Report (BDAR) exhibited on 17 August 2022 for the Inland Rail Albury to Illabo project.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) provided by the department to the proponent on 14 October 2020. BCD considers that the EIS does not meet the Secretary's requirements for biodiversity. A summary of our assessment and advice is provided in **Attachment A**. Detailed comments are in **Attachment B**.

BCD have identified instances where the Biodiversity Assessment Method (BAM) has been incorrectly applied or assessment has been inadequate. These matters will need to be rectified in the Response to Submissions to ensure appropriate mitigation measures are implemented, and the final credit obligation can be calculated correctly. Key issues include:

- inadequate allocation of native vegetation to the Box-Gum Woodland Threatened Ecological Community
- inadequate justification of the exclusion of ecosystem and species credit species from assessment
- potentially inadequate survey effort for some species credit species
- inadequate assessment of indirect and prescribed impacts
- insufficient detail on measures to mitigate and manage impacts.

Appropriate assessment of these matters may require additional survey work, the assumption of presence of species, additional mapping of impacts, updates to the BAM Calculator and spatial data, and additional assessment and justification in the BDAR.

All plans required as a Condition of Approval that relate to biodiversity should be developed in consultation and to the satisfaction of BCD, to ensure that issues identified in this submission are adequately addressed.

If you have any questions about this advice, please contact Renee Shepherd, Principal Project Manager, via renee.shepherd@environment.nsw.gov.au or 02 6883 5355.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adam Vey', with a stylized, flowing script.

Adam Vey
Director South West
Biodiversity and Conservation Division
Department of Planning and Environment

ATTACHMENT A – BCD Assessment Summary for Biodiversity – Environmental Impact Statement (SSI-10055)

ATTACHMENT B – Detailed comments for Biodiversity – Environmental Impact Statement (SSI-10055)

ATTACHMENT A BCD Assessment Summary for Biodiversity - Environmental Impact Statement (SSI-10055)

Key Issues

All recommendations described in the table below should be addressed in an updated BDAR and presented in the Response to Submissions report prior to determination.

1.	<i>Native vegetation</i>	<p>Treatment of 'excluded land' in the land categorisation process is unclear.</p> <p>Recommended action:</p> <p>1.1 The BDAR must clearly state that excluded land is subject to the BAM.</p>
2.		<p>Application of streamlined assessment module – planted native vegetation to planted native vegetation and scattered trees mapped in vegetation zones requires review.</p> <p>Recommended action:</p> <p>2.1 Update section 4.4 of the BDAR to include application of the streamlined assessment module - planted native vegetation.</p> <p>2.2 For each enhancement site where 'Miscellaneous ecosystem - ornamental plantings' is mapped, the streamlined assessment module – planted native vegetation is to be applied and outcomes in accordance with the decision-making key documented in Section 4.4 of the BDAR.</p> <p>2.3 Review vegetation zones to determine the validity of applying the scattered tree streamlined assessment module or alternatively, provide further information to justify why allocation of scattered trees to PCT 277 (poor condition) is appropriate</p>
3.		<p>Justification for non-native vegetation within the subject land is not provided.</p> <p>Recommended action:</p> <p>3.1 Update the BDAR to include survey methods and outcomes used to identify non-native vegetation in the subject land, including where derived native grasslands of a CEEC occur adjacent to non-native vegetation.</p>
4.		<p>Patch size has not been addressed appropriately in the BDAR.</p> <p>Recommended action:</p> <p>4.1 Include spatial data and maps of patch size in accordance with section 4.3.2 of the BAM and section 3.3.3 of the Operational Manual - Stage 1.</p>
5.		<p>PCT selection requires further justification.</p> <p>Recommended action:</p> <p>5.1 Additional information is required in Tables 4.7 and 4.9 of the BDAR to justify the allocation of each PCT.</p>
6.		<p>Poor condition PCT 277 not classified as Box-Gum Woodland CEEC is not supported.</p>

		Recommended action: 6.1 Update the BDAR and BAM-C cases to include PCT 277 (poor condition) as part of the BC Act-listing of the Box-Gum Woodland CEEC.
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7.	<i>Threatened Species</i>	Predicted and candidate credit species assessments require review. Recommended action: 7.1 Exclusion of any ecosystem species must be consistent with Steps 1 and 2, and exclusion of species credit species must be consistent with Steps 1 - 6 in section 5.2 of the BAM.
8.		Targeted survey methods and locations of survey effort require clarification and review. Recommended action: 8.1 Update Appendix C-3 and Table 5.12 and 5.13 to reflect actual survey effort for candidate species credit species. 8.2 Provide detailed justification where minimum survey requirements, recommended survey effort or survey months have not been met and confirm whether affected species should be assumed to be present.

