

Bimbi Pastoral Pty Ltd
6832 New England Hwy
KENTUCKY NSW 2354

Director – Energy, Industry & Compliance
Department of Planning, Housing and Infrastructure
GPO Box 39
Sydney NSW 2001
23rd December 2025

Dear Director,

Re: Technical submission on Modification 1 – Thunderbolt Wind Farm (SSD10807896)

This submission is accompanied by a full technical report (Appendix 1) and constitutes a formal objection to Modification 1 of the Thunderbolt Wind Farm (SSD-10807896).

Bimbi Pastoral Pty Ltd operates a superfine and ultrafine merino wool production operation as well as an ecotourism Hipcamp operation on a farm adjoining the project and modification site. We depend heavily on significant nature positive and environmental credentials for marketing our products.

The modification, as exhibited on 3 December 2025, does not satisfy the statutory preconditions for approval under s4.55(2) of the Environmental Planning and Assessment Act 1979 (EP&A Act) and fails to meet mandatory assessment requirements under the Biodiversity Conservation Act 2016 (BC Act) and the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), including the EPBC Amendment Regulations 2025, which were passed prior to exhibition and are therefore directly applicable.

The modification proposes material changes to the approved development, including:

- extension of the construction program from 18–24 months to approximately 40 months
- introduction of a new 50-metre microwave tower
- establishment of 12 new intersection and road-alteration sites over a 170 km transport corridor
- additional clearing (approximately 7.23 ha), including ~3.87 ha of vegetation; and
- substantially increased heavy vehicle movements and route-based impacts.

The scale and nature of these changes exceed what can lawfully be considered under s4.55(2).

The modification introduces new and expanded environmental impact pathways not previously assessed in the Environmental Impact Statement (EIS) and therefore cannot be characterised as ‘substantially the same development’.

The impacts of this modification are likely to significantly affect Bimbi Pastoral’s operations and yet have not been properly assessed or documented.

Primary Legal and Technical Concerns:

1. *Failure of the Statutory Test under s4.55(2) EP&A Act*

The modification materially alters the approved development in duration, traffic generation, physical footprint, and infrastructure type. The introduction of a 50 m telecommunications structure, significant new roadworks, and more than doubling the construction duration create new impacts of a scale and nature not contemplated in the original approval. These changes fall outside the permissible scope of a modification under s4.55(2) and instead require lodgement of a new State Significant Development application.

2. *Non-Compliance with the Biodiversity Conservation Act 2016*

The Biodiversity Development Assessment Report (BDAR) contains multiple deficiencies, including:

- incorrect or inconsistent Plant Community Type (PCT) attribution
- underestimation of vegetation integrity and fauna habitat values
- inadequate treatment of indirect and prescribed impacts over a 40-month construction period
- insufficient avoidance and minimisation analysis (a mandatory requirement under the BAM); and
- materially understated offset obligations.

These deficiencies constitute failures to comply with the BC Act, the BAM, and the SEARs.

3. *Failure to Address the EPBC Act Amendment Regulations 2025*

The modification expands the disturbance footprint into areas with potential Matters of National Environmental Significance (MNES). Despite this, the assessment relies entirely on superseded MNES criteria. No analysis is provided regarding the strengthened federal significance thresholds, revised cumulative impact requirements, or transitional obligations applicable to projects with pre-existing EPBC approvals. This omission results in non-compliance with the EPBC Act as amended, rendering the exhibited MNES assessment legally insufficient.

4. *Deficient Traffic and Road Safety Assessment*

Appendix 7 is not based on certified swept-path modelling, does not assess pavement performance over an extended construction period, and relies on outdated or incomplete intersection warrants analysis. The modification significantly escalates OSOM traffic activity without undertaking the rigorous safety evaluation required by TfNSW, Austroads, or the Roads Act 1993.

5. *Inadequate Noise and Amenity Assessment*

Noise assessments rely on the original seven-month peak construction period and fail to assess the consequences of prolonged works, night-time blade transport, retarder noise, and extended compound operation. This is inconsistent with the Noise Policy for Industry (2017) and the POEO Act. The modifications will significantly impact our operations as a result.

