



Office of
Environment
& Heritage

DAS 17/262
SE 2018/2732

DOC18/594755
DA 122/2017

Tina Dodson
Director Environment and Planning
Upper Lachlan Shire Council
tdodson@upperlachlan.nsw.gov.au

Dear Ms Dodson

RE: DA 122/2017 - Biala Wind Farm Transmission Line - Biodiversity Development Assessment Report

We (the Office of Environment and Heritage (OEH)) have reviewed the Biodiversity Development Assessment Report (BDAR) prepared by Evolve Ecology.

We would like to take this opportunity to come and talk to the assessment team about the review and go through the BDAR with them if Council consider this would benefit the team. Overall, we are satisfied that the Biodiversity Assessment Method has been applied correctly. However, there are some parts of the BDAR that Council should note.

These are discussed below:

- Percent native vegetation cover and patch size – While the percent native vegetation cover assessment appears to have picked up the planted native vegetation and included it, the patch size calculation of 24 ha does not appear to have picked up planted native vegetation which would have made it 27 ha. This has not affected the credit requirement for this impact. However, the consultant should be advised of this for future assessments.
- Species credit species – These are the species that cannot be predicted by vegetation types. It is unclear why the following species were not automatically generated by the tool.
 - Gang-gang Cockatoo – This species would have been detected if present during the survey period.
 - Eastern Pygmy Possum – Despite the lack of targeted survey for this species it is unlikely to be present due to the low numbers of shrubs within the impact area.
 - Varied Sitella – This species was not detected during the survey period.

- Avoid and Minimise Impacts – The mitigation measures described at the end of section 5 should be included in the conditions of consent if the development is approved. This will ensure that the mitigation measures can be enforced through the approval process.
- Requirement to retire biodiversity credits – Section 7.13 (3) of the *Biodiversity Conservation Act 2016* states that:

"If the consent authority decides to grant consent and the biodiversity offsets scheme applies to the proposed development, the conditions of the consent must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class specified in the report"

Section 7.13 (5) then states that:

"A condition to retire biodiversity credits is required to be complied with before any activity is carried out that would impact on biodiversity values."

Council will need to condition the consent to retire the number and type of biodiversity credits shown in Appendix 4 of the BDAR. To assist in developing these conditions of consent we have attached some model conditions which have been approved for use by OEH and the Department of Planning and Environment (see Attachment 1).

We also note that the transmission line will cross the drainage line directly to the west of the clearing impact area. While this does not affect the BDAR as such, Council should ensure that the trenching for the transmission line will not create indirect impacts to the native vegetation in the drainage line on the property directly to the north.

If you have any further questions regarding this advice please contact Tobi Edmonds at tobi.edmonds@environment.nsw.gov.au or on 02 6229 7094

Yours sincerely



Allison Treweek

23/8/18

**Senior Team Leader – Planning
Conservation and Regional Delivery**

Attachment 1 – Model conditions for Part 4 development applications

Guidance on preparing conditions of consent from the Biodiversity Development Assessment Report

Purpose of this document

This guidance is for consent authorities who determine development applications under Part 4 of the *Environmental Planning and Assessment Act 1979* (not including State significant development) to which the biodiversity offset scheme applies.

The biodiversity offset scheme will apply if the proposed development is likely to 'significantly affect threatened species'.

A development will 'significantly affect threatened species' if (s. 7.2):

- a) it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or
- b) the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or
- c) it is carried out in a declared area of outstanding biodiversity value

Further information on the biodiversity offset scheme and triggers for entry is available at <http://www.environment.nsw.gov.au/biodiversity/offsetscheme.htm>

The [*Biodiversity Conservation Act 2016*](#) (BC Act) requires a biodiversity development assessment report, prepared by an accredited assessor, to be submitted with a development application when the biodiversity offset scheme applies. When granting consent to a proposed development to which the biodiversity offsets scheme applies, the conditions of consent must require the applicant to retire biodiversity credits of the number and class specified in the relevant Biodiversity Development Assessment Report in order to offset the residual impact of the development on biodiversity values (s7.13(3) of the BC Act).

The guidance supports consent authorities to prepare conditions of consent for development applications to which the Biodiversity Offset Scheme applies.

The guidance provides advice on:

- Incorporating the content of the Biodiversity Development Assessment Report in the conditions of consent; and
- Confirming offset conditions have been complied with.