9.	<i>Impact assessment</i>	Indirect impacts to Sloane's Froglet in the subject land are not considered. Recommended action: 9.1 Review indirect impacts to Sloane's Froglet in the subject land to include assessment in accordance with section 8.6 (4) of the BAM.
10.		Prescribed impacts require additional assessment. Recommended actions: 10.1 Update the prescribed impacts to identify the affected entities and assess against the prescribed impact criteria as per Stage 1 and section 6 of the BAM including mapping of high-risk locations. 10.2 Complete prescribed impacts assessment as per the Stage 2 impact assessment criteria under section 8.3 of the BAM for each relevant prescribed impact and species. 10.3 A full assessment of the extent of prescribed impacts on threatened entities must be conducted in accordance with Section 9.2 of the BAM. The assessment must define if a residual prescribed impact for any threatened entity is expected to occur.
11.		Mitigation measures require additional detail. Recommended action:

		11.1 Provide specific mitigation measures and detail according to section 8.4 of the BAM and the BAM Operational Manual - Stage 2.
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12.	<i>Landscape context</i>	<p>Landscape connectivity features are not mapped to inform further assessment in the BDAR.</p> <p>Recommended action:</p> <p>12.1 Update landscape features mapping and assessment to identify landscape features including Important Habitat Areas for the Regent Honeyeater.</p>
13.		<p>Native vegetation cover in landscape assessment requires review to include all native vegetation.</p> <p>Recommended action:</p> <p>13.1 Review native vegetation cover in the assessment area of each enhancement site to include all woody and non-woody native vegetation (including planted native vegetation). Once complete, review the native vegetation percent cover for each subregion and where required updated the BAM-C and the BDAR.</p>

14.	<i>Matters of National Environmental Significance</i>	<p>Matters of National Environmental Significance assessments require review and assessment against the approval decision.</p> <p>Recommended actions:</p> <p>14.1 Review the MNES assessment of significance with reference to known local populations of species and their habitats.</p> <p>14.2 Identify in the BDAR where impacts to MNES vary from those identified in the non-controlled action approval.</p>
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15.	<i>Administration</i>	<p>The BDAR does not meet certification requirements of the BAM.</p> <p>Recommended action:</p> <p>15.1 Ensure the BDAR is certified by a current accredited assessor within 14 days of the two cases being finalised and credit reports provided from BOAMS.</p>
16.	<i>Introduction</i>	<p>Report terminology is not consistent with the BAM.</p> <p>Recommended action:</p> <p>16.1 Clarify terms used for the assessment in the glossary and use these consistently throughout the BDAR.</p>

ATTACHMENT B Detailed comments for Biodiversity - Environmental Impact Statement (SSI-10055)

The Biodiversity Development Assessment Report (BDAR) at Technical Paper 8 does not meet the Secretary's Environmental Assessment Requirements for biodiversity. Specific comments on the BDAR and related sections in the Environmental Impact Statement (EIS) are as follows:

Native vegetation

1. Treatment of 'excluded land' in the land categorisation process is unclear

Section 4.2 of the BDAR currently does not describe how excluded land is treated within the land categorisation process. Most of the subject land occurs in excluded land, and the land categorisation method does not clearly state that application of the BAM is required in these areas.

2. Application of streamlined assessment to planted native vegetation and scattered trees mapped in vegetation zones is required

Planted native vegetation in the subject land has been assigned to 'Miscellaneous ecosystem - ornamental plantings'. This classification includes both native and exotic plantings but has not been described or assessed for potential PCT allocation in section 4.4 of the BDAR. We note that the streamlined assessment module - planted native vegetation is broadly discussed in section 6.1.1.2 (prescribed impacts) of the BDAR.

