

Your ref: SSD-62466963
Our ref: DOC23-837636

Natasha Homsey
Team Leader
Department of Planning and Environment – Planning Group
Via Major Projects Portal: PAE-62478711

Dear Natasha

Subject: Request for Secretary's Environmental Assessment Requirements – Euston Wind Farm (SSD-62466963)

Thank you for your email dated 19 September 2023 seeking input from the Biodiversity and Conservation Division (BCD) into the Department of Planning and Environment Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the Euston Wind Farm (SSD-62466963).

BCD and NPWS acknowledge that the proposed project under Part 4.1 of the *NSW Environmental Planning and Assessment Act 1979* is providing for the proposed construction, operation and decommissioning of a 96-turbine wind farm within the South-West Renewable Energy Zone (South-West REZ).

BCD and the NSW National Parks and Wildlife Service (NPWS) have reviewed the supplied documents for SSD-62466963 on the Major Projects Portal at <https://www.planningportal.nsw.gov.au/major-projects/projects/euston-wind-farm>.

We provide 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
3. Mallee Cliffs National Park and Willandra Lakes World Heritage Area

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 flooding and biodiversity.

The description of the development should include the location and extent of all proposed works that may impact on flooding, biodiversity and the adjacent Mallee Cliffs National Park and Willandra Lakes World Heritage Area. The scale and intensity of the proposed development should dictate the level of investigation. The assessment must include all ancillary infrastructure associated with the project such as grid connection, roads, water and power supplies, and Rural Fire Service requirements for asset protection. Strategies for adaptive management and associated monitoring for the project will need to conform to the most current NSW and Australian standards and guidelines for windfarm developments. Note that regional-scale Plant Community Type (PCT) mapping may not be accurate at a site scale so should not be relied upon for the assessment.

1. Biodiversity

The anticipated impact will need to be determined as part of the EIS using the Biodiversity Assessment Method 2020 (BAM) and documented in a Biodiversity Development Assessment

Report (BDAR). Survey methods must be consistent with BAM requirements, unless otherwise agreed with BCD. Minimum requirements for the biodiversity assessment are listed in Appendix K of the BAM. The Accredited Assessor preparing the BDAR is advised to follow the BDAR template (DPE 2022), and provide digital data as specified in Appendix D of the Biodiversity Assessment Method 2020 Operational Manual – Stage 2 (DPE 2023).

The *Biodiversity Conservation Act 2016* (BC Act) - sections 6.2(d) and 6.4(1) - sets out the requirement to apply the ‘avoid, minimise, offset’ hierarchy for development approvals. The proposal must demonstrate that impacts to threatened biodiversity have, in the first instance, been avoided. Currently the proposal shows some proposed project infrastructure located within native vegetation, which does not demonstrate the BAM requirement to initially avoid biodiversity impacts. The EIS needs to consider alternative selection of project infrastructure to avoid clearance of native vegetation or otherwise fully justify the siting of the turbines.

The Scoping Report identifies numerous threatened species that have been observed at the project site. These include birds that have been found to be particularly susceptible to collision with wind turbines, such as the Little Eagle. A full assessment of the risk to birds and bats (including non-threatened species) and how such risk may be mitigated must be completed to inform the preparation of a Bird and Bat Adaptive Management Plan (BBAMP) for the development to be submitted with the BDAR. Please liaise with BCD during the development of the Bird and Bat Utilisation Survey approach and the BBAMP.

Due to the nature of the development the project must document commitments to mitigation measures proposed to manage impacts, including impacts which are uncertain, in accordance with Section 8.4 of the BAM 2020.

Given the location of the proposal in relation to the South-West REZ, the cumulative impact of electricity generation in the surrounding region should be assessed through application of the Cumulative Impact Assessment Guidelines for State Significant Projects.

