



Your ref: SSD-76008209

Our ref: DOC24/774055

Samantha Oyston
Senior Environmental Assessment Officer
Department of Planning, Housing and Infrastructure – NSW Planning Group
Via Major Projects Portal: PAE-76030482

Dear Samantha

Subject: Request for Secretary's Environmental Assessment Requirements – Comet Park BESS - SSD-76008209

Thank you for your email dated 20 September 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:

- Scoping Report – Comet Park Battery Energy Storage System, Samsung C&T Renewable Energy Australia Pty Ltd, September 2024.

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

BCS advised AREA Consultants on the 31 July 2024 that a Biodiversity Development Assessment Report (BDAR) waiver was not appropriate for this proposal. A BDAR should be included in the EIS, as it is the minimum standard required to demonstrate land categorisation, plant communities present at the site, strategies to avoid and minimise clearing, mitigation of indirect impacts and the assessment of prescribed impacts.

Minimum requirements for the biodiversity assessment are listed in Appendix K of the Biodiversity Assessment Method (BAM). Minimum spatial data requirements for submitting the

BDAR are listed in Appendix D (Table 7) of the BAM Stage 2 Operational Manual. The Accredited Assessor preparing the BDAR should follow the BDAR template.

Given the proportion of land that has already been cleared in the surrounding region, the proponents must set out how impacts to biodiversity will be avoided and minimised. The assessment should include all ancillary works such as clearing for asset protection, road widening and access, and transmission of electricity, and works that change hydrology including storm water disposal offsite and flood mitigation.

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 EIS should address the requirements in **Attachment A** for flood risk management and conduct a quantitative flood impact and risk assessment to define the impact of flood events on the site and the impact of the proposed site infrastructure on flood behaviour, including on waterway crossings for access.

Given the proximity to infrastructure, waterways and the flat topography of the site, some degree of flooding is likely in major events. Flooding at the site is most likely from intense local rainfall events causing shallow major overland flow flooding.

Leeton Shire Council (Council) have completed a flood study and a floodplain risk management study and plan (FRMS&P) for the major urban areas within Leeton Local Government Area (LGA). Although these studies do not examine the proposed site in detail, they demonstrate some degree of flood risk exists. BCS recommends the proponent rely on two reports in the flood assessment:

- Leeton (LGA) Flood Study (Engeny 2015), and
- Leeton (LGA) Floodplain Risk Management Study and Plan (FRMS&P) (Engeny 2019).

Council is in the process of reviewing the Leeton LGA flood study, including a revision and extension of the hydraulic modelling that will include the project site. BCS recommends the proponent discuss that review with Council and use the modelling in a quantitative flood impact and risk and assessment as part of the EIS.

If you have any questions about this advice, please contact Marcus Wright, Senior Conservation Planning Officer, via planning.southwest@environment.nsw.gov.au or 02 6983 4917.

Yours sincerely



Adam Vey
3 October 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 Comet Park BESS - SSD-76008209

ATTACHMENT B – Guidance material

Attachment A Recommended Environmental Assessment Requirements for Comet Park BESS - SSD-76008209

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

<p>Biodiversity</p>
<p>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.</p>
<p>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.</p>
<p>3. The BDAR must include details of the measures proposed to address the offset obligation as follows;</p> <ul style="list-style-type: none"> 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. <p>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.</p>
<p>4. The BDAR must be submitted with all digital spatial data associated with the survey and assessment as per Appendix K of the BAM.</p>
<p>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.</p>
<p>Flood Risk Management</p>

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 affectation 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 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
<u>Relevant Legislation</u>	
<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/
Flood Impact and Risk Assessment, Flood Risk Management Guideline LU01	https://www.environment.nsw.gov.au/research-and-publications/publications-search/flood-impact-and-risk-assessment