Where the planted native vegetation module is applied, the steps of the decision-making key should be followed, and outcomes justified in the BDAR according to the key for each enhancement site where planted native vegetation is identified.

A review of the vegetation zone mapping in the BDAR and spatial data has identified a number of locations where trees that are likely to meet the definition of scattered trees have been included within discontinuous vegetation zones of PCT 277, mostly in poor condition. Noting that the scattered tree module cannot be used where threatened species are at risk of a serious and irreversible impact are present or are likely to be present, the validity of applying this module should be assessed with reference to section 9.1.1 of the BAM.

3. Justification for non-native vegetation within the subject land is not provided

While the Category 1 land assessment has been applied correctly in section 4.2 of the BDAR, non-native vegetation assessed under the BAM on excluded land has not been documented sufficiently in the BDAR. Section 4 and Appendix B-2 of the BDAR includes mapped areas of 'Miscellaneous ecosystem - highly disturbed areas with little or no native vegetation' but does not include justification or reference to the survey methods used to identify these areas.

Similar to the ornamental plantings, we note that the identification of some areas of non-native vegetation and the Rapid Data Points (RDPs) used to identify these are broadly outlined in the prescribed impacts in section 6.1 of the BDAR. This information needs to be included in the native vegetation chapter (section 4.4) of the BDAR.

We note that non-native vegetation and derived grassland for PCT 277 has been mapped adjacent to each other and between patches within the Illabo to Junee clearances site. No plot data was collected to justify non-native vegetation where it occurs adjacent to derived condition native grassland. The use of RDPs in isolation to map non-native grassland where it occurs interspersed with native grasslands is not suitable justification for allocation as non-native vegetation. The adjacent PCT 277 forms part of a Critically Endangered Ecological Community (CEEC) and therefore requires a Vegetation Integrity Score (VIS) of only 15 or greater to be considered native vegetation.

4. Patch size has not been addressed in the BDAR

For each vegetation zone, the patch size must be calculated using GIS and represented on a map. We note that the patch size is provided in Tables 4.5 and 4.6 for each vegetation zone but are not provided on any maps or in the spatial data. Patch size is used to assess habitat suitability for predicated and candidate species. The allocation of patch size for each vegetation zone used in the related cases in the BAM-Calculator (BAM-C) should be documented in the BDAR in accordance with section 4.3.2 of the BAM and section 3.3.3 of the Operational Manual - Stage 1.

5. PCT selection requires further justification

Tables 4.7 and 4.9 of the BDAR detail the profiles for each PCT selected for the vegetation zones. Justification for each PCT selection is mostly restricted to a discussion of extent across each enhancement site. Selection of each PCT should include reference to identifying features such as soil types, landscape position and existing mapping. PCT selection should also include a short-list of candidate PCTs that were considered during the selection process, with a final justification describing why the selected PCT was the best fit, as described in section 3.3.1 of the BAM Operational Manual - Stage 1.

6. Poor condition PCT 277 not classified as Box-Gum Woodland TEC is not supported

The justification for the exclusion of poor condition PCT 277 from the White Box Yellow Box Blakely's Red Gum grassy woodland and derived native grassland CEEC is not supported by existing listing guidelines or the Scientific Committee's final determination. The main justification in section 4.7.1 and Table 4.12 of the BDAR is low species richness and cover, and because:

"patches were mostly fragmented, isolated from larger connected patches of native vegetation and considered unlikely respond to assisted natural regeneration. It is assumed in these conditions that the natural soil seed bank is not intact and is therefore, not considered further..."

In accordance with the identification guidelines, the final determination and the Threatened Biodiversity Data Collection (TBDC), the *Biodiversity Conservation Act 2016* (BC Act) occurrence of this Threatened Ecological Community (TEC) can occur in areas where the main tree species are present and the groundlayer is composed of predominately exotic species. The exclusion of poor condition PCT 277 from the TEC assessment for this community should be reviewed based on the Scientific Committee's final determination and associated advice.

We note that PCT 277 – poor condition has not been identified as a TEC in the BAM-C for the Lower Slopes subregion. This currently has implications for the offset trading groups and variation rules, as variation rules do not apply to a CEEC.