6. *Cumulative Impact Assessment Not Fit for Purpose*

The modification increases overlap with at least 25 concurrent regional renewable and transmission projects, yet cumulative biodiversity, traffic, accommodation, emergency services, and workforce impacts are either unquantified or entirely omitted. This is inconsistent with the Cumulative Impact Assessment Guidelines for State Significant Projects (2021).

7. *Incorrect Statutory Context and Zoning Analysis*

Appendix 3 incorrectly frames permissibility and omits the requirement for approvals under the Roads Act, Crown Land Management Act, and relevant Local Environmental Plans, particularly in relation to new disturbance areas outside the original project footprint.

Below is a consolidated table of deficiencies

TABLE OF DEFICIENCIES – THUNDERBOLT WIND FARM MODIFICATION 1

Category	Deficiency	Evidence / Appendix Reference	Legislative Failure
Legal	Modification not substantially the same (40-month construction, new tower, expanded works)	Main report	EP&A Act s4.55(2)
Legal	EPBC 2025 amendments ignored	Appendix 5	EPBC Act

Category	Deficiency	Evidence / Appendix Reference	Legislative Failure
Biodiversity	Incorrect PCT classification at multiple sites	Appendix 5	BC Act s7.9; BAM 2020
Biodiversity	Underestimated indirect impacts (40 months)	Appendix 5	BAM 2020 Ch. 7
Biodiversity	Offsets insufficient/understated	Appendix 5	BC Act s6.7
Biodiversity	MNES impacts not reassessed under new EPBC scheme	Appendix 5	EPBC Act Regulations 2025
Traffic	Swept-path modelling uncertified	Appendix 7	SEPP Transport, TfNSW Guide
Traffic	Pavement risk not addressed	Appendix 7	Roads Act
Traffic	Intersection warrants based on outdated data	Appendix 7	Austrroads, TfNSW
Noise	Extended construction noise unassessed	Appendix 9	POEO Act, NPfI 2017
Social	Extended disruption to residents not modelled	Appendix 9/7	SEARs
Heritage	Incomplete archaeology for new disturbance areas	Appendix 6	NPW Act
Cumulative	Overlap with 25 regional projects not quantified	Appendix 8	SEARs; ESD principles
Statutory Context	Incorrect interpretation of zoning impacts	Appendix 3	LEPs

Considering the above legal, procedural, and technical deficiencies, the proposed Modification cannot be lawfully approved under s4.55(2).

The magnitude of the impacts on neighbouring businesses like ours and the community in general, and the failure to undertake mandatory assessments under the BC Act and EPBC Act (as amended) necessitate refusal of Modification 1 or, alternatively, submission of a new development application accompanied by a fully revised EIS, BDAR, MNES assessment, and updated technical studies.

Regards,



Karen and Craig Zirkler
Bimbi Pastoral Pty Ltd

Attachment - Appendix 1 Technical Objection Report

Appendix 1

FORMAL TECHNICAL OBJECTION REPORT

Thunderbolt Wind Farm Modification 1 (SSD-10807896)

Submitted to: NSW Department of Planning, Housing & Infrastructure (DPHI)

Prepared by: *Bimbi Pastoral Pty Ltd*

Date: *23 December 2025*

Reference: Public Exhibition commencing 3 December 2025

EXECUTIVE SUMMARY

This technical submission objects to the proposed Thunderbolt Wind Farm Modification 1 (SSD-10807896) on the grounds that the application:

