

Friday, 2 May 2025

Anthony Ko
Team Leader
Energy Assessments
Department of Planning, Housing and Infrastructure

[Via Major Projects Portal](#)

Dear Anthony,

SSI-9717 Snowy 2.0 Transmission Connection – Application of Variation Offset Rules

Please refer to attached request (**Attachment A**), issued to the NSW Planning Secretary prepared by Snowy Hydro and Nature Positive Advisory for Transgrid, as the proponent of the Snowy 2.0 Transmission Connection Project, to request approval to use the variation offset rules under clause 6.4 of the NSW *Biodiversity Conservation Regulation 2017*.

The application of the offset variation rules is necessary to meet the credit shortfall (limited to 1,634 Gang-gang Cockatoo credits) to fulfil the biodiversity offset measures required under State Significant Infrastructure (SSI) approval SSI-9717 Condition B18 for the Snowy 2.0 Transmission Connection Project.

Please do not hesitate to contact Jason Snape via email at jason.snape@transgrid.com.au or by phone on 0472 756 143 should you require any further information.

Yours faithfully,



Jason Snape
Senior Environmental Advisor | Delivery
Transgrid

Attachment A

Kiersten Fishburn
Secretary
NSW Department of Planning, Housing and Infrastructure
Attention: Anthony Ko (anthony.ko@planning.nsw.gov.au)

CONFIDENTIAL

Dear Kiersten,

RE: Request for approval to use the Variation Rules under the *Biodiversity Conservation Regulation 2017* to meet the offset obligation for any residual credits for the Snowy 2.0 Transmission Connection Project, NSW Infrastructure Approval (SSI 9717)

1 Introduction

NSW Electricity Operations Pty. Ltd. is the trustee for NSW Electricity Networks Operations Trust (known as Transgrid) and is the proponent for the Snowy 2.0 Transmission Connection Project (SSI 9717) (the project). Transgrid is seeking approval to apply the variation rules under clause 6.4 of the *NSW Biodiversity Conservation Regulation 2017* (BC Regulation) to fulfil the residual offset liability specified in the Biodiversity Offset Package (BOP) for Infrastructure Approval SSI 9717.

The original BOP was approved by your nominee on 13 October 2023 and was required to be implemented and delivered by 1 September 2024. On 30 August 2024 the Director, Energy Assessments of the NSW Department of Planning, Housing and Infrastructure (DPHI) approved Modification 1 to the Infrastructure Approval for an extension to the timeframe for implementation and delivery of the BOP, from 1 September 2024 to 1 September 2025.

Snowy Hydro Ltd. (Snowy Hydro), on behalf of Transgrid, has led the implementation of the project's BOP. The approved BOP outlines that, once all reasonable steps have been taken to secure like-for-like credits, Snowy Hydro may explore options to secure credits under the variation rules.

Amendments to the *Biodiversity Conservation Act 2016* passed by the NSW Government mean that from 7 March 2025, approval can no longer be granted for proponents to use the variation rules. However, if a proponent has an approval to use the variation rules that was granted before 7 March 2025, they can continue to use the variation rules. Snowy Hydro regards the approval of the BOP an approval to use the variation rules that was granted before 7 March 2025.

A proportion of the project's offset requirements have been met through the establishment of Biodiversity Stewardship Agreements (BSAs) over two biodiversity stewardship sites. These BSAs, together, have supplied approximately 60% of the project's ecosystem credit needs and 30% of the project's species credit needs.

To address the balance of the project's offset requirements, Snowy Hydro has undertaken all reasonable steps to seek like-for-like biodiversity credits over a period of more than 12 months, well beyond the minimum 120-day timeframe set out in Figure 1 of the *Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits* (OEH, 2017). Actions taken to source like-for-like credits include:

- identifying and contacting holders of like-for-like credits on the biodiversity credits public register;
- contacting landholders on the biodiversity stewardship site expression of interest public register that may be able to generate like-for-like credits; and
- placing two entries on the Biodiversity Credits Wanted public register for the residual credits required.

Snowy Hydro has been able to secure the offset liability for all ecosystem credits, the Yellow-bellied Glider endangered population on the Bago Plateau and the Masked Owl. Snowy Hydro has entered an agreement with a landholder for all Eastern Pygmy-possum credits; however, there are time related

risks associated with this transaction, specifically the credits may not be established in time for transaction ahead of the 1 September 2025 deadline. Snowy Hydro has been able to partially secure the offset liability for the Gang-gang Cockatoo.