Based on the Scientific Committee's final determination and associated advice, BCD do not support the classification of PCT 277 (poor condition) as not being consistent with the NSW Box-Gum Woodland CEEC. This vegetation zone in each subregion should be updated in the BDAR and BAM-C to be part of the Box-Gum Woodland CEEC.

Recommended actions:

- 1.1 The BDAR must clearly state that excluded land is subject to the BAM.
- 2.1 Update section 4.4 of the BDAR to include application of the streamlined assessment module - planted native vegetation.
- 2.2 For each enhancement site where 'Miscellaneous ecosystem - ornamental plantings' is mapped, the streamlined assessment module – planted native vegetation is to be applied and outcomes in accordance with the decision-making key documented in Section 4.4 of the BDAR.
- 2.3 Review vegetation zones to determine the validity of applying the scattered tree streamlined assessment module, or alternatively, provide further information to justify why allocation of scattered trees to PCT 277 (poor condition) is appropriate.

- 3.1 Update the BDAR to include survey methods and outcomes used to identify non-native vegetation in the subject land, including where derived native grasslands of a CEEC occur adjacent to non-native vegetation.
- 4.1 Include spatial data and maps of patch size in accordance with section 4.3.2 of the BAM and section 3.3.3 of the Operational Manual - Stage 1.
- 5.1 Additional information is required in Tables 4.7 and 4.9 of the BDAR to justify the allocation of each PCT.
- 6.1 Update the BDAR and BAM-C cases to include PCT 277 (poor condition) as part of the BC Act-listing of the Box-Gum Woodland CEEC.

Threatened Species

7. Predicted and candidate credit species assessments require review

The justification for exclusion of some ecosystem credit species requires additional information. Exclusion of the Brown Treecreeper is based on ambiguity of the subspecies and hybridisation within the known subspecies range. This is not suitable justification for exclusion without supporting literature being referenced. In addition, a paucity of regional records cannot be used as the only basis for exclusion of ecosystem credit species, e.g. Turquoise Parrot and Hooded Robin.

The exclusion of any ecosystem credit species should be undertaken with reference to Steps 1 and 2 of section 5.2 of the BAM. If a species cannot be excluded based on these steps, it must be retained in the BAM-C.

In addition, the excluded ecosystem credit species in Table 5.6 of the BDAR are not consistent with the outcomes in Appendix C-2 (Threatened fauna habitat suitability). For example, Appendix C-2 retains a number of ecosystem credit species that are excluded in Table 5.6.

There are inconsistencies between the candidate species for inclusion in section 5.4.1.2 (Table 5.8) of the BDAR and the cases in BOAMS. This includes:

- Inclusion of *Amphibromus fluitans* in Table 5.8 of the BDAR for the Inland Slopes but not added in the BAM-C related case.
- Exclusion of *Acacia ausfeldii* for the Inland Slopes subregion in the BAM-C but not excluded or justified in Table 5.8 of the BDAR.
- Exclusion of the Grey-headed Flying-fox does not include any reference to camp locations recorded in the National Flying-fox monitoring viewer.

8. Survey methods applied and locations of survey effort require review

Additional information on the survey effort completed for targeted threatened flora species is required. Survey effort in Table 5.12 should be updated to reflect the actual survey effort for each species according to "Surveying threatened plants and their habitats" (DPIE 2020) and the TBDC. Maps in Appendix C-3 should not include any survey tracks as targeted survey effort where survey tracks are on main roads, access roads and other cleared areas outside the subject land. The inclusion of these unrelated tracks on the survey effort maps and in the spatial data makes it difficult to interpret the actual survey effort and locations against Table 5.12. RDPs are not consistent with DPIE (2020) for threatened flora species.

There is repetition throughout Table 5.13 where survey effort for generally unrelated species appears to have been completed at the same time, suggesting that these surveys were targeting similar habitat types. However, breeding requirements for species such as the Gang-gang Cockatoo, White-bellied Sea-eagle and Little Eagle have vastly different breeding requirements which are unlikely to be targeted using the same survey effort. The repetition of general survey effort makes it unclear which species and habitat attributes were being targeted during particular survey seasons and locations.

