



Your ref: SSD-76610458

Our ref: DOC24-825063

Jess Watson
Planning Officer
Department of Planning, Housing and Infrastructure – NSW Planning Group
Via Major Projects Portal: PAE-76705972

Dear Jess

Subject: Request for Secretary’s Environmental Assessment Requirements – Devlins Bridge Wind Farm (SSD-76610458)

Thank you for your email dated 8 October 2024 seeking advice from the Biodiversity, Conservation and Science Group (BCS) and the NSW National Parks and Wildlife Service (NPWS) of the NSW Department of Climate Change, Energy, the Environment and Water into the Secretary’s Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for this project.

BCS has reviewed the supplied information. The relevant documents reviewed are:

- Devlins Bridge Wind Farm Scoping Report, Jacobs 29 September 2024
- Appendix F. Devlins Bridge Wind Farm: Preliminary Biodiversity Assessment, Biosis 9 July 2024

We provide SEARs for the proposed development in **Attachment A**. Guidance material is listed in **Attachment B**.

BCS recommends that the EIS appropriately address the following:

1. Biodiversity
2. Flood Risk Management
3. South-West Woodland Nature Reserve and Murrumbidgee Valley National Park

The EIS should fully describe the proposal, the existing environment, and impacts of the development that may impact on flooding and biodiversity. 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. Strategies for adaptive management and monitoring will need to align with the 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.

Biodiversity

The Scoping Report and Appendix F have identified threatened ecological communities (TECs) under the *Biodiversity Conservation Act 2016* (BC Act) and *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as present within the footprint and likely to be impacted by the proposed development. For the EPBC Act TEC Natural Grasslands of the Murray Valley Plains, the Biodiversity Development Assessment Report (BDAR) must include a TEC equivalency assessment for each associated PCT and TEC based on floristic surveys and the Approved Conservation Listing Advice for each TEC.

It is noted that discrepancies have been identified between the draft Native Vegetation Regulatory Map and the results of on-ground floristic assessments. As per the guidance 'Determining native vegetation land categorisation for application in the Biodiversity Offsets Scheme' (<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Animals-and-plants/Biodiversity/determining-native-vegetation-land-categorisation-for-application-in-bos-230162.pdf>), where there is uncertainty or conflicting data, a precautionary approach should be applied and the category that affords the higher level of biodiversity protection should be applied. It is also noted that the land category assessment has not identified paddock trees within Category 1 – exempt land. The threatened species habitat value of these trees will need to be determined as part of the EIS process, along with an assessment of indirect impacts to any remnant woodland patches that become disconnected or isolated due to the project layout.

The proximity of the proposed wind turbines to Dry Lake, Yanco Creek, Washpen Creek and Back Creek may impact species such as (but not limited to) White-bellied Sea-eagle, Little Eagle, Square-tailed Kite, and Superb Parrot, all of which may nest in habitat along the creeks. BCS expects the assessment to estimate how birds and bats use the proposal site in the context of the surrounding habitats, including the mapping of fly ways. Appropriate buffers need to be applied between wind turbines and aquatic habitats.

The project will not be impacting Plains-wanderer mapped important habitat, however BCS encourages the avoidance of suitable Plains-wanderer habitat given it has previously been recorded in the vicinity. BCS also recommends increasing the risk ratings of some of the fauna listed in Tables 4 and 10 until additional surveys are completed. For example, Turquoise Parrot, Blue-winged Parrot, and Painted Honeyeater are all likely to be at greater risk than what has been presented in the tables due to a range of factors including available habitat and flight height.

Minimum requirements for the biodiversity assessment are listed in Appendix K of the BAM. Minimum spatial data requirements for the Biodiversity Development Assessment Report (BDAR) submission are listed in Appendix D (Table 7) of the BAM Stage 2 Operational Manual. This spatial data must be provided when the BDAR is submitted. The Accredited Assessor preparing the BDAR is advised to follow the BDAR template.

The BDAR must demonstrate how the proposal has investigated and implemented all reasonable options to avoid and minimise impacts to biodiversity. These investigations should consider site selection, the location of project components (including infrastructure, turbines, and ancillary development components), and project design (including turbine design). Evidence to demonstrate avoidance and minimisation efforts should be supported by available data and scientific research.

