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Senders ref: SSD 8968782

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Via email: [sheelagh.laguna@planning.nsw.gov.au](mailto:sheelagh.laguna@planning.nsw.gov.au)

19 October 2020

Dear Ms Laguna

**Subject: Request for Secretary's Environmental Assessment Requirements – Blue Bush Waste Facility (SSD 8968782)**

Thank you for your email dated 7 October 2020 seeking input from the Biodiversity and Conservation Division (BCD) into the Department of Planning, Industry and Environment (the Department) Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the Blue Bush Waste Facility.

BCD has reviewed the documentation and provides SEARs for the proposed development in **Attachment A**. Guidance material is listed in **Attachment B**.

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 and impacts of the development including the location and extent of all proposed works that may impact on flooding and 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 such as roads, water and power supplies, and Rural Fire Service requirements for asset protection.

Biodiversity

Management of threatened species and communities under the *Biodiversity Conservation Act 2016* focusses on avoiding development impacts, followed by mitigation. Given the remoteness of the project it should be possible to select sites that avoid impacts on high value areas, particularly Endangered Ecological Communities (EEC).

The Scoping Report suggests the project will substantially achieve this aim. The EIS should clearly show the extent of impact of the development. The Scoping Report states that the development envelope has been reduced to avoid impacts on *Acacia loderi* shrublands EEC, but the biodiversity report refers to potential for clearing small patches of this community at the Inter-modal site A.

Note that the remote location means the EIS should not rely on a lack of local records as primary evidence for justification of no impact on threatened species. The Biodiversity Development Assessment Report must follow the survey requirements of the Biodiversity Assessment Method for all threatened species. Further surveys in the spring of 2020 should provide reliable data given the environmental response to recent rain in the north west of the state.

Regarding the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, 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.

#### Flooding

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, including on waterway crossings for site access.

If you have any questions about this advice, please contact Simon Stirrat, Senior Conservation Planning Officer via [rog.southwest@environment.nsw.gov.au](mailto:rog.southwest@environment.nsw.gov.au) or 03 5021 8930.

Yours sincerely



Andrew Fisher  
**Senior Team Leader Planning**  
**South West Branch**  
**Biodiversity and Conservation Division**  
**Department of Planning, Industry and Environment**

ATTACHMENT A – Recommended Environmental Assessment Requirements for Blue Bush Waste Facility (SSD 8968782)  
ATTACHMENT B – Guidance material

# Attachment A – Recommended Environmental Assessment Requirements for Blue Bush Waste Facility (SSD 8968782)

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

<b>Biodiversity</b>
1. Biodiversity impacts related to the proposed development are to be assessed in accordance with <a href="#">Section 7.9 of the Biodiversity Conservation Act 2016</a> using the <a href="#">Biodiversity Assessment Method (BAM)</a> and documented in a <a href="#">Biodiversity Development Assessment Report (BDAR)</a> . The BDAR must include information in the form detailed in the <a href="#">Biodiversity Conservation Act 2016 (s6.12)</a> , <a href="#">Biodiversity Conservation Regulation 2017 (s6.8)</a> 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; <ol style="list-style-type: none"> <li>The total number and classes of biodiversity credits required to be retired for the development/project;</li> <li>The number and classes of like-for-like biodiversity credits proposed to be retired;</li> <li>The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules;</li> <li>Any proposal to fund a <a href="#">biodiversity conservation action</a>;</li> <li>Any proposal to make a payment to the Biodiversity Conservation Fund.</li> </ol> <p>If seeking approval to use the variation rules, the BDAR must contain details of the <a href="#">reasonable steps</a> that have been taken to obtain requisite like-for-like biodiversity credits.</p>
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 <a href="#">Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017</a> under s6.10 of the <i>Biodiversity Conservation Act 2016</i> .
<b>Flooding</b>
6. The EIS must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including: <ol style="list-style-type: none"> <li>Flood prone land.</li> <li>Flood planning area, the area below the flood planning level.</li> <li>Hydraulic categorisation (floodways and flood storage areas).</li> <li>Flood hazard.</li> </ol>