Where survey effort has not followed guidelines (e.g. Brush-tailed Phascogale) or is outside of survey months (e.g. Powerful Owl, Masked Owl, *Cullen parvum*), justification must be included in the BDAR. If inadequate justification is provided, these species may need to be assumed present, and the credit obligation updated accordingly.

Recommended actions:

- 7.1 Exclusion of any ecosystem species must be consistent with Steps 1 and 2, and exclusion of species credit species must be consistent with Steps 1-6 in section 5.2 of the BAM.
- 8.1 Update Appendix C-3 and Table 5.12 and 5.13 to reflect actual survey effort for candidate species credit species.
- 8.2 Provide detailed justification where minimum survey requirements, recommended survey effort or survey months have not been met and confirm whether affected species should be assumed to be present.

Impact assessment

9 Indirect impacts to Sloane's Froglet in the subject land are not considered

Direct impacts to Sloane's Froglet are based on impacts in identified breeding habitat in section 5.6.2.1 of the BDAR with a 15-metre buffer in the proposal site only. BCD note that the spatial data provided for Sloane's Froglet includes an impact area calculation in the study area (subject land) that includes the 15-metre buffer and potential breeding habitat which extends beyond the study area boundary. There is an additional 4.08 hectares of Sloane's Froglet habitat identified in the spatial data provided by the proponent, which extends into the subject land (Table 1 below).

Table 1: Sloane's Froglet areas in the proposal site and study area.

Sloane's Froglet impact areas	Lower Slopes – area (ha)	Inland Slopes – area (ha)
Proposal site - direct impacts (credits calculated)	0.03	0.18
Study area - indirect impacts (no credits or specific mitigation)	2.89	1.19

The BDAR does not address any indirect impacts to Sloane's Froglet in the subject land (study area) other than reference to a loss of potential breeding habitat that would be avoided with mitigation. Known threats to Sloane's Froglet include fragmentation and degradation of habitat and water quality; changes in water availability, flow and flooding; and clearing of native vegetation. The proposed project poses all of these threats to the species' habitat in both the proposal site and broader study area, but no specific mitigation measures have been developed to avoid these potential direct and indirect impacts.

BCD recommends more detail be provided on the residual indirect impacts to Sloane's Froglet expected to result from the project. In the absence of specific mitigation measures to avoid impacts to this species, the assessor should propose offsets or other measures that benefit Sloane's Froglet in accordance with section 8.6 (4) of the BAM, with these measures being appropriately justified. One approach to offset indirect impacts could be applying additional species credits to the suitable habitat identified in the broader subject land.

10 Prescribed impacts require additional assessment

The prescribed impacts of the proposal are not adequately addressed and do not identify the range of species at risk from different types of prescribed impacts. Section 6.1 and 9.3 of the BDAR only identify one frog species and two bat species potentially impacted by prescribed impacts.

The prescribed impacts of habitat connectivity and vehicle/train strike do not identify the threatened entities at risk from these prescribed impacts. Table 6.1 does not identify any potential species at risk from connectivity or train strike despite acknowledging that train strike is likely to increase as a result of the proposal (Table 9.10). Species such as the Superb Parrot and Squirrel Glider have not been considered despite the BDAR identifying that glider poles may be required for the proposal to facilitate crossing for Squirrel Gliders. The high-risk locations of specific prescribed impacts are not identified on a site map.

The impact assessment in section 9.3 of the BDAR does not include an analysis of impacts in accordance with the relevant criteria for each prescribed impact in section 8.3 of the BAM. The outcomes of this assessment should be based on published literature or other reliable sources and include specific mitigation and management plans in the BDAR for locations where prescribed impacts are identified.

BCD recommends more detail be provided regarding the residual prescribed impacts to connectivity expected to result for the Squirrel Glider and any other species (including ecosystem credit species) within the subject land which will be impacted by increased disruption to connectivity.

The prescribed impacts to Sloane's Froglet as a result of potential increased sedimentation downstream and subsequent changes in hydrology is not well considered and does not quantify the potential loss or degradation that may occur. Due to the general nature of proposed mitigation measures to reduce potential downstream impacts, the prescribed impacts to this species are uncertain and have not been qualified or quantified.