The requirement to impose a credit obligation does not limit the consent authority's ability to require other biodiversity related conditions it deems to be necessary (section 7.13(6)(a) of the BC Act).

Development applications that are not subject to the Biodiversity Offsets Scheme will still be assessed under section 4.15 of the EP&A Act. In considering the development application, conditions of consent relating to biodiversity impacts may still be applied if deemed appropriate. However,

conditions of consent for developments not subject to the Biodiversity Offset Scheme cannot require an offset in the form of biodiversity credits. Conditions for development not subject to the Biodiversity Offset Scheme are outside of the scope of this guidance.

General principles

When the Biodiversity Offset Scheme applies, the development application must be accompanied by a Biodiversity Development Assessment Report

The required content of a Biodiversity Development Assessment Report is outlined in the BC Act, Biodiversity Assessment Method and the [Biodiversity Conservation \(BC\) Regulation 2017](#). The Biodiversity Development Assessment Report prepared by an accredited assessor on behalf of the proponent will:

- Identify the proposed footprint of the development including all temporary access, storage facilities or other infrastructure.
- Describe measures proposed to be taken to avoid and minimise impacts and justify the proposal
- Assess the likely direct and indirect impacts of the proposal on biodiversity values, including prescribed biodiversity impacts as defined in clause 6.1 of the Biodiversity Conservation Regulation
- Describe proposed measures to mitigate and manage impacts on biodiversity, including accountability and timing
- Outline the number and class of credits required to be retired in accordance with like-for-like offset rules (cl. 6.8(a) BC Regulation), which would offset the impact if the development were carried out.
- Outline the number and class of credits proposed to be retired in accordance with the variation rules (cl. 6.8(b) BC Regulation) in any case in which the proponent of the development proposes to use the variation rules, and the proposed variation supported by documentation of reasonable steps taken to identify like-for-like offsets in accordance with the Ancillary Rules published under cl. 6.5 of the BC Regulation.
- Outline the details of any proposal to fund a biodiversity conservation action in accordance with the offset rules (cl. 6.8(c) BC Regulation).

For more information on when the Biodiversity Offset Scheme applies, visit [Biodiversity Offsets Scheme entry requirements | NSW Environment & Heritage](#)

For more information on the Biodiversity Assessment Method and Biodiversity Development Assessment Reports, visit [The Biodiversity Assessment Method | NSW Environment & Heritage](#)

New subdivisions that are likely to have a significant impact on threatened species are subject to the Biodiversity Offset Scheme

When applying the area clearing threshold in clause 7.2 of the BC Regulation, subdivision development applications are required to consider the clearing of native vegetation that, in the opinion of the consent authority, is required or likely to be required for the purposes for which the land is to be subdivided (cl. 7.1(3) BC Regulation). Guidance on determining the development footprint for this purpose is provided in the [Biodiversity Offset Scheme Entry Tool User Manual](#).

Offset requirements will apply to subdivision DA's in the same way that they apply to other development types. Staged retirement of credits may be considered if multiple future land releases are proposed. The model conditions provide guidance on conditioning staged credit retirement.

Concurrence from the Environment Agency Head is required if the consent authority (if non-SSD development) reduces the number of biodiversity credits required to be retired

The BC Act allows for the consent authority to increase or decrease the number of biodiversity credits, set out in the BDAR submitted with the application, that are required to be retired (s. 7.13(4)). The consent authority must determine that the increase or decrease is justified having regard to environmental, social and economic impacts of the proposed development (s. 7.13(4)). The consent authority must give reasons for a decision to increase or decrease credit requirements (s. 7.13(4)). OEH recommends that reasons are published on the consent authority's website as a minimum.

When the consent authority is not a Minister, the consent authority must seek concurrence from the Chief Executive of OEH in the case where a credit requirement is decreased. Clause 59 of the Environmental Planning and Assessment Regulation 2000 outlines timeframes associated with the concurrence process.

For more information on seeking concurrence, visit [Local government information and resources | NSW Environment & Heritage](#)

Offset obligations are to be satisfied prior to impacting on biodiversity

The BC Act requires that a condition to retire credits is to be complied with before any development that would impact on biodiversity values is carried out (s7.13(5)). Model conditions of consent have been designed to require satisfaction of offset obligations before the issue of a subdivision or construction certificate.