1. Fails the statutory test under s4.55(2) of the EP&A Act, as the development (as modified) is not substantially the same project, due to significant increases in:
 - construction duration (from 18–24 months to ~40 months)
 - traffic generation
 - heavy vehicle risk exposure
 - additional vegetation clearing
 - introduction of new infrastructure (50 m microwave tower).
2. Does not satisfy mandatory biodiversity assessment requirements under the Biodiversity Conservation Act 2016, the BAM, or the Secretary’s environmental assessment requirements (SEARs).
3. Fails to integrate the amended federal EPBC Act requirements, as new regulations passed immediately prior to exhibition (late November 2025) impose:
 - strengthened MNES assessment
 - updated protected matters constraints
 - transitional obligations on proponents with existing EPBC approvals.
4. Undercuts the integrity of the approved EIS, which assumed:
 - split-blade transport (not full-length 90 m blades)
 - shorter construction duration
 - lower cumulative impacts
 - more limited intersections and vegetation removal.
5. Contains multiple technical inconsistencies across appendices, including:
 - Unverified swept-path modelling not aligned with Austroads requirements
 - Incomplete MNES impact analysis (Appendix 5)
 - Failure to address acoustic implications of extended construction period (Appendix 9–10)
 - Outdated cumulative impacts assessment
 - Archaeological impact gaps for new disturbance areas.
6. Lacks a complete safety, traffic and road-reliability assessment, especially concerning:
 - extended over-size-over-mass (OSOM) movements
 - increased rural road risk
 - pavement wear
 - unassessed intersection upgrade cumulative risks.
7. Does not demonstrate avoidance and minimisation, as required under both the Biodiversity Conservation Act (2016) and Environment Protection and Biodiversity Conservation Act (1999).

Conclusion

For these reasons, the Modification cannot be supported in its current form and must be refused or withdrawn pending substantial revision and full reassessment under both NSW and Commonwealth legislation.

1. INTRODUCTION

1.1 Purpose of This Submission

This report provides a comprehensive technical review of the Thunderbolt Wind Farm Modification 1, integrating deficiencies identified across the main report and all ten appended documents. It is intended to assist the NSW Department of Planning in determining whether the modification satisfies statutory requirements and whether the proposed changes are permissible under s4.55(2) of the EP&A Act.

1.2 Exhibition Context

The Modification was placed on public exhibition on 3 December 2025, days after the passage of the EPBC Amendment Regulations 2025. The assessment prepared by Umwelt did not incorporate or reference the new regulatory regime, despite the clear legal requirement to do so for any document exhibited after commencement of the legislative amendments.

1.3 Summary of Proposed Changes

The modification seeks:

- A new transportation route for full-length (90 m) blades
- Additional intersection works across 12 sites
- 7.23 ha of new disturbance (including ~3.87 ha vegetation)
- A new 50 m microwave tower
- Construction extension to 40 months
- Revised construction traffic with peak heavy vehicle days exceeding the original EIS assumptions.

These changes materially alter scope, duration, impacts, and risk profiles.

2. LEGISLATIVE & POLICY FRAMEWORK

This section establishes the statutory obligations relevant to the proposed modification and demonstrates where the application fails to meet mandatory requirements.

2.1 Environmental Planning and Assessment Act 1979 (NSW)

2.1.1 s4.55(2) – “Substantially the Same Development” Test

A modification may be approved under s4.55(2) *only if* the consent authority is satisfied that:

1. The development as modified is substantially the same development as originally approved
2. There is no material change to environmental impacts that would require a new development application
3. Proper notification and consultation have been undertaken
4. All mandatory considerations have been addressed.

Failures:

- The modification increases construction duration from 18–24 months to ~40 months (a 70–120% increase).
- It introduces new infrastructure (a 50 m microwave tower).
- It increases cumulative traffic, heavy-vehicle impacts, and vegetation clearing beyond the EIS parameters.
- It creates 12 new disturbance sites along a 170 km transport route, many of which are not covered by the original project description.

Conclusion:

The proposed modification is NOT substantially the same development within the meaning of s4.55(2) and therefore cannot be legally determined under this pathway.

2.2 Biodiversity Conservation Act 2016 (NSW)

2.2.1 Biodiversity Assessment Method (BAM) Requirements

Appendix 5 (BDAR) is required to:

- Identify all ecosystem and species credit obligations
- Assess direct, indirect, and prescribed impacts
- Apply avoidance and minimisation
- Apply the biodiversity offset scheme consistently.

Deficiencies Identified in the BDAR (Appendix 5):

1. Avoidance is not demonstrated - Many intersections could be realigned or alternatives avoided, but the proponent assumes clearing is necessary.
2. Period of analysis does not reflect the 40-month construction period, which affects indirect impacts.
3. Vegetation integrity scores at several sites are inconsistent with field observations (see Appendix 5, p. 196+).
4. MNES screening (for EPBC-listed species/ecological communities) is superficial and inconsistent with the amended EPBC Act requirements.
5. Offsets are understated, as some vegetation is incorrectly characterised as “non-native” or “low condition” when it provides core woodland bird habitat.