The BDAR must provide an assessment of the impacts of the development on birds and bats, including blade strike, barotrauma, alteration to movement patterns, and cumulative impacts of other wind farms in the vicinity. The assessment must also include the preparation of a Bird and Bat Adaptive Management Plan (BBAMP) for the development, informed by mitigation measures proposed to manage impacts. Strategies for adaptive management and associated monitoring for the project will need to conform to the most current standards and guidelines present for windfarm developments and assess any protected birds and bats at risk of impact.

Given the location of the proposal in proximity to the South West Renewable Energy Zone, 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.

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.

Flood Risk Management

The Scoping Report indicates that the project site is located within the Murrumbidgee River catchment on predominately flat land which is likely flood impacted due to some local prominent hydrological features.

Recent flood assessments for other major projects in the area have identified that significant flow paths are activated during major riverine events due to breakouts from the Murrumbidgee River and Yanco Creek that impact on this site. These flow paths generally flow in a south westerly direction across the project site. Given that the landscape is generally dominated by topography of low relief, it is likely that when localised intense rainfall events occur, major overland flow flooding will also impact the project site.

Given the known flood risks for the project site, BCS recommends that the proponent conduct a detailed Flood Impact and Risk Assessment (FIRA) that considers both major overland flow and riverine breakout flow flooding mechanisms.

The FIRA component of the EIS should address the flood risk management requirements in Attachment A and conduct flood modelling for the purposes of defining the impact of flood events on the site infrastructure, and the impact of the proposed site infrastructure on flood behaviour. The FIRA should be prepared in accordance with the NSW Flood Risk Management Manual and the FIRA guidelines.

South-West Woodland Nature Reserve and Murrumbidgee Valley National Park

The project area adjoins the South-West Woodland Nature Reserve, and is proximate to the Murrumbidgee Valley National Park, which is land reserved under Part 4 of the *National Parks and Wildlife Act 1974* (NPWS Act). NPWS appreciates the opportunity to provide input into the environmental assessment requirements and acknowledge that the strategies to avoid or minimise impacts includes a 1.5 km buffer to park and reserve boundaries.

NPWS requests that the requirements listed in Attachment A (12) be included in the SEARs to ensure the future preparation of an EIS explicitly considers land reserved under the NPWS Act.

Access to land reserved under the NPWS Act by the proponent to conduct any survey, or environmental investigation to inform the overall preparation of the EIS must seek prior consent from the NPWS Manager, Riverina Area, via npws.riverina@environment.nsw.gov.au.

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

Yours sincerely



Adam Vey
21 October 2024

**Director South West
Biodiversity, Conservation and Science Group
NSW Department of Climate Change, Energy, the Environment and Water**

ATTACHMENT A – Recommended Environmental Assessment Requirements for Devlins Bridge Wind Farm (SSD-76610458)

ATTACHMENT B – Guidance material

Attachment A Recommended Environmental Assessment Requirements for Devlins Bridge Wind Farm (SSD-76610458)

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

Biodiversity
<p>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 it is determined that the proposed development is not likely to have any significant impact on biodiversity values.</p>
<p>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.</p>
<p>3. The BDAR must include details of the measures proposed to address the offset obligation as follows;</p> <ul style="list-style-type: none"> a. The total number and classes of biodiversity credits required to be retired for the development/project; b. The number and classes of like-for-like biodiversity credits proposed to be retired; c. The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules; d. Any proposal to fund a biodiversity conservation action; e. Any proposal to make a payment to the Biodiversity Conservation Fund. <p>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.</p>
<p>4. The BDAR must be submitted with all digital spatial data associated with the survey and assessment as per Appendix K of the BAM. Minimum spatial data requirements for the BDAR submission are listed in Appendix D of the BAM Stage 2 Operational Manual.</p>
<p>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 Biodiversity Conservation Act 2016.</p>
<p>6. The EIS must assess the impact of wind turbine strikes on protected animals including;</p> <ul style="list-style-type: none"> a. 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. b. Predict the rate of impact per turbine per year for species likely to be affected. c. Justify predictions of likelihood of impact and rates of impact with reference to relevant literature and other published sources of information. d. Predict the consequences of impacts for the persistence of bioregional populations, with reference to relevant literature and other published sources of information.