Evidence of satisfaction of offset obligations is required

Model conditions of consent have been designed to require that evidence of the satisfaction of offset obligations is provided to Council. The conditions have been worded to ensure that evidence is required to be provided to the consent authority for the development. If the condition identifies that evidence is to be provided to the consent authority, a private certifier cannot assume the role of the consent authority in confirming compliance with offset conditions. Prior to issuing a subdivision or construction certificate, a private certifier must be satisfied that evidence of retirement has been provided to the consent authority.

Note that the biodiversity offset scheme, and the requirement to retire credits, does not apply to complying development.

Biodiversity actions available to offset a credit requirement are listed in the ancillary rules

Biodiversity actions will only be available for a limited number of species. Actions and the species they relate to are identified in the ancillary rules. To be used as an offset, biodiversity actions must relate to a species impacted by the proposed development.

Biodiversity actions outside of this list are not an offset. The list will be updated over time as actions are completed. The proponent, or their accredited assessor, must confirm the availability of an action with OEH prior to proposing the action in a biodiversity development assessment report as an offset to an impact.

Use of variation rules can only be approved following demonstration of reasonable steps

A proponent may apply to use the variation rules to satisfy their credit obligation. Approval to use variation rules is given via conditions of consent.

However, the proponent must first have taken reasonable steps to locate like for like offsets. Actions that constitute 'reasonable steps' are outlined in the ancillary rules. If use of the variation rules is proposed, the proponent must document their effort regarding the taking of reasonable steps to find like for like offsets and provide the information with their development application. This may occur through the Biodiversity Development Assessment Report as part of the application process, or potentially as a s96 modification to an approval.

For more information on the offset rules including reasonable steps, visit [The offset rules | NSW Environment & Heritage](#)

The requirement to condition a credit obligation does not limit the consent authority's ability to require other measures to be undertaken to avoid or minimise impacts on biodiversity

The Biodiversity Assessment Method requires that the biodiversity development assessment report identify measures to avoid, mitigate or manage impacts in accordance with the guidelines provided. These measures may relate to:

- Site based measures to prevent offsite impacts on native vegetation and habitat during construction and operation.
- Managing prescribed biodiversity impacts which cannot be offset.
- Adaptive management approaches to impacts which are difficult to predict and assess with certainty.

Including measures to avoid, minimise, mitigate or manage impacts in conditions of consent will provide certainty that the measures will be implemented.

The consent authority's power to condition requirements to avoid or minimise biodiversity impacts is not limited to the measures outlines in the biodiversity development assessment report.

Conditions of consent - Like for like credit retirement

The biodiversity development assessment report will indicate the number and class of 'like for like' credits that would be required to be retired if the development were to proceed. In most cases, conditions of consent will reflect the 'like for like' credit obligation. The only circumstance in which credit obligations would not be expressed in 'like for like' terms would be when the use of the variation rules has been approved.

Note that this obligation may be achieved through either:

- the purchase and retirement of credits
- payment to the Biodiversity Conservation Fund (BCF) administered by the Biodiversity Conservation Trust (BCT)

Pre-requisites for use of this offset mechanism

- The Biodiversity Assessment Method Calculator will deliver a biodiversity credit report detailing:
 - The offset obligation in terms of class and number of ecosystem credits and species credits impacted.
 - Ecosystem credits that are considered to be 'like for like' which may be used to satisfy the offset obligation.
 - IBRA sub-regions that are considered to be 'like for like' from which ecosystem credits may be sourced to satisfy the offset obligation.
 - A payment to the Biodiversity Conservation Fund equivalent to the offset obligation.
- The biodiversity development assessment report, prepared by an accredited assessor on behalf of the proponent, must identify the class and number of credits required to be retired in accordance with like-for-like rules in the Biodiversity Development Assessment Report. The biodiversity development assessment report will include the credit report produced by the Biodiversity Assessment Method Calculator.

Confirming compliance

- Retirement of credits: proponent provides evidence to consent authority in form of a credit retirement report issued by OEH confirming credit transactions. Consent authority confirms credit transaction corresponds to a like for like credit of the appropriate number from an appropriate location.
- Payment to the Biodiversity Conservation Fund: proponent provides evidence to consent authority in form of a section 6.33 Statement Confirming Payment into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference. Consent authority confirms the payment transaction corresponds to the appropriate class and number of credits.