The credits secured to date (actual and via agreements) represents 77% of the overall offset liability for the project.

It is unlikely that all of the residual like-for-like biodiversity credits can be acquired and retired by 1 September 2025 from the market alone and so is unlikely to be addressed without payment into the Biodiversity Conservation Fund or use of the variation rules.

For this reason, Snowy Hydro and Transgrid seek approval to apply the variation rules to address the remaining residual liability of 1,634 Gang-gang Cockatoo credits only. This will ensure Snowy Hydro and Transgrid have met the project's offset obligation by 1 September 2025.

This letter aims: to document the steps undertaken to seek like-for-like credits; explain the outcomes of such steps; and demonstrate how the steps taken meet the guidelines set out in the *Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits* (OEH, 2017).

2 Background

2.1 Project overview

The NSW Minister for Planning granted an Infrastructure Approval under the NSW *Environmental Planning and Assessment Act 1979* (EPBC Act) for the project on 2 September 2022 (SSI 9717). The Commonwealth Minister for the Environment subsequently provided approval for the project under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) on 21 October 2022 (EPBC 2018/8363).

The approval is for the construction and operation of the Snowy 2.0 Transmission Connection Project to enable the grid connection of Snowy 2.0 to the National Electricity Market. The proponent for the project is Transgrid which works closely with Snowy Hydro as the proponent for Snowy 2.0.

2.2 Conditions of approval – biodiversity offsets

Several conditions of the Infrastructure Approval (SSI 9717) relate to the management of biodiversity, including conditions B18 and B19 which set out the requirement for a BOP and a bank guarantee, respectively.

Condition B18 states:

Prior to carrying out any development that would impact on biodiversity values outside Kosciuszko National Park, the Proponent must prepare a Biodiversity Offset Package (Package) that is consistent with the EIS, in consultation with BCS, to the satisfaction of the Planning Secretary in writing. The Package must include, but not necessarily be limited to:

- (a) details of the specific biodiversity offset measures to be implemented and delivered in accordance with the EIS;
- (b) the cost for each specific biodiversity offset measures, which would be required to be paid into the Biodiversity Conservation Fund (BCF) if the relevant measures are not implemented and delivered (as calculated in accordance with Division 6 of the *Biodiversity Conservation Act 2016* (NSW)) and the offset payment calculator that was established as of 9 August 2021;
- (c) the timing and responsibilities for the implementation and delivery of measures required in the Package; and

- (d) confirmation that the biodiversity offset measures will have been implemented and delivered by no later than 1 September 2024.

Following approval, the Proponent must implement and deliver the Biodiversity Offset Package.

Condition 7 of the EPBC Act approval (EPBC 2018/8363) requires the impacts of the project to be offset in accordance with the NSW Infrastructure Approval. It states:

To offset the impacts of the Action on protected matters, the approval holder must implement conditions B18, B19 and B20 of the State Infrastructure Approval.

Condition B18 is relevant to this letter as it sets out the requirement to meet offset obligations of the project in accordance with an approved BOP. The BOP (EMM, 2023) was prepared in consultation with the then Biodiversity Conservation Division (BCD) and was approved by a nominee of the Planning Secretary on 13 October 2023. The BOP has been updated twice, following approval in October 2023; once in November 2024 following approval to Modification 1, extending the BOP delivery date to 1 September 2025, and again in March 2025 to clarify the offset arrangements for PCT 285.

As outlined above, Snowy Hydro regards the approval of the BOP, which clearly states an option to use the variation rules, as an approval to use the variation rules that was granted before 7 March 2025. Thus, the option to use the variations rules is still available to Snowy Hydro and Transgrid following amendments to the *Biodiversity Conservation Act* in March 2025.

2.3 Summary of biodiversity credit obligation

Table 2.1 outlines what credits are required by the project. In order to meet this obligation, Snowy Hydro undertook searches for suitable credit generating properties in 2022 and, later that year, work commenced to establish two sites; the Heinecke and Tumba Top sites. Christmas Hill and Twin Rivers were added as back-up sites in 2023 and Snowy Hydro intended to progress all four BSAs as they would provide a large proportion of the like-for-like credits required to offset project impacts.

