



Mr Ed Mounsey
Head of Development
CWP Renewables Pty Ltd
PO Box 1709
Newcastle NSW 2300
Via email: Ed.Mounsey@cwprenewables.com

07 July 2021

Dear Mr Mounsey,

**Boco Rock Wind Farm Modification 1 (MP09_0103-Mod-1)
Biodiversity Assessment**

I refer to your letter dated 18 June 2021 to Mr Jim Betts, Secretary of the Department of Planning, Industry and Environment (the Department), regarding the proposed modification of the Boco Rock Wind Farm (MP09_0103-Mod-1). The Secretary has asked me to respond on his behalf.

You expressed concern about the extended timeframes for the proposed modification, that the modified project reduces the environmental impact of the project overall and that you have provided adequate justification in supporting information and it remains undetermined.

The Department acknowledges that the assessment of this modification application has been delayed, but notes that this is primarily due to concerns about the potential biodiversity impacts of the proposed modification.

In regard to the process to date, the Department's Biodiversity, Conservation and Science Directorate (BCS) has consistently raised concerns about the lack of a Biodiversity Development Assessment Report (BDAR) for the proposed modification and the lack of recent survey data (noting that the most recent survey data is from 2009). These issues are complex from both a statutory and technical perspective and the views of BCS are important in our assessment.

In regard to the statutory context, the Department notes that section 7.17 (Modifications of planning approvals or activities) of the *Biodiversity Conservation Act 2016* (BC Act) does not apply to the modification as the original project approval pre-dates the BC Act.

However, clause 30A of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* (BC Regulation 2017) applies. Hence the test for whether a BDAR is not required is that the proposed "modification will not increase the impact on biodiversity values".

The Department considers there is currently insufficient information to justify that a BDAR is not required, particularly in relation to the statutory test including specific reference to the listed 'biodiversity values'.

There is a total of nine biodiversity values listed in section 1.5 of the BC Act and clause 1.4 of the BC Regulation 2017.

Based on the information available, the proposed modification would appear to increase impacts on some of the listed biodiversity values, including the 'flight path integrity' (due to additional turbine height) and potentially 'vegetation abundance' (due to increased size of turbine base).

However, it may be possible to demonstrate that the potential benefits of the proposed modification on these (or other) biodiversity values (e.g. from the removal of 25 turbines) means that there is not an increase in impacts overall.

In order to demonstrate that, further information is required, including consideration of all relevant biodiversity values comparing pre-modification and post-modification, and details on the 'worst-case' scenario (i.e. how many turbines are located within woodland areas comparing pre-modification and post-modification).

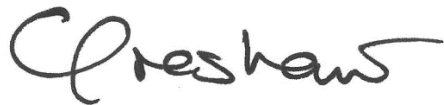
Overall, it is inherently difficult to assess impacts on biodiversity values without the provision of a BDAR. It is generally preferable to provide a BDAR for modifications unless there is a clear and unequivocal reduction in impacts.

While the provision of a BDAR can add upfront time and costs, it will generally ensure a more efficient assessment process overall. Nevertheless, in this case, it is likely that the provision of further information should be sufficient to conclude that a BDAR is not required.

In order for the Department to work towards determination of the modification application please provide a timeframe for when this information will be provided.

If you have any questions, please contact Iwan Davies, who can be contacted on 9274 6296 or at iwan.davies@planning.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink that reads "Clay Preshaw". The signature is written in a cursive, flowing style.

Clay Preshaw
Executive Director
Energy, Resources and Industry Assessments