Your ref: SSD-72430958
Our ref: DOC24/507022

Samantha Oyston
Senior Environmental Assessment Officer
Department of Planning, Housing and Infrastructure – NSW Planning Group

Via Major Projects Portal: PAE-72427484

Dear Samantha

Subject: Request for Secretary's Environmental Assessment Requirements – Finley BESS (SSD-72430958)

Thank you for your email dated 25 June 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 documents provided which are:

- *Scoping Report - Request for Secretary's Environmental Assessment Requirements (SEARs) - Finley Battery Energy Storage System (BESS)* prepared by SLR Consulting Australia dated 18 June 2024 (hereafter referred to as 'Scoping Report').

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, access points, water and power supplies, and Rural Fire Service requirements for asset protection.

Biodiversity

BCS notes that Section 6.1.2.2 of the Scoping Report states *"a Biodiversity Development Assessment Report (BDAR) Waiver will be prepared and submitted prior to the lodgement of the SSD application*". This has not occurred. A BDAR waiver application should include the information outlined in Attachment A of *How to apply for a biodiversity development assessment report waiver for a Major Project Application* (https://www.environment.nsw.gov.au/-

/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/apply-biodiversity-development-assessment-report-waiver-190593.pdf).

In the absence of a BDAR waiver application, BCS advises that a BDAR should be prepared that assesses all impacts to biodiversity, including the impacts associated with site access. Minimum requirements for the biodiversity assessment are listed in Appendix K of the Biodiversity Assessment Method (BAM). The Accredited Assessor preparing the BDAR should follow the BDAR template.

Flood Risk Management

The project site consists of generally flat topography which is interspersed with a system of channels and banks associated with local flood irrigation enterprises as well as raised roads in the immediate vicinity. Although riverine type flooding is not considered a risk, the site is potentially impacted by shallow overland type flows that pool in the low-lying areas trapped by these raised structures. Given this, it is important that the hydrology of the site be investigated to aid in the site design and the placement of infrastructure to minimise flood risks.

The EIS should specifically address the attached requirements for flooding and conduct flood modelling for the purposes of appropriately locating infrastructure and for assessing impacts.

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
5 July 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 Finley BESS (SSD-72430958)**

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 *Biodiversity Conservation Act 2016*.

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 affectation 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 or 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	
Biodiversity Conservation Act 2016	www.legislation.nsw.gov.au/#/view/act/2016/63/full
Commonwealth Environment Protection and Biodiversity Conservation Act 1999	www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/
Environmental Planning and Assessment Act 1979	https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203
Biodiversity	
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
Flood Risk Management	
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