Appropriate mitigation for residual prescribed impacts to the Squirrel Glider and Sloane's Froglet will require explicit definition of the connectivity and downstream sedimentation mitigation measures proposed to reduce impacts within the site and discussion on the efficacy of these measures in reducing the identified residual prescribed impacts to a negligible level.

All proposals for mitigation need to be supported by commitments from the proponent to undertake mitigation (e.g. construction of glider poles) or appropriate measures. This will provide BCD with the information necessary to verify that the mitigation measures proposed to reduce residual prescribed impacts to the Squirrel Glider and Sloane's Froglet are appropriate and will result in negligible residual prescribed impacts.

If residual prescribed impacts cannot be adequately avoided or mitigated the remaining residual impacts should be offset via additional biodiversity credits (above the credit requirement generated by BAM-C for direct impacts) and/or other listed conservation measures in accordance with Section 6.1.2(b) of the Biodiversity Conservation Regulation 2017.

11 Mitigation measures require additional detail

The techniques for mitigating impact in Table 10.1 of the BDAR are general and rely on further investigations into proposed mitigation. For example, the Squirrel Glider is known from the Thurgoona area and was recorded at the Billy Hughes Bridge enhancement site. There is no specific mitigation proposed in the BDAR, nor are locations identified where mitigation is proposed for this species, such as glider crossing locations. A regional connectivity strategy and management plans are yet to be prepared, resulting in no detail being provided on how mitigation of the project's impacts will occur.

In another example, section 10.1 of the BDAR outlines '*consideration of temporary frog exclusion fencing where construction compounds/ laydown areas occur adjacent to potential Sloane's Froglet breeding habitat*'. The general nature of this measure and lack of commitment regarding application of the measure does not provide adequate detail to ensure that the proposed mitigation measure will be effective. The success of mitigation will depend on the successful implementation of construction and operation management plans. It is difficult to determine likely success because these plans and location specific measures have not been prepared.

Section 10 of the BDAR does not identify the techniques, timing, frequency and responsibility in accordance with section 8.4 (2) of the BAM, nor does it evaluate any measures at risk of failure and the risk and consequences that remain after the mitigation measures are applied.

The BAM Operational Manual - Stage 2 includes guidance about the level of detail that is expected for a BDAR to minimise impacts that cannot be avoided and includes examples of reasonable measures to minimise impacts. For all remaining impacts, mitigation strategies need to be implemented. Section 8.4 of the BAM outlines the requirements for mitigation, which provides the level of detail that BCD expect to see in the BDAR.

Recommended actions:

- 9.1 Review indirect impacts to Sloane's Froglet in the subject land to include assessment in accordance with section 8.6 (4) of the BAM.
- 10.1 Update the prescribed impacts to identify the affected entities and assess against the prescribed impact criteria as per Stage 1 and section 6 of the BAM including mapping of high-risk locations.
- 10.2 Complete prescribed impacts assessment as per the Stage 2 impact assessment criteria under section 8.3 of the BAM for each relevant prescribed impact and species.
- 10.3 A full assessment of the extent of prescribed impacts on threatened entities must be conducted in accordance with Section 9.2 of the BAM. The assessment must define if a residual prescribed impact for any threatened entity is expected to occur.
- 11.1 Provide specific mitigation measures and detail according to section 8.4 of the BAM and the BAM Operational Manual - Stage 2.

Landscape context

12. Landscape connectivity features are not mapped to inform further assessment in the BDAR

While limited connectivity features are listed in Tables 3.2 and 3.3 of the BDAR, they are not mapped to inform further assessment in the BDAR. The vulnerable Squirrel Glider was recorded from within the subject land of Billy Hughes Bridge during surveys for the project, and there is a known resident population in the Thurgoona local area. However, no connectivity features for this species have been identified in the BDAR. The Superb Parrot was recorded at multiple locations during the survey for the project with 17 records within the Junee to Illabo clearances enhancement site. Specific connectivity features including flyways for Superb Parrots and proposed mitigation measures such as possible glider pole locations mentioned in section 8.1 of the BDAR should be mapped in accordance with section 2.2.3 of the BAM Operational Manual - Stage 1. This should also be referenced in subsequent sections of the BDAR including prescribed impacts.

