



Your ref: SSD-68815961

Our ref: DOC24-231030

James Bellamy
Environmental Assessment Officer
Department of Planning, Housing and Infrastructure – NSW Planning Group
Via Major Projects Portal: PAE-68831225

Dear James

Subject: Request for Secretary's Environmental Assessment Requirements – Jindera BESS (SSD-68815961)

Thank you for the email notification dated 21 March 2024 seeking advice from the Biodiversity, Conservation and Science Group (BCS) of the NSW Department of Climate Change, Energy, the Environment and Water about the Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for this project.

BCS has reviewed the information supplied. The relevant documents reviewed are:

- Jindera BESS Scoping Report, Rev 4 (SLR Consulting 19/03/2024)
- Jindera SSD Draft SEARs

We provide SEARs for the proposed development in **Attachment A**. Guidance material is listed in **Attachment B**.

BCS recommends that the EIS appropriately address the following:

1. Biodiversity
2. Flood Risk Management

The EIS should fully describe the proposal, the existing environment, and impacts of the development that may impact on flooding and biodiversity. It is important that all conclusions are supported by adequate data. The assessment must include all ancillary infrastructure associated with the project such as roads, water and power supplies, and Rural Fire Service requirements for asset protection.

Biodiversity

The Scoping Report presents the option of preparing a Biodiversity Development Assessment Report (BDAR) waiver. BCS does not support a BDAR waiver given that section 3.2.1.7 of the Scoping Report indicates that clearing of native vegetation will be required for access roads and transmission lines. Instead, a BDAR must be completed which assesses all impacts of the proposed development and demonstrates how harm to biodiversity will be avoided, minimised and offset.

The Scoping Report provides little preliminary information on biodiversity. It indicates that the BESS site is largely non-native vegetation, but that the road reserve and area around the substation site are heavily vegetated and will be impacted by the transmission line. For areas considered non-native, BCS expects the BDAR to provide evidence about the relative native and introduced plant species composition and cover to support such findings. That is because grassy woodland threatened ecological communities (including areas lacking tree cover) occur in the vicinity of the project site.

The Scoping Report also mentions that 27 threatened/migratory species have been identified as having a moderate or greater potential to occur within the subject site, however these species have not been listed. While not mentioned in the Scoping Report, impacts to species such as the threatened Squirrel Glider (*Petaurus norfolcensis*) need to be considered. Impacts could include, but are not limited to, loss of habitat and connectivity through the removal of native vegetation for the transmission line and entanglement in security fencing. Detailed mitigation measures will be required for all potential impacts to threatened species.

This project should be guided by the impacts of the adjacent Glenellen Solar Farm (SSD-9550) and the BDAR, available on the NSW Governments major projects website at: <https://www.planningportal.nsw.gov.au/major-projects/projects/glenellen-solar-farm>.

Minimum requirements for the biodiversity assessment are listed in Appendix K of the Biodiversity Assessment Method (BAM). The Accredited Assessor preparing the Biodiversity Development Assessment Report (BDAR) should follow the BDAR template.

Given the proportion of land that has already been cleared in the surrounding region, the proponent must set out how impacts to biodiversity will be avoided and minimised. The cumulative impact of electricity generation in the surrounding region should be assessed through application of the Cumulative Impact Assessment Guidelines for State Significant Projects.

The EIS should identify any relevant Matters of National Environmental Significance, and whether the proposal has been referred to the Australian Government or whether it is already determined to be a controlled action under the *Environment Protection and Biodiversity Conservation Act 1999*.

Flood Risk Management

The Scoping Report indicates that the project site is located north of the Jindera township. The topography in the general area is of low relief, resulting in a network of ephemeral flow paths dividing the landscape. Flooding at the project site is most likely to occur from intense localised rainfall events activating ephemeral flow paths and/or inundating low lying areas.

The current understanding and management of flood risk for the Jindera township and surrounds is guided by the Jindera Flood Study (GHD, 2015) and Jindera Floodplain Risk Management Study and Plan (GHD, 2017), both commissioned and adopted by the Greater Hume Council. Unfortunately, the hydraulic modelling associated with these studies does not extend to the project site as outlined in the Scoping Report. Therefore, BCS recommends that the proponent conduct a flood impact and risk assessment (FIRA) to determine the specific flood risk at the project site. The FIRA should be conducted in accordance with the NSW Flood Risk Management Manual (DPE, 2023) and, where practicable, consistent with the modelling approaches adopted in the Jindera Flood Study and Jindera Floodplain Risk Management Study

and Plan. This would include adopting hydrologic and hydraulic modelling parameters and methodologies from these studies.

The FIRA component of the EIS should specifically address the flood risk management requirements in Attachment A and conduct flood modelling for the purposes of defining the impact of flood events on the site, and the impact of the proposed site infrastructure on flood behaviour.

If you have any questions about this advice, please contact Simon Maffei, Senior Project Officer Planning, via planning.southwest@environment.nsw.gov.au or 02 6022 0646.

