



Our ref: DOC21/270658-14

Your ref: SSD-8889679

Mr Jack Turner

Senior Environmental Assessment Officer  
Energy Resource Assessment  
Planning and Assessment Division  
Department of Planning, Industry and Environment  
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Dear Mr Turner

**Liddell Battery and Bayswater Ancillary Works Project (SSD-8889679) - Review of Environmental Impact Statement**

I refer to your e-mail dated 8 April 2021 in which the Planning and Assessment Division (P&A) of the Department of Planning, Industry and Environment (the Department) invited Biodiversity and Conservation Division (BCD) for advice in relation to the Liddell Battery and Bayswater Ancillary Works Project (SSD-8889679).

BCD have reviewed the Environmental Impact Statement, including relevant appendices, in relation to impacts on biodiversity and flooding.

BCD's recommendations are provided in **Attachment A** and detailed comments are provided in **Attachment B**. If you require any further information regarding this matter, please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154 or via email at [huntercentralcoast@environment.nsw.gov.au](mailto:huntercentralcoast@environment.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to be 'S. Cox'.

7 May 2021

**STEVEN COX**  
**Senior Team Leader Planning**  
**Hunter Central Coast Branch**  
**Biodiversity and Conservation Division**

Enclosure: Attachments A and B

## BCD's recommendations

### Liddell Battery and Bayswater Ancillary Works EIS

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#### Biodiversity

1. BCD recommends the BAM accredited assessor certifies that the BDAR was finalised within 14 days of the exhibition of the EIS.
2. BCD recommends that the proponent describes how the survey effort for the striped legless lizard meets the *Survey Guidelines for Australia's Threatened Reptiles* (Department of Agriculture, Water and the Environment, 2011).
3. Further justification should be provided for the exclusion of the red goshawk from further assessment.
4. BCD recommends a new version of Figure 6-1 'Threatened flora surveys' is prepared, at 1:1,000 scale, that clearly shows the location of targeted flora surveys, and the vegetation zones in which they were conducted.
5. BCD recommends that the proponent describes the habit, and the ability to develop seeds and suckers of the planted Weeping Myall plants and states whether they are of the indigenous Hunter Valley form or the inland form of the species.
6. BCD recommends that text currently obscured by the photo on page 53 of the BDAR, and a figure caption for the photo on the same page are provided in the Response to Submissions Report.
7. BCD recommends that details are provided that meet the requirements of Table 25 of the BAM.

#### Flooding and flood risk

8. BCD recommend that the flood risks from local catchment flooding are considered during the detailed design.

## BCD's detailed comments

### Liddell Battery and Bayswater Ancillary Works EIS

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#### Biodiversity

1. The BDAR should be finalised within 14 days of the exhibition of the EIS

Section 6.15 (Currency of a biodiversity assessment report) of the Biodiversity Conservation Act 2016 (BC Act) indicates that a biodiversity assessment report cannot be submitted in connection with a relevant application unless the accredited person certifies in the report that the report has been prepared on the basis of the requirements of (and information provided under) the biodiversity assessment method as at a specified date and that date is within 14 days of the date the report is so submitted.

The BAM accredited assessor has not certified that the Biodiversity Development Assessment Report (BDAR) was finalised within 14 days of exhibition of the Environmental Impact Statement (EIS).

#### Recommendation 1

BCD recommends the BAM accredited assessor certifies that the BDAR was finalised within 14 days of the exhibition of the EIS.

2. Further details on the survey effort for striped legless lizard (*Delma impar*) are required

Section 6.3.2.8 of the BDAR describes the survey effort for threatened reptiles, including the striped legless lizard (*Delma impar*). The recommended survey methodology, as per the *Survey Guidelines for Australia's Threatened Reptiles* (Department of Agriculture, Water and the Environment) is the establishment of arrays of tiles three months before checking, with surveys to be undertaken regularly between September and May.

The five tile arrays for this project were set out on 11 November 2020 and checked on 2, 24 and 30 December 2020. This does not meet the requirements of the *Survey Guidelines for Australia's Threatened Reptiles* (Department of Agriculture, Water and the Environment, 2011). The BDAR also includes three tile arrays established for the adjacent Bayswater Power Station Upgrade Project, which were set up on 25 October 2019 and remained in place for over a year. Further information is requested, including maps, to discuss how the survey effort meets the *Survey Guidelines for Australia's Threatened Reptiles*. If adequate survey has not been undertaken, then further survey, assumed presence or an expert report will be required.

#### Recommendation 2

BCD recommends that the proponent describes how the survey effort for the striped legless lizard meets the *Survey Guidelines for Australia's Threatened Reptiles* (Department of Agriculture, Water and the Environment, 2011).

3. Further justification is needed for the red goshawk

The threatened red goshawk (*Erythrotriorchis radiatus*) is noted in Table A.2 as having 'Marginal foraging habitat present. No known records within locality' in Appendix A of the BDAR. It appears that this species has been discounted from further assessment and surveying on the basis that there are no known records within the locality. Under the BAM, a species can be removed from the potential or 'candidate species' list if they have not been recorded within the IBRA sub region the development is located within (as opposed to the

'locality'). However, BCD notes the red goshawk has been recorded north of Singleton within the Hunter IBRA Subregion (as per BCD's BioNET, accessed April 2021).

