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Dear Nestor

Wellington South Battery Energy Storage System (BESS) – Environmental Impact Statement

Thank you for your e-mail dated 16 November 2022 to the Biodiversity, Conservation and Science Directorate (BCS) of the Department of Planning and Environment (DPE) inviting comments on the Biodiversity Development Assessment Report (BDAR) for the Wellington South Battery Energy Storage System (BESS).

BCS reviewed the Biodiversity Development Assessment Report (BDAR) and advises that the BAR has not been appropriately certified. In addition, vegetation mapping for the project may require revision. Finally, the justification for excluding some threatened species and the preparation of species polygons will also require review.

BCS's biodiversity recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please do not hesitate to contact Candice Larkin, A/Senior Conservation Planning Officer, via candice.larkin@environment.nsw.gov.au or (02) 8217 2065.

Yours sincerely



Ben Ellis
A/ Principal Project Manager, North West Planning
Biodiversity, Conservation and Science Directorate

8 December 2022

Attachment A – BCS's Recommendations

Attachment B – BCS's Detailed Comments

BCS's recommendations

Wellington South Battery Energy Storage System (BESS) – Biodiversity Development Assessment Report

BAM	Biodiversity Assessment Method
BAM-C	Biodiversity Assessment Method Calculator
BC Act	<i>Biodiversity Conservation Act 2016</i>
BC Regulation	Biodiversity Conservation Regulation 2017
BDAR	Biodiversity Development Assessment Report
EEC	Endangered Ecological Community
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
HBT	Hollow bearing tree
THE	High threat exotic
MNES	Matters of National Environmental Significance
PCT	Plant Community Type
SAII	Serious and Irreversible Impacts
TEC	Threatened Ecological Community
TBDC	Threatened Biodiversity Data Collection
VI score	Vegetation Integrity Score

Recommendations

- 1.1. The BDAR should be certified by the assessor within 14 days of the relevant submission of the WIS. The BAM-C credit case and the BAM-C generated credit report should be finalised within 14 days of certifying the BDAR
- 2.1. Revise the vegetation mapping to clearly delineate between native vegetation, non-native vegetation and Category 1 land and provide justification for each in the BDAR
- 2.2. Revise the vegetation mapping to include all native vegetation
- 3.1. Provide further justification and field data to support the removal of the Golden Sun Moth from the BAM-C case. Alternatively, the proponent can provide an expert report, conduct targeted surveys or assume presence for the species and offset accordingly.
- 4.1. Conduct further surveys for the Pink-tailed Legless Lizard to confirm species presence or absence from the subject land or assume presence of the species
- 5.1. Review and/or revise the Superb Parrot species polygon based on the presence of suitable hollow bearing trees
- 6.1. Prepare specific and targeted clearance protocols for resident threatened species within the subject land

BCS's detailed comments

Wellington South Battery Energy Storage System (BESS) – Biodiversity Development Assessment Report

The BDAR should be certified by the accredited assessor

1. In accordance with Section 6.15(1) of the Biodiversity Conservation Act 2016, *'a biodiversity assessment report cannot be submitted in connection with a relevant application unless the accredited person certifies in the report that the report has been prepared on the basis of the requirements of (and information provided under) the biodiversity assessment method as at a specified date and that date is within 14 days of the date the report is so submitted.'*

To meet the statutory requirement detailed above, a Biodiversity Development Assessment Report (BDAR) must be certified, for example by signing and dating the first page, within 14 days of the relevant submission date of the Environmental Impact Statement (EIS). In addition, the date of submission of the BDAR must be within 14 days of the date shown on the relevant finalised credit report generated using the Biodiversity Assessment Method Calculator (BAM-C).

Submission of relevant BAM-C information is detailed within Table 24 of Appendix K of the BAM 2020 as forming part of the minimum requirements for a BDAR. The BDAR submitted for the project has not been certified by the accredited assessor. In addition, the credit report generated by the BAM-C and appended to Appendix F of the BDAR, was finalised on the 2/09/2022. It is noted that the BAM-C case for the project was submitted on the 5/09/2022, however both of these submission dates exceed the 14-day period for the EIS submission.

Recommendation

- 1.1. The BDAR should be certified by the assessor within 14 days of the relevant submission of the EIS. The BAM-C credit case and the BAM-C generated credit report should be finalised within 14 days of certifying the BDAR
- 2.

