



Our ref: DOC19/953864

Your ref: SSD 9097

May Patterson
Team Leader
Resource Assessments
Department of Planning, Industry and Environment
may.patterson@planning.nsw.gov.au

Dear May

Quorn Park Solar Farm (SSD 9097) - Exhibition

Thank you for your email dated 30 October 2019 to the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (formerly the Office of Environment and Heritage) inviting comments on the Environmental Impact Statement (EIS) for the proposed Quorn Park Solar Farm.

BCD has reviewed the Biodiversity Development Assessment Report (BDAR) and the Aboriginal Cultural Heritage Assessment (ACHA). BCD acknowledge that the assessor has undertaken an assessment of the site's biodiversity values using a combination of the paddock tree assessment module and a full BAM assessment.

Our recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**.

If you require any further information regarding this matter, please contact Michelle Howarth, Conservation Planning Officer, via michelle.howarth@environment.nsw.gov.au or 6883 5339.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Cox'.

27 November 2019

Steven Cox
Acting Director North West Branch
Biodiversity and Conservation Division

Enclosure: Attachments A and B

BCD's recommendations

Quorn Park Solar Farm – Environmental Impact Statement

Acronyms

AHIMS	Aboriginal Heritage Impact Management System
BCD	Biodiversity and Conservation Division (formerly OEH)
EIS	Environment Impact Statement
OEH	Office of Environment and Heritage
BC Act	Biodiversity Conservation Act 2016
BAM	Biodiversity Assessment Methodology
BDAR	Biodiversity Development Assessment Report
TBDC	Threatened Biodiversity Data Collection
PCT	Plant Community Type

Biodiversity

1. The assessor should certify the BDAR in accordance with section 6.15 of the BC Act.
2. Any species that does not have habitat constraints listed in the TBDC must be retained in the calculator for all associated PCT's regardless of the vegetation zone condition.
3. If any of the hollows present in vegetation zone 437_woodland are greater than 20 centimetres in diameter, the masked owl should be retained as a candidate species for further consideration.
4. If any of the hollows present in vegetation zone 437_woodland are greater than 15 centimetres diameter and greater than five metres above the ground, the glossy black-cockatoo should be retained as a candidate species for further consideration.
5. The accredited assessor should ensure that the data entered into the BAM-C matches the data in the BDAR.
6. Section 6.2 of the BDAR should be updated to include mitigation measures for reducing the chance of weed spread.
7. The accredited assessor should either use an expert report to assess the presence or absence of the Pine Donkey Orchid or assume presence for this species.

Aboriginal Cultural Heritage

8. Develop an Aboriginal Heritage Management Plan in consultation with the RAPs.
9. Provide the RAPs with the opportunity to oversee the mitigation and protection of the objects.

BCD's detailed comments

Quorn Park Solar Farm – Environmental Impact Statement

Biodiversity

1. The BDAR should be certified as BAM compliant within 14 days of the submission date

The Biodiversity Development Assessment Report (BDAR) has not been certified as Biodiversity Assessment Method (BAM) compliant.

Section 6.15 of the *Biodiversity Conservation Act 2016* (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 BDAR that has been submitted has not been certified in accordance with section 6.15 of the BC Act.

Recommendation 1

The assessor should certify the BDAR in accordance with section 6.15 of the BC Act.

2. Species should not be removed from the predicted list (ecosystem credits) where the TBDC does not list habitat constraints

BCD notes that the assessor has removed a number of species from the predicted list (ecosystem credits) generated from the BAM calculator (BAM-C). The removal of these species is not consistent with the assessment requirements set out in steps 2 and 3 of chapter 6 of the BAM. A species can only be removed from the list if the species:

- a) has habitat constraints listed in the TBDC and none of these constraints are present on the site. Documentation in the BDAR should reflect the TBDC information and evidence that the features are not present (field data); **or**
- b) has geographic limitations listed in the TBDC and the site is outside of the defined geographic area; **or**
- c) is vagrant to the area. Vagrancy is taken as the record being well outside the species range or natural distribution. The suspect record will need to be reviewed against the species known distribution and the assessor will need to confirm with species experts that it is likely to be a vagrant. If agreed by experts the assessor should contact DPIE to have the record quarantined from BioNet Atlas and re-labelled as vagrant. The BDAR will need to contain supporting information such as who was contacted, when, their credentials and the resultant response from DPIE.