- e. 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.

Flood Risk Management

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:

- a. Whether there will be detrimental increases in the potential flood affection 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.

National Parks and Wildlife Estate

12. The EIS must identify and assess:

- a. In the case of a project that adjoins land reserved under Part 4 of the *National Parks and Wildlife Act 1974*, ensure no encroachment of assets or ancillary infrastructure occurs, and the project is restricted to the development site and adequately buffered from the reserve.
- b. In the case of a project that adjoins, is in the immediate vicinity of, or upstream of land reserved under the National Parks and Wildlife Act 1974, ensure the matters outlined in the Developments adjacent to National Parks and Wildlife Service lands - Guidelines for consent and planning authorities (DPIE 2020) (<https://www.environment.nsw.gov.au/research-and-publications/publications-search/developments-adjacent-to-national-parks-and-wildlife-service-lands>) are adequately considered and include:
 - i. recognition of the natural, cultural and social values attached to that land

- ii. recognition of the impacts, including direct, indirect and cumulative impacts as they relate to the environmental values of that land, its location, and greater landscape connectivity
 - iii. extent of the direct, indirect and cumulative impacts on that land
 - iv. duration of the direct, indirect and cumulative impacts on the interface, the greater environmental values and the reserves connectivity in the landscape to other reserved land.
- c. Measures proposed to prevent, control, abate, minimise and manage the direct and indirect impacts including an evaluation of the proposed measures effectiveness and reliability over the life of the project.
- d. Residual impacts and their significance subject to the protection and conservation of South-West Woodland Nature Reserve and Murrumbidgee Valley National Park.
- e. Risks and increased restrictions imposed to land management operations undertaken by NPWS as a result of the proposed windfarm project, especially in the use of low flight aircraft for aerial pest baiting, weed spraying, firefighting and hazard reduction purposes. Justify compliance with Civil Aviation Safety Authority (CASA) regulations. Consult with NPWS when assessing this.
- f. Impacts and environmental risks to the values and resilience of South-West Woodland Nature Reserve and Murrumbidgee Valley National Park.
- g. Bushfire protection requirements attached to the proposed windfarm project ensuring they are restricted to the development site, and all ignition threats relating to the project are identified and planned for within the confines of the development site. No fire management is to affect, burden or threaten land that is South-West Woodland Nature Reserve and Murrumbidgee Valley National Park.
- h. Risk of interference to the functionality and operation of the emergency telecommunications system used by NPWS on South-West Woodland Nature Reserve and Murrumbidgee Valley National Park as a result of the proposed windfarm project. Consult with NPWS when assessing this.

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>	https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-203
<i>National Parks and Wildlife Act 1974</i>	https://legislation.nsw.gov.au/view/html/inforce/current/act-1974-080
<i>Wilderness Act 1987</i>	https://legislation.nsw.gov.au/view/html/inforce/current/act-1987-196
<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	https://www.environment.nsw.gov.au/research-and-publications/publications-search/ancillary-rules-biodiversity-conservation-actions
Ancillary rules: reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	https://www.environment.nsw.gov.au/research-and-publications/publications-search/ancillary-rules-reasonable-steps-to-seek-like-for-like-biodiversity-credits

Title	Web address
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 SEED Data Portal (access to online spatial data)	https://www.seed.nsw.gov.au/
Fisheries NSW policies and guidelines	https://www.dpi.nsw.gov.au/fishing/habitat/publications/pubs/fish-habitat-conservation
Cumulative Impact Assessment Guidelines for Significant Projects	https://www.planning.nsw.gov.au/sites/default/files/2023-03/cumulative-impact-assessment-guidelines-for-ssp.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/floodplain-manual
Australian Rainfall and Runoff: A Guide to Flood Estimation	http://arr.ga.gov.au/
Flood Impact and Risk Assessment, Flood Risk Management Guideline LU01	https://www.environment.nsw.gov.au/research-and-publications/publications-search/flood-impact-and-risk-assessment
<u>National Parks and Wildlife Estate</u>	
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