If the EIS and associated BDAR do not comply with the BAM, further surveys during the Response to Submissions (RTS) period will be required which may prolong the approval process. BCD discourages this approach and understands that no approvals will be issued based on assumed presence and post approval surveys due to proponent timelines. Additionally, if the proposed development footprint is likely to be refined during later detailed design, an assessment of biodiversity values should be completed across a larger corridor. This will ensure any future refinement or micro siting within the development corridor can be completed with minimal delays as biodiversity impacts will already be known.

When the BDAR is submitted, we request that the BAM accredited assessor provides the required spatial data which reflects the figures within the BDAR directly to BCD if it is too large to be uploaded into the Biodiversity Offset and Agreement Management System.

The EIS should identify any relevant Matters of National Environmental Significance, and whether the proposal has been referred to the Australian Government or already determined to be a controlled action under the EPBC Act.

2. Flooding

The project site is located approximately eight kilometres north of Euston on land generally elevated above the Murray River floodplain. Numerous lower order ephemeral creek channels cross the project site through gently undulating topography that likely activate during local intense rainfall events. Given this, it is important that the hydrology of the site be investigated to aid in the site design and the placement of infrastructure to minimise flood risks.

The EIS should specifically address the attached requirements for flooding and conduct quantitative flood modelling for the purposes of appropriately locating infrastructure and for assessing impacts, including on waterway crossings for site access.

3. Mallee Cliffs National Park and Willandra Lakes World Heritage Area

The proposal adjoins (shares an interface) with Mallee Cliffs National Park (national park) as land reserved under Part 4 of the *National Parks and Wildlife Act 1974* (NPW Act), so the NPWS

appreciates the opportunity to provide input into the SEARs. NPWS requests that the recommendations listed in Attachment A (12) be included in the SEARs to ensure the future preparation of an EIS explicitly considers land reserved under the NPW Act.

This proposal, along with Mallee Wind Farm (SSD-53293710) and Euston Mineral Sands (SSD-53674728) are three major projects that are proposed for development in proximity to the national park. NPWS is most concerned about the cumulative impacts of these developments on the national park and requests a detailed assessment of the cumulative impacts specific to the natural and cultural values for which the national park was reserved. In particular, the national park is being managed as an important reintroduction site for 10 currently extinct species in NSW, initially in controlled feral predator-free areas, with a wider landscape introduction programmed. NPWS remains concerned that the habitat values that made the national park suitable for the reintroduction program may be adversely affected or degraded through the direct, indirect, and cumulative impacts of the proposed adjoining development.

We note in the scoping report that the proposal is likely to trigger the requirement for referral under the *Environment Protection and Biodiversity Conservation Act 1999* and that the potential for impacts to the Willandra Lakes Region World Heritage Property will be flagged. The nearest part of the world heritage property to the proposed development is approximately six kilometres from the potential disturbance footprint. If wind turbines are visible from the world heritage property, this may detract from the values of that internationally significant heritage site.

If access to land reserved under the NPW Act is required to conduct any survey or environmental investigation, the proponent must seek prior consent from the NPWS Manager, Lower Darling Area via npws.lowerdarling@environment.nsw.gov.au. NPWS has partnered with the Australian Wildlife Conservancy to deliver the reintroduction (rewilding) program on the national park, so the Australian Wildlife Conservancy should be added to the proposal's stakeholder list.

If you have any questions regarding this advice, please contact Simon Maffei, Senior Project Officer Planning, South West BCD, via rog.southwest@environment.nsw.gov.au or 02 6022 0646.

Yours sincerely



Adam Vey
Director South West, Biodiversity and Conservation Division
Environment and Heritage Group
Department of Planning and Environment

5 October 2023

ATTACHMENT A – Recommended Environmental Assessment Requirements for Euston Wind Farm (SSD-62466963)
ATTACHMENT B – Guidance material

Attachment A Recommended Environmental Assessment Requirements for Euston Wind Farm (SSD-62466963)

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) 2020 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 DPE 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, uncertain 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 K 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> .
6.	The EIS must assess the impact of wind turbine strikes on protected animals including; - Predict the likelihood of impact on aerial species resident in, or likely to fly over, the project area, including but not limited to bat/bird strike and barotrauma. - Predict the rate of impact per turbine per year for species likely to be affected. - Justify predictions of likelihood of impact and rates of impact with reference to relevant literature and other published sources of information. - Predict the consequences of impacts for the persistence of bioregional populations, with reference to relevant literature and other published sources of information. - Predict and map the likely zone of disturbance around wind turbines for aerial species resident in, or likely to fly over, the project area, with reference to relevant literature and other published sources of information.