2.3 EPBC Act 1999 (Commonwealth)

2.3.1 EPBC Amendment Regulations 2025 (passed just before exhibition)

Key changes relevant to this modification include:

- Strengthened MNES triggers
- New habitat-level significance thresholds
- Revised cumulative impact provisions
- Updated risk-based assessment pathways
- Revised compliance and reporting obligations
- Transitional arrangements for existing approvals where new disturbance areas expand beyond original EPBC footprint.

Critical non-compliance:

The BDAR and MNES assessment fail entirely to address the new federal rules, despite the report being publicly exhibited after the passage of the amendments.

The modification expands the EPBC footprint.

DCCEEW correspondence (not included in the application) would normally require:

- Re-confirmation of MNES values
- Re-running of habitat significance tests under the amended regulations
- Revision of offset requirements.

None of this has been completed.

2.4 SEPP (Resources & Energy) 2021 & Local LEPs

Electricity-generating works are permissible with consent in RU1 and RU2 zones.

However, new access points, roadworks, and vegetation clearing in R5 and R1 zones require separate assessment under:

- Tamworth LEP 2010
- Uralla LEP 2012
- Muswellbrook LEP 2009.

These considerations are absent from Appendix 3.

2.5 Roads Act 1993 & Transport for NSW Requirements

The application involves:

- Major incidental works
- Intersection upgrades
- Hardstand construction
- Pole and sign relocation
- Road re-alignment.

None of these have formal concurrence from Transport for NSW (TfNSW) or local councils. Appendix 7 relies on draft modelling, not final approved designs.

TfNSW typically requires:

- Safety audits (missing)
- Swept-path certification (incomplete)
- Intersection warrants analysis (partial)
- Pavement design (missing for 40-month duration).

2.6 Other Relevant Legislation

- Heritage Act 1977 / National Parks and Wildlife Act 1974 – archaeology assessment incomplete for new disturbance areas.
- Water Management Act 2000 – several works occur near mapped waterways; no assessment of controlled activity requirements.
- POEO Act 1997 – impacts from prolonged construction noise not addressed.

3. REVIEW OF MAIN REPORT (MODIFICATION REPORT)

This section summarises core deficiencies in the main body of the Modification Report.

3.1 Over-reliance on ‘construction efficiency’ narrative

The modification’s purpose is framed as ‘construction efficiencies’, yet:

- Construction is twice as long
- Traffic loads increase
- Impacts increase
- Vegetation clearing increases
- Risks increase.

The narrative is inconsistent with objective evidence.

3.2 Misleading characterisation of blade transport availability

The report asserts split-blades are ‘not currently available’. However:

- Several global turbine manufacturers maintain split-blade capacity
- The applicant does not provide evidence of procurement attempts
- Lack of supply does not exempt the proponent from minimising impacts under BC Act or EPBC Act.

3.3 Flaws in the ‘no layout change’ argument

Although WTG locations remain unchanged, the following new infrastructure introduces new impact pathways:

- 50 m microwave tower (not assessed in EIS)
- 12 new intersection works
- Multiple new clearing sites
- Hardstands and pole relocations
- Extended construction compounds (duration increase).

These are material in nature.

3.4 Understatement of induced cumulative impacts

The modification:

- Expands the project timeline
- Overlaps with far more projects (25 vs. 17 originally)
- Does not assess cumulative dust, water impacts, workforce availability, emergency services burden, or biosecurity risks.

Appendix 8 is superficial and outdated.

4. APPENDIX-BY-APPENDIX ANALYSIS

Below is the detailed assessment of the proposal’s ten appendices.

4.1 Appendix 1 – Schedule of Land

Key Deficiencies:

- Several land parcels affected by intersection works are outside the approved disturbance area.
- Crown road impacts are not properly assessed under the Crown Lands Management Act.
- No verification of landowner consents for Muswellbrook section.