BCD also note that the southern end of the subject land at Billy Hughes Bridge occurs adjacent to Important Habitat Areas for the Regent Honeyeater. The BDAR must refer to these areas in the landscape assessment, avoidance measures and potential indirect and prescribed impacts to Important Habitat Areas and include them in maps in Appendix A-2.

13. Native vegetation cover in landscape assessment requires review to include all native vegetation

Section 3.2 and Appendix A-4 of the BDAR identifies the native woody and non-woody vegetation in the assessment area for each enhancement site. For some of these enhancement sites, the full extent of native vegetation, which includes scattered trees, has not been mapped. Examples of these locations include Table Top, Uranquinty, Bomen and Junee to Illabo yard clearances. In addition to derived, remnant and regrowth native vegetation, the native vegetation cover should also include planted native vegetation in accordance with section 3.2 of the BAM Operational

Manual - Stage 1. Accurate calculation of native vegetation cover is required to inform the habitat suitability assessment for predicted and candidate species in the BAM-C.

Recommended actions:

- 12.1 Update landscape features mapping and assessment to identify landscape features including Important Habitat Areas for the Regent Honeyeater.
- 13.1 Review native vegetation cover in the assessment area of each enhancement site to include all woody and non-woody native vegetation (including planted native vegetation). Once complete, review the native vegetation percent cover for each subregion and where required update the BAM-C and the BDAR.

Environment Protection and Biodiversity Conservation Act 1999 assessment bilateral

14 Matters of National Environmental Significance

We note that a referral was submitted to the then Commonwealth Department of Agriculture, Water and the Environment (DAWE) and was notified as not a controlled action on 29 June 2020.

Appendix D-2 of the BDAR concludes that there is unlikely to be any significant impact to MNES. BCD notes the Assessments of Significance for some species lacks consistency with the assessment methods and outcomes in the main body of the BDAR and understanding of the species' local occurrence. For example, the assessment for Regent Honeyeater discusses potential impacts associated with threatened biodiversity data impacts to PCTs across all enhancement sites but does not identify or discuss the Important Habitat Areas that are mapped for the Albury/Thurgoona area, and which occur in the subject land of Billy Hughes Bridge.

Similarly, the assessment for Sloane's Froglet has not discussed the local population of Sloane's Froglet in the Albury/Thurgoona area and the known use of habitats for this species that includes farm dams and drainage lines. The assessment does not adequately consider the indirect impacts that could occur to this species, particularly from the use of temporary construction compound sites at Billy Hughes Bridge where the species is known to occur.

Where the outcomes of assessment vary from the non-controlled action activity approval including species not previously identified, these should be documented in the BDAR.

Recommended actions:

- 14.1 Review the MNES assessment of significance with reference to known local populations of species and their habitats.
- 14.2 Identify in the BDAR where impacts to MNES vary from those identified in the non-controlled action approval.

Administration

15. The BDAR does not meet certification requirements of the BAM

The BDAR has been certified by Mark Stables in Section 1.7 of the BDAR dated 1 June 2022. BCD note that this date is not within 14 days of the finalised cases in BOAMS and provided in Appendix F1 and F2 of the BDAR. The finalised case for the Inland Slopes is dated 15 August 2022 and the finalised case for Lower Slopes is dated 15 December 2021. Neither of the dates are within 14 days of the certification in section 1.7 of the BDAR.

We note that Mark Stables' accreditation is not current. Please ensure the revised BDAR is certified by an assessor whose accreditation is current.

16. Report terminology is not consistent with the BAM

To ensure impacts are accurately addressed, report terminology consistent with the BAM should be clearly defined in the glossary of the BDAR, and then used consistently throughout. For example, BAM terms including subject land and development site appear to have been substituted for other terms including study area and proposal site/footprint but this is not captured in the glossary or section 1.5 of the BDAR. Terms are used inconsistently throughout the BDAR and the maps in the Appendices.

Recommended actions:

- 15.1 Ensure the BDAR is certified by a current accredited assessor within 14 days of the two cases being finalised and credit reports provided from BOAMS.
- 16.1 Clarify terms used for the assessment in the glossary and use these consistently throughout the BDAR.