Funding a biodiversity action

Pre-requisites for use of this offset mechanism

- The biodiversity development assessment report, prepared by an accredited assessor on behalf of the proponent, must identify the credit class and number proposed to be offset by funding a biodiversity action (as an alternative to the retirement of credits).
- The action must relate to an entity impacted by the proposal.
- The biodiversity development assessment report must indicate a funding amount to be directed to the biodiversity conservation action. The Biodiversity Assessment Method Fund Payment Report will indicate the value of each credit class to be retired at the time that the assessment is finalised. These values must be used to calculate the amount of funding to be directed to a biodiversity action.
- The proponent must provide evidence of the Biodiversity Assessment Method Fund Payment Report with the Biodiversity Development Assessment Report.
- The proponent must have contacted OEH to confirm that the action is available and the proposed funding amount is acceptable.
- The proponent must provide evidence of contact with OEH in the form of formal written correspondence from OEH confirming they will accept and manage the specified amount of funds for the specified purpose.

Confirming compliance

- The proponent must provide evidence of payment to OEH for an amount matching the agreed amount. OEH will provide a receipt for this payment once received.

Variation rule credit retirement

Pre-requisites for use of this offset mechanism

- Reasonable steps to find like for like credits must be documented in the Biodiversity Development Assessment Report.
- The proponent must identify the credit class and number proposed to be offset in accordance with the variation rules in the Biodiversity Development Assessment Report.
- The Biodiversity Assessment Method Calculator will deliver a biodiversity credit report (variations) detailing:
 - The offset obligation in terms of class and number of ecosystem credits and species credits impacted.
 - Ecosystem credits which may be used under variation rules to satisfy the offset obligation.
 - IBRA sub-regions from which ecosystem credits may be sourced under variation rules to satisfy the offset obligation.

Confirming compliance

- The proponent provides evidence to consent authority in form of a credit retirement report from OEH confirming credit transactions. Consent authority confirms credit transaction corresponds to the approved variation credit class.

Staged credit retirement

Pre-requisites for use of this offset mechanism

- The proponent must identify the credit class and number proposed to be offset relative to each development stage in the Biodiversity Development Assessment Report.
- The credit obligation for each stage must correlate to the biodiversity impact of each stage, to ensure that the appropriate credits are retired prior to the impact occurring.
- The proponent must identify indicative timing for the commencement of each stage in the Biodiversity Development Assessment Report.

Confirming compliance

- Retirement of credits: proponent provides evidence to consent authority in form of extracts from the Credit Register confirming credit transactions. Consent authority confirms credit transaction corresponds to a like for like credit of the appropriate number from an appropriate location.
- Payment to the Biodiversity Conservation Fund: proponent provides evidence to consent authority in form of a section 6.33 Statement Confirming Payment into the Biodiversity Conservation Fund issued by the Biodiversity Conservation Trust. The statement will indicate the number and class of credits that the payment corresponds to and any related development application reference. Consent authority confirms the payment transaction corresponds to the appropriate class and number of credits.

Conditioning avoid and minimise measures

Information provided with a development application

- The biodiversity development assessment report must identify measures to which they are committing in order to avoid, minimise, mitigate or manage the impacts of their proposal. This is best approached through the development of a Biodiversity Management Plan.
- The biodiversity development assessment report must identify the phase of the proposal to which each measure applies.
- The biodiversity development assessment report will indicate what the measure is, when and how often it is to be applied, and who is responsible for undertaking the measure.

Confirming compliance

- Consent authority is responsible for ensuring compliance with these conditions as per normal procedures.

Model conditions

Like for like credit retirement conditions

Ecosystem credit retirement conditions

- 2.1 Prior to issue of [select: operational commencement/construction certificate/subdivision certificate] the class and number of ecosystem credits in Table [X] must be retired to offset the residual biodiversity impacts of the development.
- 2.2 The requirement to retire credits in condition 2.1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator¹.
- 2.3 Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 2.1 must be provided to the consent authority prior to [select: operational commencement/issue of construction certification/issue of subdivision certificate].

Table [X] Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
[Insert name and PCT ID for impacted plant community type]	[Insert number of credits for the impacted plant community type]	[Insert IBRA sub-regions] From a location within 100km of the impact site	[Insert plant community type(s) that can be used to offset the impacts from development]

Species credit retirement conditions

- 2.4 Prior to [select: operational commencement/issue of construction certificate/issue of subdivision certificate] the class and number of species credits in Table [X] must be retired to offset the residual biodiversity impacts of the development.