4.2 Appendix 2 – Revised Project Description

Findings:

- Downplays the scale of modifications.
- Omits the introduction of a high-risk microwave tower in bushfire-prone land.
- Fails to provide a map overlay comparing original vs modified disturbance footprint.

4.3 Appendix 3 – Statutory Context

Major Errors:

- Outdated EPBC Act provisions (pre-amendment).

- Incorrect interpretation of s4.55(2) test.
- Fails to recognise new disturbance areas require new DA (s4.38 pathway).
- Does not identify need for Roads Act approvals.

4.4 Appendix 4 – Mitigation Measures

Deficiencies:

- Mitigation is copied from the original EIS with no adjustment for new impacts.
- No measures relating to extended construction noise period.
- No updated Biodiversity Management Plan.
- No invasive species / weed plan for 40-month duration.

4.5 Appendix 5 – BDAR (Major Deficiencies)

Appendix 5 contains some of the most significant compliance failures. See the Appendix to this report for details on these failures.

Key Issues

1. Incorrect vegetation classification at multiple sites.
2. Underestimation of hollow-bearing tree loss.
3. No modelling of indirect impacts over 40 months, contrary to BAM requirements.
4. MNES assessment is legally obsolete (post-amendment of EPBC Act).
5. Offsets incorrectly calculated, underestimating credit liability by 20–50% in some cases.
6. Connectivity impacts ignored (e.g., Site 12 corridor fragmentation).
7. Possible Threatened Ecological Community (TEC) misclassification (e.g., New England Peppermint Woodland near Site 8).
8. No recognition of the presence of Bell's Turtle, an endangered species requiring referral to the federal government under the EPBC Act.

This appendix alone may justify refusal.

4.6 Appendix 6 – Archaeology

Deficiencies:

- Only desktop review conducted for several new sites.
- No targeted subsurface investigation despite ground disturbance.
- Fails to assess Crown roads with known artefact potential.

4.7 Appendix 7 – Traffic and Transport Assessment

Critical Issues:

1. Swept-path modelling incomplete (no evidence of certification).
2. Traffic volumes misrepresented, with significant spikes not reflected in daily averages.
3. Intersection warrants analysis outdated (TfNSW now requires Movement and Place assessment).
4. Pavement failure risk not assessed for extended construction period.
5. OSOM risks to school buses and rural commuters not assessed.

4.8 Appendix 8 – Cumulative Impacts

Failures:

- Treats cumulative projects generically with no quantified modelling.
- Ignores cumulative biodiversity, workforce, accommodation, and emergency service impacts.

- Outdated project status of regional renewable projects.

4.9 Appendix 9 – Noise Addendum

Deficiencies:

- Noise assessment based on 7-month peak, not the revised 40-month schedule.
- No assessment of sleep disturbance for extended civil works.
- Fails to model blade-transport noise at night.

4.10 Appendix 10 – OSOM Traffic Noise

Findings:

- Models only the ‘average’ OSOM movement, not worst case.
- No assessment of brake-retarder noise through steep sections.
- Does not include updated construction duration.

5. INTEGRATED IMPACT ANALYSIS

Across the entire modification package, several themes emerge:

1. Significant expansion of project impacts
 - More clearing, more roads, more construction, more risk.
2. Outdated assessments
 - Major appendices rely on 2022–2024 data inappropriate for a 2025+ modification.
3. Legal non-compliance
 - s4.55(2) test is not met.
 - BDAR fails BAM and BC Act obligations.
 - EPBC Act amendments ignored.
4. Cumulative impacts grossly understated.
5. New infrastructure not previously assessed
 - Tower, intersections, hardstands, pole relocations, long-duration compounds.

6. TABLE OF DEFICIENCIES

Below is a consolidated table of deficiencies.

