



Our ref: DOC24/827879
Your ref: SSD-58801472

Pamela Morales
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Dear Ms Morales

Tangaratta Feedmill (SSD-58801472) – Exhibition

Thank you for your request via the Major Projects portal on 9 October 2024 to the Biodiversity, Conservation and Science Group (BCS) of the NSW Department of Climate Change, Energy, the Environment and Water (NSW DCCEEW) inviting comments on the exhibited Tangaratta Feedmill (SSD-58801472).

We have reviewed the Biodiversity Development Assessment Report (BDAR) dated March 2024. Our recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**.

In summary, the BDAR does not contain sufficient information to allow us to verify conclusions regarding the extent of the White Box, Yellow Box, Blakely's Red Gum Critically Endangered Ecological Community (CEEC) (Category 2 – Sensitive Regulated) on the project site. The BDAR also does not adequately address critically endangered flora as a Category 2 criterion. Additional information is required to demonstrate and document adequate consideration of CEEC extent and presence or absence of critically endangered plants on land mapped as Category 1 – Exempt.

If you have any questions about this advice, please do not hesitate to contact Michelle Howarth, Senior Conservation Planning Officer, via michelle.howarth@environment.nsw.gov.au or (02) 6883 5339.

Yours sincerely,

Ashleigh Bellotti
A/Director North West Branch
Biodiversity, Conservation and Science

30 October 2024

Attachment A – BCS's Recommendations
Attachment B – BCS's Detailed Comments

BCS's recommendations

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- 1.1 Ensure the BDAR comprehensively explains how the presence/absence of the Box Gum Woodland CEEC has been determined with reference to:
 - a) the diagnostic criteria adopted, referencing the NSW Scientific Committee Final Determination
 - b) explanation of the desktop and field methods used
 - c) the data used to determine presence or absence of the CEEC against the diagnostic criteria.
- 1.2 Demonstrate use of the Stage 1 BAM steps to identify a candidate species list for areas under consideration for Category 1 – Exempt designation, to document consideration of any potential for a critically endangered plant species to occur in those areas.
- 2.1 Re-certify the BDAR following amendments in accordance with section 6.15 of the Biodiversity Conservation Act 2016.

BCS's detailed comments

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1. The BDAR does not adequately explain how the potential occurrence of critically endangered flora species and critically endangered ecological communities (CEEC) were assessed.

Critically endangered flora and CEECs meet the Category 2- Sensitive Regulated criteria in accordance with clause 108(2)(b) of the Local Land Services Regulation 2014). However, state-wide comprehensive mapping of all CEECs and critically endangered species of plants is not currently published on the transitional or draft Native Vegetation Regulatory (NVR) Maps. The presence of CEECs and/or critically endangered plants must be considered for site-scale refinement, regardless of published map products.

Hence in areas which have the potential to contain CEECs, native grasslands, or habitat for a critically endangered species of plant, land categorisation assessments should be supported by evidence from a site-based floristic assessment to demonstrate presence or absence to confirm at the site scale whether the criteria for Category 1 – Exempt is met.

The BDAR includes a full list of flora species identified on site during targeted surveys, however the BDAR does not contain a list of the candidate flora species that were targeted during the surveys and therefore we are unable to provide comment on the adequacy of the surveys.

It is noted that two BAM plots were collected within the subject site, however no Plant Community Type/s (PCT) have been assigned for the site. Section 3.1.4 of the BDAR describes the native trees (planted), shrubs and groundcover species that were identified in the areas referred to as 'Planted Native Trees' and 'Grassland' and a number of these species are consistent with Box Gum Woodland CEEC.

Section 3.1.6 of the BDAR states '*Considering the absence of remnant trees within the subject land, introduced flora species and previous high disturbance the subject land is unlikely to be consistent with the nationally listed White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland*'. This is not adequate justification to exclude the presence of Box Gum Woodland CEEC.

The NSW Scientific Committee Final Determination¹ for the Box Gum Woodland CEEC discusses a spectrum of land uses and condition states in relation to the community (including where the overstorey is absent) and does not require the vegetation to be predominantly native. Measures of 'low conservation value' grassland/groundcover in the context of the LLS Act land category criteria do not override Box Gum Woodland CEEC as Category 2 – Sensitive Regulated land.

It is not clear from the BDAR how the Final Determination for this CEEC has been applied to the assessment of CEEC presence/absence. The BDAR for the project should explain in more detail how the extent of the Box Gum Woodland CEEC was determined on the project site.

Recommendations

- 1.1 Ensure the BDAR comprehensively explains how the presence/absence of the Box Gum CEEC has been determined with reference to:
 - a) the diagnostic criteria adopted, referencing the NSW Scientific Committee Final Determination

¹ <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/determinations/final-determinations/2020/white-box-yellow-box-critically-endangered-ecological-community-listing>

- b) explanation of the desktop and field methods used
 - c) the data used to determine presence or absence of the CEEC against the diagnostic criteria.
- 1.2 Demonstrate use of the Stage 1 BAM steps to identify a candidate species list for areas under consideration for Category 1 – Exempt designation, to document consideration of any potential for a critically endangered plant species to occur in those areas.

2. The BDAR will require re-certification according to the BC Act

The BDAR was certified on 10 April 2024. Section 6.15 of the BC Act states “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*”.

The accredited assessor must certify in the BDAR that the report has been prepared on the basis of the requirements of, and information provided under the BAM as at a specified date, and that date is within 14 days of the date the report is submitted to the decision-maker.

Recommendation

- 2.1 Re-certify the BDAR following amendments in accordance with section 6.15 of the Biodiversity Conservation Act 2016.