The native vegetation extent mapping is inconsistent with PCT mapping in the BDAR and aerial imagery

The native vegetation that has been mapped is inconsistent with PCT mapping in the BDAR and aerial imagery. In Section 4.1 of the BAM 2020, the proponent is required to:

- *Identify native vegetation extent within the subject land, including cleared areas and provide evidence to support differences between mapped vegetation extent and aerial imagery.*
- *Provide justification for all parts of the subject land that do not contain native vegetation (as described in BAM Subsection 4.1.2)*

BSC notes that the proponent has mapped all areas within the 1500m buffer as native vegetation within the spatial data file *'NativeVegetationCover_06pg_EMM_20220829'*. However, it is unclear to BSC which vegetation zones or land categories are represented by *PCT 0* and *PCT 99999*. There are areas within these zones that appear to be vegetated on the aerial imagery, however they have not been mapped as a recognized PCT, so it is unclear whether they have been included in native vegetation cover calculations or accounted for in the impact assessment..

There are also discrepancies in PCT mapping between the 'NativeVegetationCover_06pg_EMM_20220829' (NVC layer) and the 'PCTMapping_07pg_EMM_20220829' (PCT layer). The NVC layer indicates that all vegetation within the subject land is PCT 0 (non-native), whereas the PCT mapping layer shows that the subject land is comprised of PCT 0 and PCT 266. Figure 4.1 of the BDAR displays this area as a combination of non-native and derived grasslands.