The following species do not have habitat constraints or geographic limitations listed in the TBDC and are not considered vagrant and therefore should not be removed from the predicted list for any associated plant community type (PCT) regardless of the vegetation zone condition;

- regent honeyeater (*Anthochaera Phrygia*)
- pied honeyeater (*Certhionyx variegatus*)
- speckled warbler (*Chthonicola sagittata*)

- varied sittella (*Daphoenositta chrysoptera*)
- spotted-tailed quoll (*Dasyurus maculatus*)
- little lorikeet (*Glossopsitta pusilla*)
- swift parrot (*Lathamus discolor*)
- hooded robin south-eastern form (*Melanodryas cucullate cucullate*)
- flame robin (*Petroica phoenicea*)
- koala (*Phascolarctos cinereus*)
- grey-crowned babbler eastern subspecies (*Pomatostomus temporalis temporalis*)

Recommendation 2

Any species that does not have habitat constraints listed in the TBDC should be retained in the BAM-C for all associated PCTs regardless of the vegetation zone condition.

3. Justification for removing masked owl and glossy black-cockatoo as candidate species (species credits) is not consistent with the BAM

BCD notes that the assessor has removed masked owl and glossy black-cockatoo from the candidate list (species credits) generated from the BAM-C. The removal of these species is not consistent with the assessment requirements set out in steps 2 and 3 of chapter 6 of the BAM. A species can only be removed from the list if the species:

- a) has habitat constraints listed in the TBDC and none of these constraints are present on the site. Documentation in the BDAR should reflect the TBDC information and evidence that the features are not present (field data); **or**
- b) has geographic limitations listed in the TBDC and the site is outside of the defined geographic area; **or**
- c) is vagrant to the area. Vagrancy is taken as the record being well outside the species range or natural distribution. The suspect record will need to be reviewed against the species known distribution and the assessor will need to confirm with species experts that it is likely to be a vagrant. If agreed by experts the assessor should contact DPIE to have the record quarantined from BioNet Atlas and re-labelled as vagrant. The BDAR will need to contain supporting information such as who was contacted, when, their credentials and the resultant response from DPIE; **or**
- d) the habitat constraints listed in the TBDC or known microhabitats that the species requires to persist on or use are degraded to the point where the species will no longer be present. Evidence in the BAR could include reference to the attribute scores for in the vegetation integrity assessment to illustrate the poor condition of the site. Other information sources include peer-reviewed or other published information relating to the microhabitats used by the species, photographic evidence and maps etc that illustrate these features are significantly degraded.

Masked Owl

Table 5.3 of the BDAR states that the masked owl is not considered a candidate species as there are no hollows greater than 40 centimetres wide and 100 centimetres deep. BCD notes that these specifications are from the *NSW Recovery Plan for the Large Forest Owls, Approved NSW Recovery Plan* (DEC 2016) however this information is not consistent with the information in the TBDC. The habitat constraint listed in the TBDC for masked owl breeding habitat is '*living or dead trees with hollows greater than 20cm diameter*'. BCD notes that there are two large hollow-bearing trees in vegetation zone 437_woodland; if either of these trees contain hollows that are greater than 20 centimetres in diameter this species should be retained as a candidate species for further consideration.

Glossy Black-Cockatoo

Table 5.3 of the BDAR states that the glossy black-cockatoo is not considered a candidate species as there is no foraging resource present on site. The habitat constraint listed for glossy black-cockatoo breeding habitat in the TBDC is *'living or dead tree with hollows greater than 15cm diameter and greater than 5m above ground'*. BCD notes that there are two large hollow-bearing trees in vegetation zone 437_woodland, if any of these trees contain hollows that are greater than 15 centimetres in diameter and greater than five metres above the ground this species should be retained as a candidate species for further consideration regardless of whether foraging resources are present.