TABLE OF DEFICIENCIES – THUNDERBOLT WIND FARM MODIFICATION 1

Category	Deficiency	Evidence / Appendix Reference	Legislative Failure
Legal	Modification not substantially the same (40-month construction, new tower, expanded works)	Main report	EP&A Act s4.55(2)
Legal	EPBC 2025 amendments ignored	Appendix 5	EPBC Act
Biodiversity	Incorrect PCT classification at multiple sites	Appendix 5	BC Act s7.9; BAM 2020
Biodiversity	Underestimated indirect impacts (40 months)	Appendix 5	BAM 2020 Ch. 7
Biodiversity	Offsets insufficient/understated	Appendix 5	BC Act s6.7

Category	Deficiency	Evidence / Appendix Reference	Legislative Failure
Biodiversity	MNES impacts not reassessed under new EPBC scheme	Appendix 5	EPBC Act Regulations 2025
Traffic	Swept-path modelling uncertified	Appendix 7	SEPP Transport, TfNSW Guide
Traffic	Pavement risk not addressed	Appendix 7	Roads Act
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Noise	Extended construction noise unassessed	Appendix 9	POEO Act, NPfI 2017
Social	Extended disruption to residents not modelled	Appendix 9/7	SEARs
Heritage	Incomplete archaeology for new disturbance areas	Appendix 6	NPW Act
Cumulative	Overlap with 25 regional projects not quantified	Appendix 8	SEARs; ESD principles
Statutory Context	Incorrect interpretation of zoning impacts	Appendix 3	LEPs

7. CONCLUSION & FORMAL OBJECTION

Based on the extensive analysis provided, this submission concludes:

1. The modification cannot lawfully proceed under s4.55(2), as it is not substantially the same development.
2. The BDAR and MNES assessment do not comply with the BC Act or EPBC Act (post-amendment) requirements.
3. Traffic, noise, heritage, and cumulative impacts have been materially understated or omitted.
4. The modification introduces new impacts, new infrastructure, and new risks that were not assessed in the original EIS.
5. The application contains material errors, omissions, and misrepresentations.

Therefore, the Modification should be refused.

If the proponent wishes to proceed, it should submit:

- A new or substantially revised EIS,
- A new BDAR compliant with current standards,
- A new EPBC protected matters assessment under the 2025 Regulations,
- A new traffic and safety assessment, and
- Full public exhibition under s4.38.

APPENDIX

Assessment of the Thunderbolt Wind Farm Modification 1 BDAR (Appendix 5)

Including Compliance Analysis Under BOTH the Pre-2025 EPBC Act and the EPBC Amendment Regulations 2025

Prepared by: Karen Zirkler, BSc (Env) Hon 1, GAICD, MICDA

Date: 15th December 2025

1. INTRODUCTION

This document provides a comprehensive assessment of the *Thunderbolt Wind Farm Modification 1 – Biodiversity Development Assessment Report (BDAR)*. The BDAR went on public exhibition on 3 December 2025, immediately following the passing of major reforms to the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) on 28 November 2025.

Because the proposal falls within a regulatory transition window, this submission evaluates the BDAR against:

1. The EPBC Act and Regulations in force immediately prior to exhibition (pre-reform); and
2. The EPBC Amendment Regulations 2025 and associated measures already commenced or binding on decision-making post-reform.

Both frameworks are relevant because:

The pre-reform standards govern whether exhibition documentation was legally adequate, and
The post-reform standards govern current assessment and approval obligations.

This dual-framework analysis shows the BDAR is non-compliant under both regimes.

2. REGULATORY CONTEXT & DUAL-REGIME OBLIGATIONS

2.1 Timing and Transitional Relevance

The Thunderbolt Wind Farm Modification 1 BDAR was placed on public exhibition on 3 December 2025, five days after the passing of significant EPBC Act reform legislation on 28 November 2025.

According to official government sources:

Some EPBC reform provisions commence immediately or shortly after assent (e.g., transparency measures, certain decision-making obligations).

Other major elements, particularly those requiring new institutions or standards, will commence later under transitional arrangements.

Because of this timing, the BDAR must withstand scrutiny under:

- (1) *The EPBC Act and Regulations in force at the time of exhibition (pre-reform), which govern whether the BDAR met the minimum standard required for legally valid public consultation; and*
- (2) *The EPBC reforms as far as they have commenced, and the clear direction and expectations established by the Government's Nature Positive Plan and statutory amendments.*

Thus, a dual-regime assessment is both reasonable and necessary.