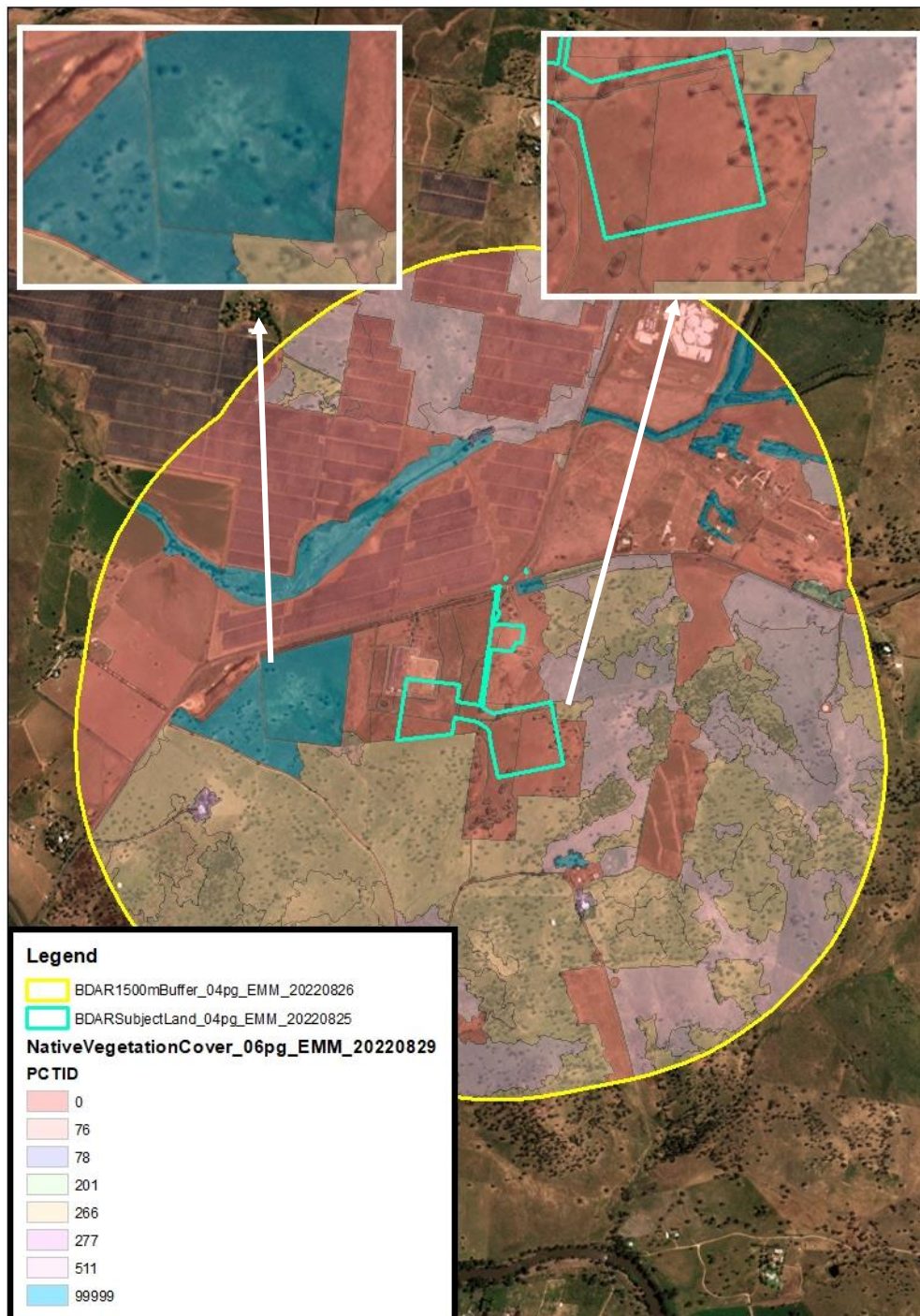


Figure 1: PCT 9999 and PCT 0 containing what appears to be vegetation

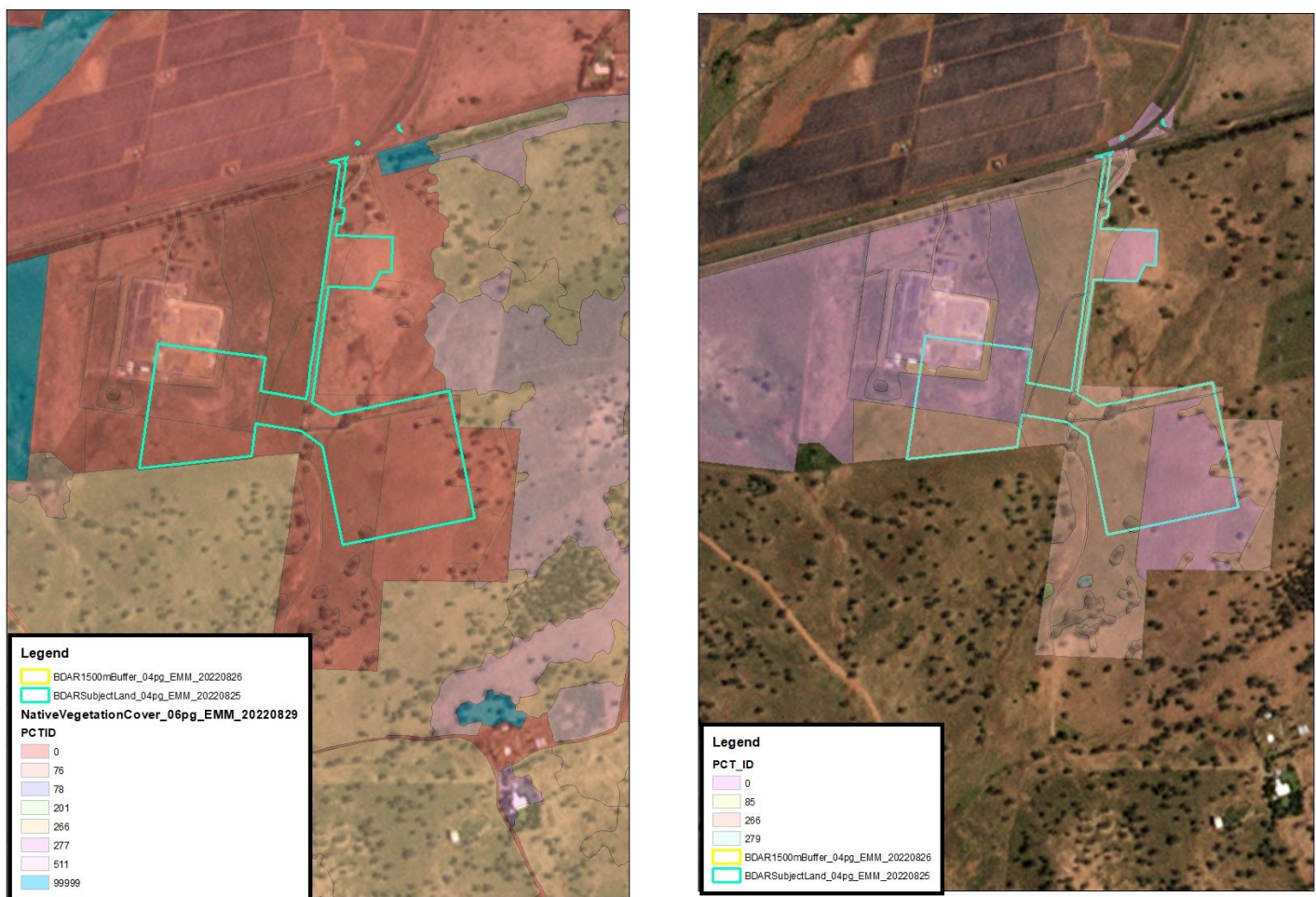


Figure 2: Subject land is mapped as PCT 0 in NVC spatial layer (left), and a combination of PCT 0 and PCT 266 in the PCT mapping layer (right).