Two of these sites did not progress (Twin Rivers and Heinecke). The landholder of one site withdrew from the process (Twin Rivers). The landowner at the other site (Heinecke) did not wish to continue owning the land and be responsible for implementing the BSA, and so Snowy commenced a subdivision process with local council which first required rezoning of the property. Council significantly exceeded determination timeframes and so, together with the landowner, the decision was made to withdraw the rezoning and subdivision proposals and engagement with the landowner concluded.

Of the two remaining sites, establishment of BSAs is complete with the BSAs registered, credits created and all credits from one site (Tumba Top) transferred to Snowy Hydro ownership, and a portion of Yellow-bellied Glider credits transferred from the second site (Christmas Hill) to Snowy Hydro. At Christmas Hill there are other surplus credits which the landholder continues to hold.

In addition to the above, Snowy Hydro has managed to secure or is in the process of securing the following credits from the market:

- 539 ecosystem credits for impacts to PCTs 285 and 300;
- 57 Gang-gang Cockatoo credits;
- 1,789 Eastern Pygmy-possum credits (pending);
- 417 Masked Owl credits (pending).

The credits secured from the Tumba Top and Christmas Hill agreements are shown in Table 2.1 to identify the extent to which the credit obligation is met by these BSAs, along with credits secured from the market to date.

Table 2.1 Credits obtained (two BSAs and secured from the market), and residual liability

PCT/species	Offset trading group	Total credits	Tumba Top BSA	Christmas Hill BSA	Credits secured from the market	Residual offset liability
Ecosystem credits						
PCT 285 - Broad-leaved Sally grass – sedge woodland on valley flats and swamps in the NSW South Western Slopes Bioregion and adjoining South Eastern Highlands Bioregion	Upper Riverina Dry Sclerophyll Forests; >=70% and <90%	87	-	-	87	0
PCT 300 - Ribbon Gum - Narrow-leaved (Robertsons) Peppermint montane fern - grass tall open forest on deep clay loam soils in the upper NSW South Western Slopes Bioregion and western Kosciuszko escarpment	Southern Tableland Wet Sclerophyll Forests; <50%	452	-	-	452	0
PCT 1196 - Snow Gum - Mountain Gum shrubby open forest of montane areas, South Eastern Highlands Bioregion and Australian Alps Bioregion	Subalpine Woodlands; <50%	825	825	-		0
Species credits						
Gang-gang Cockatoo (<i>Callocephalon fimbriatum</i>)	N/A	1,721	30	-	57	1,634
Eastern Pygmy-possum (<i>Cercartetus nanus</i>)	N/A	1,789	-	-	1,789 ^{1,2}	Pending
Yellow-bellied Glider (<i>Petaurus australis</i>) endangered population on the Bago Plateau	N/A	1,697	1,422	275		0
Masked Owl (<i>Tyto novaehollandiae</i>)	N/A	417	-	-	417 ¹	Pending

Notes: 1. In the process of being secured

2. Currently progressing through BAM Review Stages

2.4 MNES and critically endangered matters not eligible for offset under variation rules

Section 6.6A of the BC Regulation outlines a number of limitations to the variation rules. This includes that the variation rules do not apply to the impact on a listed threatened species, or its habitat, of a proposed action that is a controlled action under the EPBC Act.

The Gang-gang Cockatoo was listed under the EPBC Act in March 2022, after the project was declared a controlled action and following the commencement of the assessment process under the bilateral agreement. Further, the Gang-gang Cockatoo is not listed as a protected matter under the EPBC Act approval (per definition of protected matters).

Given the above, the limitations on the variation rules do not apply.

3 Reasonable steps undertaken

3.1 Steps taken to seek like-for-like credits

Under clause 6.4 of the BC Regulation, a proponent can seek to use the variation rules once they have taken "reasonable steps" to find like-for-like credits. Reasonable steps are outlined in the *Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules* (OEH 2017). The reasonable steps required, including minimum timeframes, are shown in Plate 3.1.