3. FAILINGS UNDER THE PRE-REFORM EPBC ACT

The BDAR was legally inadequate when placed on exhibition because:

4.1 No identification of MNES

The BDAR omits key Matters of National Environmental Significance (MNES) species, including Bell's Turtle, despite known habitat and known presence (M.Dillon, Northern Tablelands Local Land Services, pers comm., 10/12/2025).

4.2 No MNES significance test

No pathways analysis or Federal referral consideration.

4.3 No aquatic or hydrological assessment

Despite proximity to sensitive creek systems.

4.4 Incomplete information for public consultation

An exhibition is legally flawed where foundational ecological information is absent.

Result: Under the pre-reform EPBC law, the BDAR fails the minimum standard required for proper public exhibition.

4. FAILINGS UNDER THE EPBC AMENDMENT MEASURES (POST-REFORM, CURRENT AND FORTHCOMING OBLIGATIONS)

The EPBC reform package passed by Parliament in late 2025 introduces strengthened environmental expectations, including:

- increased transparency
- improved MNES identification
- stronger emphasis on cumulative impacts
- heightened protections for freshwater ecosystems
- a shift toward more rigorous assessment frameworks.

Some of these measures have commenced, while others are publicly confirmed but not yet fully operational.

The BDAR fails against both categories.

To maintain full factual accuracy, obligations below are described in two classes:

A. Confirmed post-reform obligations (commenced or clearly in force)

The following expectations are already operative or directly tied to the commencement of the 2025 EPBC reforms:

A1. Requirement for clearer MNES assessment inputs and transparent identification processes

The BDAR contains no MNES screening, contrary to heightened transparency and assessment integrity obligations now in force.

A2. Stronger Federal scrutiny of high-risk MNES, including freshwater species

Bell's Turtle is EPBC-listed and known to inhabit connected waterways.

The BDAR's omission cannot be reconciled with post-reform expectations for MNES handling.

A3. Greater emphasis on scientifically robust ecological information

Reforms mandate improved evidence quality and decision-maker transparency.

The BDAR relies on incomplete survey effort and is inconsistent with these expectations.

B. Expected obligations under EPBC reforms (not yet fully commenced, but publicly confirmed)

These reforms form the Government's stated direction, and although not all are operative, they are relevant to assessing whether documentation prepared during the transition is adequate or future-proof.

B1. Strengthened freshwater ecosystem protection framework

Government announcements and reform papers indicate a major uplift in expectations for:

- sedimentation assessment
- hydrological modelling
- riparian protection
- downstream impact analysis.

The BDAR contains none of these assessments, even though the project affects waterways that support Bell's Turtle.

B2. Explicit cumulative impact requirements

The Government has repeatedly stated cumulative impact assessments will be central to Nature Positive reforms.

The BDAR treats the project as isolated, despite heavy REZ development proposed.

B3. Greater emphasis on alternatives and avoidance

EPBC reforms clearly emphasise "avoid, mitigate, offset" hierarchy and alternatives analysis.

BDAR includes none.

B4. Strengthened offset standards for MNES

Reforms point toward tighter offset feasibility and like-for-like requirements.

The BDAR's offset approach is uncertain and unsupported.

5. SUMMARY TABLE OF BDAR DEFICIENCIES UNDER BOTH EPBC REGIMES

Table 1. BDAR Deficiency Summary Under Both EPBC Regimes

Issue	Pre-Reform EPBC (as at 3 Dec 2025)	Confirmed 2025 Reform Obligations	Expected / Emerging Obligations (Nature Positive Reforms)	BDAR Deficiency
MNES Identification	Required	Increased transparency in MNES reporting	Anticipated structured MNES pathway framework	No MNES screening; Bell's Turtle omitted
Bell's Turtle	Required significance test	MNES handling subject to heightened scrutiny	Freshwater species protections emphasised in reform papers	Species omitted entirely
Aquatic Ecology	Required where MNES may be impacted	Stronger evidence-based assessment standards	Expected increased hydrological/sediment requirements	No aquatic or riparian assessment
MNES Significance Test	Required	Heightened decision-maker transparency	Likely formalised MNES pathway	None provided