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.	<p>The EIS must model the effect of the proposed development (including fill) on the flood behaviour under the following scenarios:</p> <ul style="list-style-type: none"> <li>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.</li> </ul>
9.	<p>Modelling in the EIS must consider and document:</p> <ul style="list-style-type: none"> <li>a. Existing council flood studies in the area and examine consistency to the flood behaviour documented in these studies.</li> <li>b. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood.</li> <li>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.</li> <li>d. Relevant provisions of the NSW Floodplain Development Manual 2005.</li> </ul>
17.	<p>The EIS must assess the impacts on the proposed development on flood behaviour, including:</p> <ul style="list-style-type: none"> <li>a. Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure.</li> <li>b. Consistency with Council Floodplain Risk Management Plans.</li> <li>c. Consistency with any Rural Floodplain Management Plans.</li> <li>d. Compatibility with the flood hazard of the land.</li> <li>e. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land.</li> <li>f. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>k. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.</li> </ul>

## Attachment B – Guidance material

Title	Web address
<b><u>Relevant Legislation</u></b>	
<i>Biodiversity Conservation Act 2016</i>	<a href="http://www.legislation.nsw.gov.au/#/view/act/2016/63/full">www.legislation.nsw.gov.au/#/view/act/2016/63/full</a>
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	<a href="http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/">www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/</a>
<i>Environmental Planning and Assessment Act 1979</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N">www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N</a>
<b><u>Biodiversity</u></b>	
Biodiversity Assessment Method (OEH 2017)	<a href="http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf">www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf</a>
Biodiversity Offsets Scheme Entry Threshold Tool	<a href="http://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap">www.lmbc.nsw.gov.au/Maps/index.html?viewer=BOSETMap</a>
BAM Assessor Resources (including links to Survey Guidelines, Registers and Databases)	<a href="https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-resources">https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-resources</a>
BAM Assessor FAQ	<a href="https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-questions-and-answers">https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity/accredited-assessors/assessor-questions-and-answers</a>
Biodiversity Values Map	<a href="http://www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap">www.lmbc.nsw.gov.au/Maps/index.html?viewer=BVMap</a>
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH 2017)	<a href="http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf">www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf</a>
Ancillary rules: biodiversity conservation actions	<a href="http://www.environment.nsw.gov.au/resources/bcact/ancillary-rules-biodiversity-actions-170496.pdf">www.environment.nsw.gov.au/resources/bcact/ancillary-rules-biodiversity-actions-170496.pdf</a>
Ancillary rules: reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	<a href="http://www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf">www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf</a>
DPIE Threatened Species Profiles	<a href="http://www.environment.nsw.gov.au/threatenedspeciesapp/">www.environment.nsw.gov.au/threatenedspeciesapp/</a>
BioNet Atlas	<a href="http://www.environment.nsw.gov.au/wildlifeatlas/about.htm">www.environment.nsw.gov.au/wildlifeatlas/about.htm</a>
BioNet Vegetation Classification – see <b>NSW Plant Community Type (PCT) classification</b> link for PCT database login page.	<a href="http://www.environment.nsw.gov.au/research/Visclassification.htm">http://www.environment.nsw.gov.au/research/Visclassification.htm</a>
NSW SEED Data Portal (access to online spatial data)	<a href="https://www.seed.nsw.gov.au/">https://www.seed.nsw.gov.au/</a>
Fisheries NSW policies and guidelines	<a href="http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation">www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation</a>

<b><u>Water</u></b>	
<b>Flooding</b>	
Floodplain development manual	<a href="http://www.environment.nsw.gov.au/floodplains/manual.htm">www.environment.nsw.gov.au/floodplains/manual.htm</a>
NSW Climate Impact Profile	<a href="http://climatechange.environment.nsw.gov.au/">climatechange.environment.nsw.gov.au/</a>
Climate Change Impacts and Risk Management	<a href="http://www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management">www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management</a>