- f. Map significant landscape and habitat features within the zone of disturbance for species likely to be affected, including but not limited to hollow bearing trees, nest trees, microbat habitat and important habitat for migratory species.
- g. Predict the likelihood and describe the nature of indirect impacts on aerial species resident in, or likely to fly over, the project area including but not limited to barriers to migratory pathways and breeding, feeding and resting resources.
- h. For migratory species, predict the impact of avoidance behaviour relative to migration distances and the availability of suitable habitat for breeding, feeding and resting over the migration route, with reference to relevant literature and other sources of published information.
- i. Justify prediction of likelihood and nature of impact, with reference to relevant literature and other published sources of information.
- j. Predict the cumulative impact of the project together with existing wind farms with respect to movement patterns and the use of adjacent habitat and provide justification for these predictions.

Flooding

7. The EIS must map the following features relevant to flooding as described in the Flood Risk Management Manual: the policy and manual for flood liable land (NSW Government 2023) including:
 - a. Flood prone land.
 - b. Flood planning area, the area below the flood planning level.
 - c. Hydraulic categorisation (floodways and flood storage areas).
 - d. Flood hazard.
8. 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.
9. 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 8 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.
10. 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 Flood Risk Management Manual: the policy and manual for flood liable land (2023).

11. The EIS must assess the impacts on the proposed development on flood behaviour, including:
- Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure.
 - Consistency with Council Floodplain Risk Management Plans.
 - Consistency with any Rural Floodplain Management Plans.
 - Compatibility with the flood hazard of the land.
 - Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land.
 - Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site.
 - 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.
 - 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.
 - Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the SES and Council.
 - 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.
 - Any impacts the development may have on the social and economic costs to the community as consequence of flooding.

National Parks and Wildlife Estate

12. The EIS must:
- assess the nature, extent and duration of any potential direct, indirect or cumulative impacts that affect land reserved under Part 4 or acquired under Part 11 of the *NSW National Parks and Wildlife Act 1974* (as NPWS managed land) addressing all matters outlined in the guideline [Developments adjacent to National Parks and Wildlife Service lands: guidelines for consent and planning authorities](#) (DPIE-NPWS 2020) inclusive of the NPWS managed land-specific matters listed below:
 - recognise Mallee Cliffs National Park (national park) is an ecologically sensitive area of state significance, the role of the reintroduction of extinct species (rewilding) and address potential impacts, increased threatening processes and risk as a result of the proposal.
 - consider the potential impacts (direct, indirect and cumulative) to the national park, against the intent of reservation, management principles as set for the national park, address natural and cultural values subject to the adopted [Plan of Management](#) and the NPW Act.