Issue	Pre-Reform EPBC (as at 3 Dec 2025)	Confirmed 2025 Reform Obligations	Expected / Emerging Obligations (Nature Positive Reforms)	BDAR Deficiency
Sediment/Erosion	Relevant where MNES present	Stronger environmental information obligations	Expected modelling requirements for freshwater impacts	No modelling
Cumulative Impacts	Expected under ESD	Transparency obligations apply	Explicit cumulative requirements anticipated	No cumulative assessment
Alternatives Analysis	Implied duty	Transparency & evidence obligations	Alternatives analysis central to reforms	None provided
Offsets	Feasibility required	Greater offset scrutiny	Nature Positive reforms emphasise like-for-like	Offset strategy insufficient
Downstream Impacts	Required where MNES or riparian impacts occur	Strengthened assessment integrity obligations	Likely explicit downstream provisions	No downstream assessment
Neighbouring Farms	Required when ecological function crosses boundaries	Transparency and evidence expectations	REZ-scale cumulative duty anticipated	Impacts ignored

6. BELL'S TURTLE – CRITICAL OMISSION UNDER BOTH LEGAL FRAMEWORKS

The BDAR never mentions Bell's Turtle despite:

- confirmed habitat connectivity through Pine & Copes Creek
- species sensitivity to sediment, turbidity, and bank disturbance
- the species being listed as Endangered under the EPBC Act.

Independent evidence confirms the presence of a thriving population of the endangered Bell's Turtle (*Myuchelys bellii*) within connected waterways relevant to the Thunderbolt Wind Farm Modification 1. On 17 November 2024, Northern Tablelands Local Land Services, working with Ecosystem Thinking consultants, captured 49 Bell's Turtles in Pine Creek Dam in a single day, ranging from juveniles to a mature female over 300 mm carapace length (Dillon, pers. comm., 17 December 2025 – see Appendix 3). This catch demonstrates that Pine Creek Dam supports a healthy, reproducing population of this EPBC-listed species. Despite this clear evidence, the BDAR fails to mention Bell's Turtle at all, omits any aquatic or hydrological assessment, and provides no MNES significance test.

This omission constitutes a critical regulatory deficiency under both the pre-reform EPBC Act and the strengthened 2025 EPBC reforms, which mandate transparent MNES identification and freshwater ecosystem protection. Approval cannot lawfully proceed without targeted aquatic surveys, hydrological modelling, and a full MNES referral addressing Bell's Turtle.

This omission constitutes a critical regulatory failure under both regimes.

7. FAILURE TO ASSESS IMPACTS ON NEIGHBOURING FARMS

The BDAR only assesses the internal footprint, ignoring:

- wildlife displacement
- weed spread
- downstream sediment affecting water quality on farms
- biodiversity loss in eco-tourism areas
- fragmentation of farm-based wildlife corridors.

Cross-boundary obligations are well-supported under both EPBC frameworks.

8. REGULATORY CONSEQUENCES

The BDAR fails the pre-reform EPBC standard (legally in force at exhibition) and fails to meet the current and emerging expectations set by the 2025 EPBC reforms.

While not all reform provisions have commenced, the Government has made clear that:

- MNES assessment integrity
- freshwater species protection
- cumulative impact analysis
- transparent evidence standards
- will be central pillars of the future EPBC framework.

The BDAR does not satisfy these standards, nor the older standards.

9. RECOMMENDATIONS

1. Order re-preparation of the BDAR to meet both the pre-reform and post-reform EPBC obligations.
2. Require EPBC referral for Matters of National Environmental Significance (MNES) including Bell's Turtle.
3. Commission targeted aquatic and freshwater turtle surveys.
4. Undertake full hydrological, sediment, and cumulative impact modelling.
5. Ensure offset strategy meets strengthened 2025 requirements.
6. Re-exhibit the modification once adequate documentation exists.

10. CONCLUSION

Because the BDAR was:

- materially inadequate under the EPBC Act as it stood at the time of exhibition, and
- further inconsistent with both the commenced and anticipated components of the 2025 EPBC reform package,

the modification cannot be responsibly or lawfully assessed based on the existing documentation.

A new, compliant BDAR incorporating MNES, freshwater ecology, downstream impacts and cumulative impacts, is required.