If the assessor proposes to remove a species from the list of candidate species (including species from the threatened species database search) then appropriate justification must be provided in the BDAR, such as lack of suitable habitat or evidence it does not occur with the IBRA subregion. In instances where appropriate justification is not provided then appropriate targeted surveying in accordance with BCD's fauna survey guidelines or assumed presence or an expert report, is required.

### Recommendation 3

Further justification should be provided for the exclusion of the red goshawk from further assessment.

#### 4. Targeted surveys for the threatened plants will need to be shown clearly on revised maps

Section 6.3 of the BDAR describes survey effort for threatened plants, including the threatened ground orchids, *Diuris tricolor* and *Prasophyllum petilum* (syn. *Prasophyllum* species 'Wybong' under the *Environment Protection and Biodiversity Conservation Act 1999*). These orchids were considered not to be present on the development footprint due to targeted survey and Expert Advice from Dr Stephen Bell [Presented as Appendix G: terrestrial Orchid Survey – Expert Advice in the BDAR].

The targeted surveys are described on page 65 as being parallel transects five to ten metres apart in areas deemed to be suitable habitat based on Plant Community Type and vegetation condition (PCT 1691, PCT 1692, derived or modified native grasslands, and rehabilitation areas where exotic grasses were not too dense). The transects are shown on Figure 6-1 (pages 66 to 71 of the BDAR). However, the transects, and the underlying vegetation zones do not show clearly on the figures, which are shown at a scale of 1:25,000. BCD recommends that Figure 6-1 is revised to clearly show the areas where targeted searches were conducted for threatened orchids.

### Recommendation 4

BCD recommends a new version of Figure 6-1 'Threatened flora surveys' is prepared, at 1:1,000 scale, that clearly shows the location of targeted flora surveys, and the vegetation zones in which they were conducted.

#### 5. Planted Weeping Myall (*Acacia pendula*) should be considered as part of the Endangered Population in the Hunter Catchment

Section 6.4.1.2 of the BDAR states that there are eight planted Weeping Myall (*Acacia pendula*) plants occur in a garden bed adjacent to the northern carpark of the Bayswater Power Station, but that since they are planted they do not form part of the *Acacia pendula* endangered population in the Hunter Catchment. Further details are needed as to whether the planted Weeping Myalls are of the non-pendulous, suckering indigenous Hunter Valley form or of the pendulous inland form. The former would still be considered part of the endangered population.

### Recommendation 5

BCD recommends that the proponent describes the habit, and the ability to develop seeds and suckers of the planted Weeping Myall plants and states whether they are of the indigenous Hunter Valley form or the inland form of the species.

## 6. Text on page 53 of the BDAR is obscured by a photo

Text at the top of page 53 of the BDAR is mostly covered by a photo and cannot be read. The photo on the page is a duplicate of Photo 6-1, on page 55.

### Recommendation 6

BCD recommends that text currently obscured by the photo on page 53 of the BDAR, and a figure caption for the photo on the same page are provided in the Response to Submissions Report.

## 7. Further details are required in the BDAR

The required contents of a BDAR are summarised in Table 25 in the Biodiversity Assessment Method 2017 (BAM 2017). The provision of this information helps to describe all aspects of the assessment and support any conclusions. However, some of the required details were not found in the BDAR for this project. BCD recommends that the proponent provide the following information in the Response to Submission Report:

- Discussion of connectivity of the native vegetation as per Paragraphs 4.2.1.8–4.2.1.11 of the BAM
- Candidate species list, with the Biodiversity Risk Weighting for each species (as per Table 25 of the BAM)
- A table that describes the measures to be implemented before, during and after construction to avoid and minimise the impacts of the project, including action, outcome, timing and responsibility (as per Table 25 of the BAM)
- Maps demonstrating indirect impact zones (where applicable) (as per Table 25 of the BAM)
- Map(s) of impact areas not requiring offset (as per Section 10.3 of the BAM)
- Maps(s) of impact areas not requiring assessment (as per Section 10.4 of the BAM)
- The Biodiversity credit report that includes the table of credit class and matching credit profiles (as per Table 25 of the BAM)
- Confirmation on the identification of *Utricularia subulata* in BAM Plot 15 for the project (Appendix B of the BDAR). This would be an important new record for the NSW Central Western Slopes Botanic Subdivision.

### Recommendation 7

BCD recommends that details are provided that meet the requirements of Table 25 of the BAM.

## Flooding and flood risk

## 8. The EIS has incorrectly identified the site as not flood prone

The proponent has identified the project is not located on land that is mapped under the Singleton LEP is not susceptible to flooding. However, the Singleton LEP flood mapping cannot be used to assess flood risks within the proposed works site. The Singleton LEP flood mapping is based on the Singleton Flood Study, WBM, 2007. This study only assessed mainstream

Hunter River flooding around the township of Singleton and did not include the Bayswater Creek and Saltwater Creek catchments, in which the project is located.

It is the responsibility of the proponent to ensure that the proposed site is not at risk of flooding.

#### Recommendation 8

BCD recommend that the flood risks from local catchment flooding are considered during the detailed design.