Recommendation 3

If any of the hollows present in vegetation zone 437_woodland are greater than 20 centimetres in diameter, the masked owl should be retained as a candidate species for further consideration.

Recommendation 4

If any of the hollows present in vegetation zone 437_woodland are greater than 15 centimetres diameter and greater than five metres above the ground, the glossy black-cockatoo should be retained as a candidate species for further consideration.

4. There are inconsistencies between the plot data in the BDAR and the data entered into the BAM calculator

There are inconsistencies between the plot data provided in Appendix B of the BDAR and the data that has been entered into the BAM-C. The inconsistencies are listed in the table below.

Plot 4		
Data	BDAR	Calculator
Function – Stem Class – 50-79	Present	Not Present
Plot 9		
Tree Regeneration	2	Nothing selected
Plot 10		
Tree Regeneration	2	Nothing selected

Recommendation 5

The accredited assessor should ensure that the data entered into the BAM-C matches the data in the BDAR.

5. No mitigation measures have been outlined for weed spread

Section 6.1 states 'mitigation measures to reduce the chance of weed spread are outlined in Section 6.2'. Section 6.2 does not include measures to reduce weed spread.

Recommendation 6

Section 6.2 of the BDAR should be updated to include mitigation measures for reducing the chance of weed spread.

6. Further assessment of the pine donkey orchid is required

BCD acknowledges that the threatened flora targeted surveys were conducted within the recommended months for the targeted species, however the site is located within an area that is currently experiencing prolonged drought conditions and therefore the survey conditions are considered suboptimal. The detection of pine donkey orchid (*Diuris tricolor*) has the potential to be affected during suboptimal survey conditions and therefore survey alone is not a reliable method to determine presence or absence. The *NSW Guide to Surveying Threatened Plants* recommends that where suboptimal conditions such as prolonged drought are occurring, the assessor may choose to either use an expert report to assess the species presence or absence, or alternatively the species can be assumed to be present at the development site.

Recommendation 7

The accredited assessor should either use an expert report to assess the presence or absence of the pine donkey orchid or assume presence for this species.

Aboriginal Cultural Heritage

7. BCD is satisfied with the Aboriginal cultural heritage assessment

BCD is satisfied that the Aboriginal cultural heritage (ACH) assessment and Aboriginal consultation has complied with the project SEARs. BCD also note that the project area has been subject to intensive land use disturbance and that the reported archaeological significance of Aboriginal objects found within the project boundary is low.

BCD is satisfied that no further archaeological assessment is required.

8. Prepare an Aboriginal Heritage Management Plan

An Aboriginal Heritage Management Plan (the plan) will be developed to mitigate and avoid harm to Aboriginal objects. BCD supports the following items that have been proposed by the proponent to be included in the plan:

- the proposed measures in the Environmental Impact Statement (EIS) to relocate Aboriginal objects at threat from the development, burying them within the project area
- compilation and submission of site impact cards of the location of buried objects onto the Aboriginal Heritage Impact Management System (AHIMS)

- development of protection measures for any object within the project boundary not at threat from construction activities
- procedures to manage suspected human remains

The plan should be inclusive of Aboriginal consultation.

Recommendation 8

Develop an Aboriginal Heritage Management Plan in consultation with the RAPs.

9 Registered Aboriginal Parties (RAPs) to facilitate mitigation measures

The EIS statement of significance reports that the Aboriginal objects are of high social and cultural value to the Aboriginal community. The scientific assessment concludes there is low archaeological interest of the objects due to the commonality of the objects and land use disturbance history. BCD also highlight that the proposed EIS recommendation to rebury the objects with reference to Requirement 26 of the Code of Archaeological Practice (EIS recommendation 6) is not necessary in this instance.

BCD recommends that the proponent provides an opportunity for the Registered Aboriginal Parties to oversee the mitigation and protection of the objects. Primarily:

- moving and reburying of Aboriginal objects identified in the development footprint
- determining the appropriate reburial location for the objects in consultation with the proponent
- determining the method of reburying the objects.

Recommendation 9

Provide the RAPs with the opportunity to oversee the mitigation and protection of the objects.