- iii. address the application of Part 12A of the NPW Act, consider potential impacts on any declared [Assets of Intergenerational Significance](#) (AIS) with reference to the relevant adopted conservation actions plans.
- iv. consider historic heritage on the interface of NPWS managed lands subject to the Historic Heritage Information System as NPWS section 170 (Agency Heritage Conservation Register) Heritage Act 1977.
- v. apply heightened biosecurity processes and pest management planning to reduce the risk of potential spread or incursion of weeds and pests onto NPWS managed land (and the rewilding re-introduction program sites) as a result of the proposal, apply [Hygiene guidelines](#) - *Protocols to protect priority biodiversity areas in NSW from Phytophthora cinnamomi, myrtle rust, amphibian chytrid fungus and invasive plants* (DPIE 2020).
- vi. address the proposals effect on NPWS land management operations on the NPWS managed lands, considering NPWS ability to deliver on critical management functions such as low-flight operations, bush fire management obligations especially wildfire response and maintain radio communications.
- vii. consider the risk of reduced environmental quality, landscape amenity and ecological function due to the potential impacts around noise, vibration, light pollution and loss of connectivity (migration, flight pathways and landscape connection to other conservation land in proximity to the national park) resulting from the proposal (construction and operation).
- viii. ensure sufficient buffers are applied between the development and the national park.
- b. identify measures proposed to prevent, control, abate, minimise and manage any potential direct, indirect and cumulative impacts on NPWS managed land, including an evaluation on the adequacy and effectiveness of the stated measures proposed.
- c. quantify any residual impacts on NPWS managed lands and propose offsets, if relevant.
- d. ensure consultation occurs with NPWS, refer all correspondence to the NPWS Manager, Lower Darling Area via email at NPWS.lowerdarling@environment.nsw.gov.au
- e. ensure consultation with the Barkandji People subject to the Indigenous Land Use Agreement (ILUA) as native title holders recognising their role.

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
<i>National Parks and Wildlife Act 1974</i>	www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N
<i>Wilderness Act 1987</i>	www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N
<u>Biodiversity</u>	
Biodiversity Assessment Method 2020 (DPIE 2020)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-2020
Biodiversity Assessment Method 2020 Operational Manual – Stage 1 (DPE 2022)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-manual-2020-operational-manual-stage-1
Biodiversity Assessment Method 2020 Operational Manual – Stage 2 (DPE 2023)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/biodiversity-assessment-method-operational-manual-stage-2
BDAR Template (DPE 2022)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/guidance-for-the-biodiversity-development-assessment-report-template
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 https://datasets.seed.nsw.gov.au/dataset/biodiversity-values-map
Guidance to assist a decision maker to determine a serious and irreversible impact (DPIE 2019)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/guidance-decision-makers-determine-serious-irreversible-impact-190511.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

Title	Web address
NSW SEED Data Portal (access to online spatial data)	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
Cumulative Impact Assessment Guidelines for Significant Projects	www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/Policy-and-legislation/SSPT-Guidelines/GD1259-RAF-Assessing-Cumulative-Impacts-Guide-final.pdf
<u>Flooding</u>	
Flood Risk Management Manual: the policy and manual for flood liable land (2023)	https://www.environment.nsw.gov.au/topics/water/floodplains/flood-plain-manual
Australian Rainfall and Runoff: A Guide to Flood Estimation	http://arr.ga.gov.au/
NSW Climate Impact Profile	climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	www.environment.gov.au/climate-change/adaptation/publications/climate-change-impact-risk-management
<u>National Parks and Wildlife Estate</u>	
<i>National Parks and Wildlife Act 1974</i>	https://legislation.nsw.gov.au/view/html/inforce/current/act-1974-080
Assets of Intergeneration Significance (Part 12A of the NPW Act)	https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/park-management/assets-of-intergenerational-significance
Developments adjacent to National Parks and Wildlife Service lands Guidelines for consent and planning authorities (DPIE 2020)	www.environment.nsw.gov.au/research-and-publications/publications-search/developments-adjacent-to-national-parks-and-wildlife-service-lands
National parks and other lands managed by NPWS	https://datasets.seed.nsw.gov.au/dataset/npws-all-managed-land
Historic Heritage Information System	https://datasets.seed.nsw.gov.au/dataset/historic-heritage-information-management-system-hhims-records
Mallee Cliffs National Park Plan of Management (OEH 2018)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Parks-plans-of-management/mallee-cliffs-national-park-plan-management-180171.pdf
Mallee Cliffs National Park Fire Management Strategy (NPWS 2013)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/mallee-cliffs-national-park-fire-management-strategy
SOS Hygiene guidelines - Protocols to protect priority biodiversity areas in NSW (DPIE 2020)	https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Wildlife-management/saving-our-species-hygiene-guidelines-200164.pdf