Yours sincerely



Adam Vey
2 April 2024

Director, South West
Biodiversity, Conservation and Science Group
NSW Department of Climate Change, Energy, the Environment and Water

ATTACHMENT A – Recommended Environmental Assessment Requirements for Jindera BESS (SSD-68815961)
ATTACHMENT B – Guidance material

Attachment A Recommended Environmental Assessment Requirements for Jindera BESS (SSD-68815961)

Sources of guidance material for terms in [blue](#) are in Attachment B

Biodiversity
1. Biodiversity impacts related to the proposed development are to be assessed in accordance with Section 7.9 of the Biodiversity Conservation Act 2016 using the Biodiversity Assessment Method (BAM) 2020 and documented in a Biodiversity Development Assessment Report (BDAR). The BDAR must include information in the form detailed in the Biodiversity Conservation Act 2016 (s6.12), Biodiversity Conservation Regulation 2017 (s6.8) and the BAM, unless it is determined that the proposed development is not likely to have any significant impact on biodiversity values.
2. The BDAR must document the application of the avoid, minimise and offset framework including assessing all direct, indirect, uncertain and prescribed impacts in accordance with the BAM.
3. The BDAR must include details of the measures proposed to address the offset obligation as follows; a. The total number and classes of biodiversity credits required to be retired for the development/project; b. The number and classes of like-for-like biodiversity credits proposed to be retired; c. The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; d. Any proposal to fund a biodiversity conservation action; e. Any proposal to make a payment to the Biodiversity Conservation Fund. If seeking approval to use the variation rules, the BDAR must contain details of the reasonable steps that have been taken to obtain requisite like-for-like biodiversity credits.
4. The BDAR must be submitted with all digital spatial data associated with the survey and assessment as per Appendix K of the BAM.
5. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017 under s6.10 of the <i>Biodiversity Conservation Act 2016</i>.

Flood Risk Management
6. The EIS must map the following features relevant to flooding as described in the Flood Risk Management Manual: the policy and manual for flood liable land (NSW Government 2023) including: a. Flood prone land. b. Flood planning area, the area below the flood planning level. c. Hydraulic categorisation (floodways and flood storage areas). d. Flood hazard.
7. The EIS must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 5% Annual Exceedance Probability (AEP), 1% AEP flood levels and the probable maximum flood, or an equivalent extreme event.
8. The EIS must model the effect of the proposed development (including fill) on the flood behaviour under the following scenarios: a. Current flood behaviour for a range of design events as identified in 7 above. This includes the 0.5% and 0.2% AEP year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
9. Modelling in the EIS must consider and document: a. Existing council flood studies in the area and examine consistency to the flood behaviour documented in these studies. b. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood. c. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazards and hydraulic categories. d. Relevant provisions of the Flood Risk Management Manual: the policy and manual for flood liable land (2023).
10. The EIS must assess the impacts on the proposed development on flood behaviour, including: a. Whether there will be detrimental increases in the potential flood affection of other properties, assets and infrastructure. b. Consistency with Council Floodplain Risk Management Plans. c. Consistency with any Rural Floodplain Management Plans. d. Compatibility with the flood hazard of the land.

- e. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land.
- f. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site.
- g. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
- h. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the SES and Council.
- i. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the SES and Council.
- j. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the SES.
- k. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.

Attachment B Guidance material

Title	Web address
Relevant Legislation	
<i>Biodiversity Conservation Act 2016</i>	www.legislation.nsw.gov.au/#/view/act/2016/63/full
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/
<i>Environmental Planning and Assessment Act 1979</i>	https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203
<u>Biodiversity</u>	
Biodiversity Assessment Method 2020 (DPIE 2020)	https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/accredited-assessors/biodiversity-assessment-method-2020
Biodiversity Assessment Method 2020 Operational Manual – Stage 1 (DPE 2022)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-manual-2020-operational-manual-stage-1
Biodiversity Assessment Method 2020 Operational Manual – Stage 2 (DPE 2023)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-operational-manual-stage-2
BDAR Template (DPE 2022)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/guidance-for-the-biodiversity-development-assessment-report-template
BAM Assessor Resources (including links to Survey Guidelines, Registers and Databases)	https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-resources
BAM Assessor FAQ	https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-questions-and-answers
Biodiversity Values Map	www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap https://datasets.seed.nsw.gov.au/dataset/biodiversity-values-map
Guidance to assist a decision maker to determine a serious and irreversible impact (DPIE 2019)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/guidance-decision-makers-determine-serious-irreversible-impact-190511.pdf
Ancillary rules: biodiversity conservation actions	https://www.environment.nsw.gov.au/research-and-publications/publications-search/ancillary-rules-biodiversity-conservation-actions

Title	Web address
Ancillary rules: reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	https://www.environment.nsw.gov.au/research-and-publications/publications-search/ancillary-rules-reasonable-steps-to-seek-like-for-like-biodiversity-credits
DPE Threatened Species Profiles	www.environment.nsw.gov.au/threatenedspeciesapp/
BioNet Atlas	www.environment.nsw.gov.au/wildlifeatlas/about.htm
BioNet Vegetation Classification – see NSW Plant Community Type (PCT) classification link for PCT database login page.	http://www.environment.nsw.gov.au/research/Visclassification.htm
NSW SEED Data Portal (access to online spatial data)	https://www.seed.nsw.gov.au/
Fisheries NSW policies and guidelines	https://www.dpi.nsw.gov.au/fishing/habitat/publications/pubs/fish-habitat-conservation
<u>Flood Risk Management</u>	
Flood Risk Management Manual: the policy and manual for flood liable land (2023)	https://www.environment.nsw.gov.au/topics/water/floodplains/floodplain-manual
Australian Rainfall and Runoff: A Guide to Flood Estimation	http://arr.ga.gov.au/
NSW Climate Impact Profile	climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management