Recommendations

- 2.1 Revise the vegetation mapping to clearly delineate between native vegetation, non-native vegetation and Category 1 land and provide justification for each in the BDAR
3. 2.2 Revise the vegetation mapping to include all native vegetation

Further evidence should be provided to support the removal of species credit species within the BAM-C

A species credit species, the Golden Sun Moth, has been excluded from further assessment in Tab 5 of the BAM-C due to a lack of suitable habitat being present within the subject land. The removal of this species is not consistent with the assessment requirements set out in steps 2 and 3 of Section 5 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
 - a. 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
 - b. 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
 - c. 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.

The BAM 2020 Operational Manual provides clarification on the justification required to exclude a species credit species, by identifying that:

- Evidence to support the absence or degradation of habitat features listed in a. and b. above could include reference to the attribute scores for the VI assessment to illustrate if these conform to the habitat constraint or microhabitats on the site, photographic evidence, maps, etc.
- Describing a vegetation zone as degraded or low/poor condition is not adequate justification to remove a candidate species credit species from the generated list. Evidence must support a. and b. above.

Table 5.2 of the BDAR states:

"Habitat degraded. Rytidosperma sp. does occur within the subject land, however it is not considered dominant and occurs within a fragmented and cropped landscape. Bare ground between the Rytidosperma sp. tussocks is thought to be an important microhabitat feature for the Golden Sun Moth. This microhabitat does not occur within the subject land"

Table E.1 in the BDAR states:

"Subject land is located outside of the species range. Grassland within subject land is disturbed. Derived native grassland does occur, however species has not been previously recorded and is only associated with PCT 266 and may lack preferred flora species"

Further evidence is required in the BDAR to justify the removal of the Golden Sun Moth from the BAM-C case. BSC has observed that images included in the BDAR, such as Plate 5.1, which shows microhabitat with bare ground that appears suitable for this species.



Figure 3: Plate 5.1 from the BDAR showing microhabitat that may be suitable for the Golden Sun Moth

Recommendation

4. 3.1. Provide further justification and field data to support the removal of the Golden Sun Moth from the BAM-C case. Alternatively, the proponent can provide an expert report, conduct targeted surveys or assume presence for the species and offset accordingly.

Further surveys should be conducted for the Pink-tailed Legless Lizard or the species should be assumed present

Table 5.6 of the BDAR states:

“No minimum survey requirements for the Pink-tailed Legless Lizard are recommended (DEC 2004). A combined survey method is recommended however for reptiles in general. Pitfall trapping is suggested; however it was considered to be unnecessary due to the limited size and quality of habitat within the subject land. The suitable habitat within the subject land is limited in size and quality, therefore the target of 150–200 rocks was not able to be reached. However, all rocks within suitable habitat were searched”

BCS advises that the Pink-tailed Legless Lizard has been recently recorded within and/or immediately adjacent to the western portion of the subject land in contiguous habitat. From review of the BDAR it appears that no targeted survey has occurred within this area.

As such, BSC recommends that the proponent take a precautionary approach and conduct further surveys for the Pink-tailed Legless Lizard, to conclusively determine presence/absence beyond reasonable doubt or assume presence of the species.

BCS would be happy to consult with the proponent on a minimum survey effort and survey method to conclusively determine the presence and absence of the species.

Recommendation

4.1. Conduct further surveys for the Pink-tailed Legless Lizard to confirm species presence or absence from the subject land or assume presence of the species

The species polygon for the Superb Parrot requires further information and potential revision

5. Table 5.11 of the BDAR only contains very high-level information regarding the method undertaken to prepare species polygons and no detail regarding the habitat which has been excluded from species polygons. The BDAR states that a 100m polygon should be constructed around all areas surrounding hollows that could be used for breeding, as per the TBDC. BSC has reviewed the spatial data provided and has observed that at least one suitable hollow bearing tree has not been included in the species polygon.

In addition, it appears that a number of additional hollow-bearing trees may be present in the south western extent of the project site in unsurveyed habitat.