30 days*	60 days*	90 days*	Up to 120 days*
Step 1: Contact credit holders on the 'biodiversity credits public register' who own the relevant credits			
Step 2: Contact landholders on the 'biodiversity stewardship site expression of interest public register' who may be able to generate the relevant credits			
Step 3: Place an entry in the 'biodiversity credits wanted public register'			
Accept responses to steps 1, 2 and 3			
Negotiate with anyone who responds			
Submit application if all negotiation is concluded unsuccessfully. All negotiations can be automatically considered to be concluded unsuccessfully if agreement has not been reached after 120 days from the offset search start date.			

Plate 3.1 Reasonable steps to find like-for-like credits, including minimum timeframes

An assessment of the steps taken by EMM and Nature Positive Advisory (consultants to Snowy Hydro) against these reasonable steps to find like-for-like credits for the Gang-gang Cockatoo is provided in Table 3.1.

Table 3.1 Steps taken by EMM and Nature Positive Advisory to address “reasonable steps” requirements

Requirement	Steps taken by EMM
Step 1: Contact credit holders on the 'biodiversity credits public register' who own the relevant credits. Negotiate with anyone who responds.	<p>Searches of the credit registers were initially undertaken on 9 February 2024 (and then updated numerous times, most recently on 7 April 2025).</p> <p>One positive response has been received indicating available credits:</p> <ul style="list-style-type: none"> Credit ID BIMS-CR-154. Snowy Hydro has purchased all of the Wonnarua Nation Aboriginal Corporation’s residual Gang-gang Cockatoo credits. These credits have now been retired. <p>Negative responses have been received, indicating credits will not be generated:</p> <ul style="list-style-type: none"> Credit ID CR-28943. Despite initial indications that this site would generate 26 credits, during the review process the (then) Credit Supply Taskforce (now POTSE) raised concerns over the hollow being located on a paper road. These credits were subsequently not generated and these credits are no longer listed.
Step 2: Contact landholders on the 'biodiversity stewardship site expression of interest public register' who may be able to generate the relevant credits. Negotiate with anyone who responds.	<p>Searches of the credit registers were initially undertaken on 9 February 2024 (and then updated numerous times, most recently on 7 April 2025).</p> <p>Negative responses have been received from EOI holder:</p> <ul style="list-style-type: none"> EOI ID a0PGA00000PcWN9. This BSA application has recently been resubmitted to POTSE to generate an estimated 40 Gang-gang Cockatoo credits, subject to assessment and approval by POTSE. Recent correspondence from the EOI contact (Daniel Pogson), indicates that these credits are unlikely to be generated within the required timeframe. If they are, Snowy Hydro will negotiate in good faith. Regardless, there are insufficient credits to fulfill the residual liability. EOI ID a0PGA00000PcWRY. This BSA application is yet to be submitted and correspondence from the EOI contact (Daniel Pogson) indicates that these credits are a duplicate of the site above and need to be removed. EOI ID a0PMn00000PGbYW. The site is at an early stage with a business case assessment completed. The number of Gang-gang Cockatoo credits has not been quantified. Purchase of the Gang-gang Cockatoo credits from the site would not generate sufficient income to warrant progressing and credits would not be generated within the required timeframes for the project.
Step 3: Place an entry in the 'biodiversity credits wanted public register'. Negotiate with anyone who responds.	<p>An entry was placed on the biodiversity credits wanted public register on 19 February 2024 (case number 00046155) and again on 6 March 2025(case number 00055628).</p> <p>One positive response was received:</p> <ul style="list-style-type: none"> No EOI or credit ID is available, contact is Lee Kingsma, 92 Gang-gang Cockatoo Credits: they have a site capable of generating an estimated 92 Gang-gang Cockatoo credits. The site is being assessed by POTSE under their EOI process but the breeding tree appears to be located in a crown road reserve rather than within the BSA. Timeframes for approval of the BSA application are uncertain and the site has not progressed to date. <p>No other responses have been received.</p>

As of 14 April 2025, all steps required by OEH (2017) have been completed, hence this application to use the variation rules to meet the residual offset liability (1,634 credits) for Gang-gang Cockatoo species credits.

It is noted that evidence of correspondence with credit holders and other relevant persons on public registers and evidence of unsuccessful negotiations with credit holders/landholders must be provided to facilitate the use of the variation rules. This includes evidence that negotiations were conducted in good faith and that any credits or potential sites not used are unfeasible. Accordingly, Appendix A includes all correspondence with credit holders and other relevant persons on public registers.

