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Sally Munk
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Department of Planning, Industry and Environment
4 Parramatta Square
PARRAMATTA NSW 2150

Via email: sally.munk@planning.nsw.gov.au

13 August 2020

Dear Ms Munk

Subject: Request for input into Secretary's Environmental Assessment Requirements - Moama Ethanol Plant (SSD-8482905)

I refer to your email dated 31 July 2019 seeking input from the Biodiversity and Conservation Division (BCD) to the Department of Planning, Industry and Environment (DPIE) Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the Moama Ethanol Plant (SSD 8482905).

The BCD has reviewed the Scoping Report (version 2 dated 28 July 2020) for this proposal and provides SEARs for the proposed development in **Attachment A**. Guidance material is listed in **Attachment B**.

The BCD recommends that the EIS appropriately address the following:

1. Biodiversity
2. Flooding

The EIS should fully describe the proposal, the existing environment, including threatened species habitat not associated with vegetation communities such as paddock trees, and impacts of the development including the location and extent of all proposed works that may impact on biodiversity. The scale and intensity of the proposed development should dictate the level of investigation. It is important that all conclusions are supported by adequate data. The assessment must include all ancillary infrastructure associated with the project on and off the subject land, such as roads, water and power supplies, and Rural Fire Service requirements for asset protection.

Biodiversity

We understand that while the indicative site layout is known, its exact location is not. Similarly, from the information provided, it is evident that the access points to the site have not been decided. Scattered paddock trees exist on the subject land and land identified on the Biodiversity Values Map exists along the extent of the eastern boundary along the Cobb Highway.

The Scoping Report implies further potential for clearing native vegetation in at least five places in Section 8.1.

Attachment C of the Scoping Report does not give the location of the indicative site layout relative to the subject land, nor does it show access points to the site. Attachment C does not demonstrate that the proposal will have no impact on threatened species in the area because the location of proposal has not been finalised. Attachment C does not identify category 1 land consistent with the definition established by ss.60H of the *Local Land Services Act 2013*. Category 1 land may be disregarded from the assessment of biodiversity impacts consistent with ss.6.8 of the *Biodiversity Conservation Act 2016* (BC Act). The applicant should seek endorsement of the method used to determine category 1 land from the BCD before it is disregarded.

The EIS should demonstrate category 1 land, the location of the indicative site layout relative to the scattered paddock trees on the subject land, and the location and design of access points relative to the roadside vegetation mapped on the Biodiversity Values Map. The avoidance of that vegetation, the disregarding of category 1 land, and any loss or fragmentation of fauna habitat should be documented in a Biodiversity Development Assessment Report (BDAR).

Flooding

We do not anticipate that the site is subject to riverine flooding, but local overland flooding due to local rainfall events may be an issue. Local flooding includes flooding from major overland flow paths or from any waterways on the site, and may be impacted by alterations to the existing storm water disposal systems. The EIS should specifically address the attached requirements for flooding and conduct flood modelling for the purposes of appropriately locating infrastructure and for assessing post-development impacts outside the site.

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

Yours sincerely



ANDREW FISHER
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ATTACHMENT A – Recommended Environmental Assessment Requirements for Moama Ethanol Plant (SSD-8482905)
ATTACHMENT B – Guidance material

Attachment A – Recommended Environmental Assessment Requirements for Moama Ethanol Plant (SSD SSD-8482905)

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) 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 DPIE determines 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 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; - The total number and classes of biodiversity credits required to be retired for the development/project; - The number and classes of like-for-like biodiversity credits proposed to be retired; - The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; - Any proposal to fund a biodiversity conservation action; - 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 10 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> .
Flooding
6. The EIS must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including: - Flood prone land. - Flood planning area, the area below the flood planning level. - Hydraulic categorisation (floodways and flood storage areas). - 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 11 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 NSW Floodplain Development Manual 2005.
17. 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>	www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N
<u>Biodiversity</u>	
Biodiversity Assessment Method (OEH, 2017)	www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf
Biodiversity Offsets Scheme Entry Threshold Tool	www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap
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
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf
Ancillary rules: biodiversity conservation actions	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-biodiversity-actions-170496.pdf
Ancillary rules: reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf
DPIE 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 Sharing and Enhancing Environmental Data Portal (SEED) including up to date Threatened Species records	https://www.seed.nsw.gov.au/
Fisheries NSW policies and guidelines	www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation
<u>Water</u>	
Flooding	
Floodplain development manual	www.environment.nsw.gov.au/floodplains/manual.htm
NSW Climate Impact Profile	climatechange.environment.nsw.gov.au/

Title	Web address
Climate Change Impacts and Risk Management	www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management