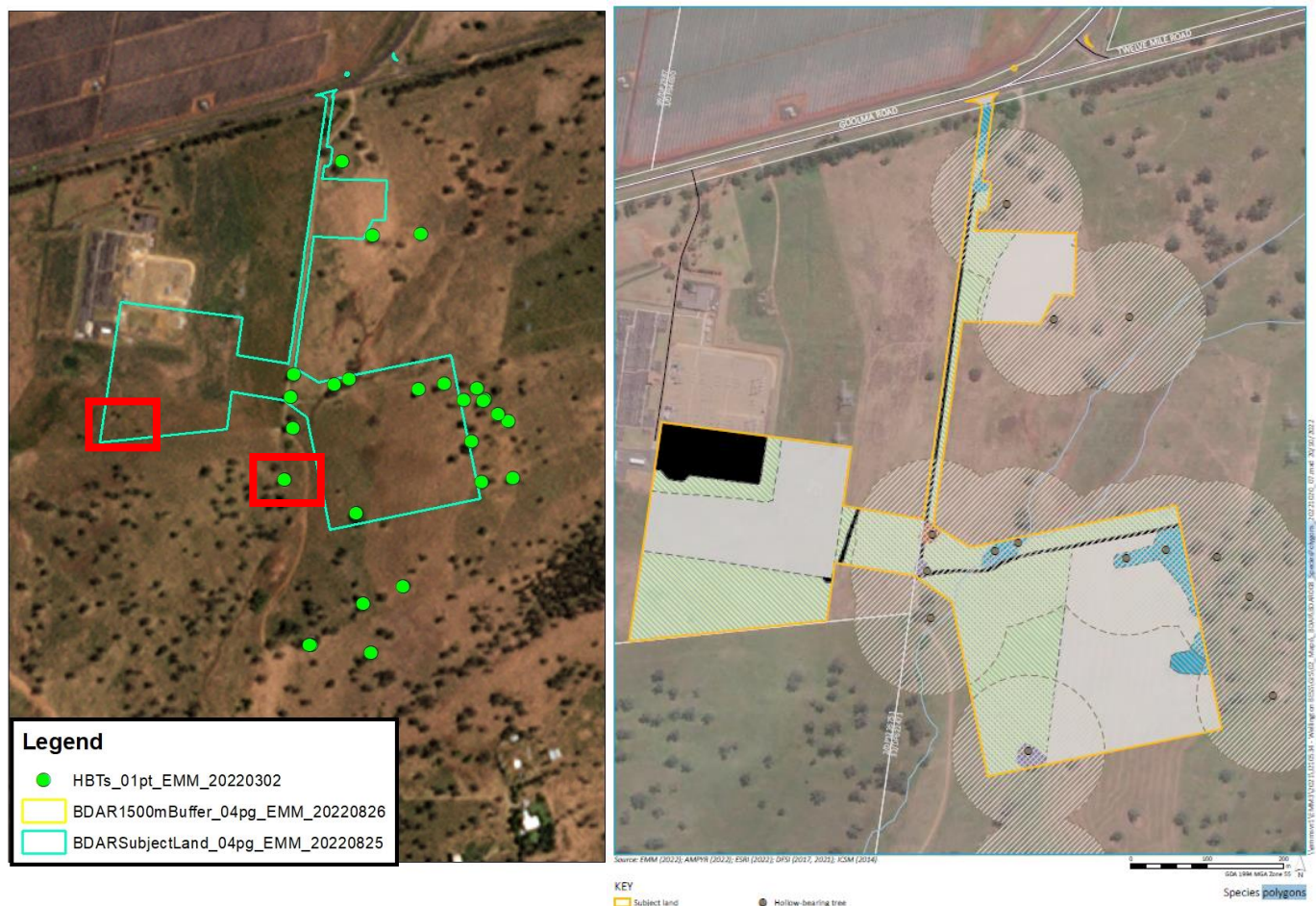


Figure 4: Inconsistencies between hollow-bearing tree spatial data and the species polygon for Superb Parrot in Figure 6.3 of the BDAR

Recommendations

- 5.1. Review and/or revise the Superb Parrot species polygons based on the presence of suitable or potential hollow bearing trees

The BDAR could be improved with specific clearance protocols to mitigate impacts to threatened species

6. BCS notes that the project will involve clearance of Superb Parrot breeding habitat and assumed Key's Matchstick Grasshopper habitat (and possibly habitat for Pink-tailed Legless Lizard).

BCS suggests that the minimisation of impacts for the project could be improved by including specific clearance protocols to minimise impacts to resident populations of these species within the subject land.

Recommendations

- 6.1. Prepare specific and targeted clearance protocols for resident threatened species within the subject land