4 Credits available under the variation rules

The variation rules allow broader trading as follows:

- For species credits:
 - if the impacted species is a plant—they represent a plant
 - if the impacted species is an animal—they represent an animal
 - they represent a species that has the same or a higher category of listing under the BC Act as a threatened species
 - they represent a location that is in:
 - the same IBRA region as the impacted site, or
 - a subregion that is within 100 km of the outer edge of the impacted site.

The variation rules require credits to be sourced from a location in the same IBRA region as the impacted site, or a subregion that is within 100 km of the outer edge of the impacted site. A list of suitable subregions is provided in Table 4.1.

Table 4.1 IBRA subregions within 100 km of the project

Development IBRA region	Offset IBRA subregion
Australian Alps	Snowy Mountains
Australian Alps	Victorian Alps
NSW South Western Slopes	Inland Slopes
NSW South Western Slopes	Lower Slopes
Riverina	Victorian Riverina
South East Corner	South East Coastal Ranges
South Eastern Highlands	Bondo
South Eastern Highlands	Highlands-Northern Fall
South Eastern Highlands	Kybeyan-Gourock
South Eastern Highlands	Monaro
South Eastern Highlands	Murrumbateman

Table 4.2 outlines credits that are available (according to search of credit registers) and suitable for offsetting impacts to Gang-gang Cockatoo under the variation rules.

Table 4.2 Credits available in the market to offset impacts to Gang-gang Cockatoo under the variation rules

Common name	Scientific name	Credits available
Eastern Cave Bat	<i>Vespadelus troughtoni</i>	1,670 ¹
Golden Sun Moth	<i>Synemon plana</i>	56
Greater Glider	<i>Petauroides volans</i>	157
Key's Matchstick Grasshopper	<i>Keyacris scurra</i>	990
Koala	<i>Phascolarctos cinereus</i>	1,456
Large-eared Pied Bat	<i>Chalinolobus dwyeri</i>	1,670 ¹
Monaro Grassland Earless Dragon	<i>Tympanocryptis osbornei</i>	617
Pink-tailed Legless Lizard	<i>Aprasia parapulchella</i>	2,066
Regent Honeyeater	<i>Anthochaera phrygia</i>	4,241 ¹
Squirrel Glider	<i>Petaurus norfolcensis</i>	2,452
Striped Legless Lizard	<i>Delma impar</i>	729
Yellow-bellied Glider population on the Bago Plateau	<i>Petaurus australis - endangered population</i>	275 ²

1 - Credits listed for the Eastern Cave Bat, Large-eared Pied Bat and Regent Honeyeater are owned by proponents and may be committed for other projects.

5 Payment into the BCF

Searches of credit registers indicate there are sufficient credits available to meet the residual liability of 1,634 Gang-gang Cockatoo species credits using the variation rules. If Snowy Hydro and Transgrid do not meet this residual liability through use of the variation rules, or are not permitted to utilise the variation rules, then any residual liability will be met via payment into the BCF.

6 Closing

Snowy Hydro and Transgrid are seeking approval to use the variation rules to meet the residual offset liability for the Snowy 2.0 Transmission Connection project, in accordance with the BOP. This is limited to 1,634 Gang-gang Cockatoo credits.

The benefits of allowing the use of the variation rules in this instance is that alternative suitable credits are available from the market, to meet the Gang-gang cockatoo credit liability.

This will reduce pressure on the BCT to source credits if payment into the BCF is made and allow for more fulsome utilisation of the BSAs established.

We appreciate your consideration of our request to use the variation rules for the project to ensure implementation of all required biodiversity offset measures can be met in a reasonable timeframe.

If you require any further details, please contact Alex Bolte (alex.bolte@snowyhydro.com.au) and Nathan Garvey (nathan.garvey@naturepositiveadvisory.au) on behalf of Snowy Hydro/Transgrid.

Yours sincerely,

Charlie Litchfield

Head of Environment and Lands,

Snowy Hydro Limited

29/04/2025

Appendix A

Correspondence with credit holders and other relevant persons on public registers

A.1 Correspondence with credit holders and other relevant persons on public registers