¹ Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

- 2.5 The requirement to retire credits outlined in condition 2.4 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator².
- 2.6 Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table [X] requirements must be provided to the consent authority prior to [select: operational commencement/issue of construction certification/issue of subdivision certificate].

Table [X] Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
[Insert name of impacted species]	[Insert number of credits for the impacted species]	Anywhere in NSW

Funding a biodiversity action

Funding a biodiversity action condition

- 2.7 Prior to [select: operational commencement/issue of construction certificate/issue of subdivision certificate] funds must be transferred to OEH for the purposes of undertaking the biodiversity actions identified in Table [X].
- 2.8 Evidence of the transfer of funds in satisfaction of Table [X] is to be provided to the [Insert consent authority] prior to [select: operational commencement/issue of construction certification/issue of subdivision certificate].

² Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

Table [X] Species credit species - Biodiversity actions

Impacted species credit species	Number of species credits	Biodiversity action to be funded	Funding amount
[Insert name of impacted species]	[Insert number of credits for the impacted species]	[Insert title of biodiversity action]	[Insert amount of funding]

Variation rule credit retirement conditions

Ecosystem credit retirement conditions

- 2.9 Prior to [select: operational commencement/issue of construction certificate/issue of subdivision certificate] the class and number of species credits in Table [X] must be retired to offset the residual ecosystem impacts of development.
- 2.10 Evidence of the retirement of credits in satisfaction of condition 2.9 is to be provided to the consent authority prior to [select: operational commencement/issue of construction certification/issue of subdivision certificate].

Table [X] Ecosystem credits required to be retired – variation rules

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Approved variation plant community type(s) that can be used to offset the impacts from development
[Insert name and PCT ID for impacted plant community type]	[Insert number of credits for the impacted plant community type]	[Insert IBRA sub-regions] From a location within 100km of the impact site	[Insert plant community type(s) that can be used to offset the impacts from development]

Species credit retirement conditions

- 2.11 Prior to issue of [select: operational commencement/construction certificate/subdivision certificate] the class and number of species credits in Table [X] must be retired to offset the impacts of development.
- 2.12 Evidence of the retirement of credits in satisfaction of condition 2.11 is to be provided to the consent authority prior to [select: operational commencement/issue of construction certification/issue of subdivision certificate].

Table [X] Species credits required to be retired – variation rules

Impacted species credit species	Number of species credits	IBRA sub-region	Approved variation species credit species that can be used to offset the impacts from development
[Insert name of impacted species]	[Insert number of credits for the impacted species]	Anywhere in NSW	[Insert species credit species that can be used to offset the impacts from development]

Staged credit requirement conditions

Ecosystem and species credit retirement conditions – Stage [A]

- 2.13 Prior to the commencement of works within the area identified as [Insert stage identifier] on the [insert reference to plan], the class and number of ecosystem credits in Table [A1] must be retired to offset the residual impacts of development.
- 2.14 Prior to the commencement of works within the area identified as [Insert stage identifier] on the [insert reference to plan], the class and number of species credits in Table [A2] must be retired to offset the impacts of development.
- 2.15 The requirement to retire credits in conditions 2.13 and 2.14 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits or number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

- 2.16 Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table [A1] and [A2] requirements must be provided to the consent authority prior to commencement of works³.

Table [A1] Ecosystem credits required to be retired – Stage [A]

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
[Insert name and PCT ID for impacted plant community type]	[Insert number of credits for the impacted plant community type]	[Insert IBRA sub-regions] From a location within 100km of the impact site	[Insert plant community type(s) that can be used to offset the impacts from development]

Table [A2] Species credits required to be retired – Stage [A]

Impacted species credit species	Number of species credits	IBRA sub-region
[Insert name of impacted species]	[Insert number of credits for the impacted species]	Anywhere in NSW

Ecosystem and species credit retirement conditions – Stage [B]

- 2.17 Prior to the commencement of works within the area identified as [Insert stage identifier] on the [insert reference to plan], the class and number of ecosystem credits in Table [B1] must be retired to offset the impacts of development.
- 2.18 Prior to the commencement of works within the area identified as [Insert stage identifier] on the [insert reference to map], the class and number of species credits in Table [B2] must be retired to offset the impacts of development.

³ Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

- 2.19 The requirement to retire credits in conditions 2.17 and 2.18 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits or number of species credits, as calculated by the Biodiversity Offsets Payment Calculator⁴.
- 2.20 Evidence of the retirement of credits or payment into the Biodiversity Conservation Fund in satisfaction of Table [B1] and [B2] requirements is to be provided to the consent authority prior to commencement of works.

Table [B1] Ecosystem credits required to be retired – Stage [B]

Impacted plant community type	Number of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
[Insert name and PCT ID for impacted plant community type]	[Insert number of credits for the impacted plant community type]	[Insert IBRA sub-regions] From a location within 100km of the impact site	[Insert plant community type(s) that can be used to offset the impacts from development]

Table [B2] Species credits required to be retired – Stage [B]

Impacted species credit species	Number of species credits	IBRA sub-region
[Insert name of impacted species]	[Insert number of credits for the impacted species]	Anywhere in NSW

⁴ Note that prices of credits in the Biodiversity Offsets Payment Calculator are subject to change. The amount payable to discharge an offset obligation will be determined at the time of payment.

Conditioning avoid and minimise measures

Biodiversity Management Plan

- 2.21 Prior to [select: operational commencement/ issue of construction/issue of subdivision certificate], a Biodiversity Management Plan must be prepared to the satisfaction of the consent authority. The Biodiversity Management Plan may form part of a Construction Environmental Management Plan.
- 2.22 The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report and approved plans.
- 2.23 The Biodiversity Management Plan must identify areas of land that are to be retained as outlined in the Biodiversity Development Assessment Report.
- 2.24 Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the Biodiversity Development Assessment Report.
- 2.25 The Biodiversity Management Plan must identify all measures proposed in the Biodiversity Development Assessment Report to mitigate and manage impacts on biodiversity outlined in Table [C1], including performance measures for each commitment.

Table [C1] Statement of commitments to mitigate and manage biodiversity impacts

Biodiversity issue	Measure	Timing	Responsibility
[Identify relevant biodiversity impact]	[Identify relevant measure]	[Indicate the timing or frequency of the performance of the measure]	[Indicate a position responsible for ensuring the performance of the measure]



Office of
Environment
& Heritage

DAS17/262

02018/5457

DOC18/423876-2

The General Manager
Upper Lachlan Shire Council
PO Box 10
Crookwell NSW 2583
council@upperlachlan.nsw.gov.au

Attention: Ms Tina Dodson

Dear Ms Dodson

DA 122/2017 – Carrying out works for the purpose of an electricity transmission or distribution network – Newtricity Biala Property Pty Ltd - Biala, Gurrundah and Bannister – response to additional information

Thank you for providing the Office of Environment and Heritage (OEH) with the opportunity to comment on the additional information, including the Submission to Upper Lachlan Shire Council in response to Joint Regional Planning Panel (JRPP) Deferral submissions, June 2018.

We have reviewed the submission and understand that there are no alternate options to realign the transmission line due to lack of landholder agreement on adjoining properties. As such, 11 hollow bearing trees within an unquantified area of snow gum woodland, an endangered ecological community (EEC) will be removed.

We note that there is a proposal to offset the losses associated with this clearing in conjunction with the Biala Wind Farm offsets. It should be noted that the condition of approval for the Biala Wind Farm offsets allows 2 years from commencement of construction to provide offsets, and that the Biala Wind Farm cannot commence construction until consent for the transmission line has been provided.

Given that length of time, OEH considers that the offsets for this development (the transmission line) should be developed prior to development approval. This will ensure that the full impacts of the development have been appropriately considered and ameliorated.

As previously advised, there are transitional arrangements set out in the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*, which means that this application is defined as a "pending or interim planning application". However, the proponent can 'opt in' to the Biodiversity Offsets Scheme (BOS) and assess the impacts and offset requirement under the new Biodiversity Assessment Method (BAM).

OEH recommends the use of the BOS and the BAM to determine the offsets required. This will need to be agreed to by the proponent and the determining authority in writing. Alternatively, there is the option to use the Biobanking Assessment Method (BBAM) to determine the offsets required, however any credits required from the BBAM would need to be converted to the Biodiversity Offset Scheme.

We look forward to discussing this further with you if required. Please contact Lyndal Walters on 02 6229 7157 to arrange a suitable time.

Yours sincerely



18/7/18

ALLISON TREWEEK
Senior Team Leader, Planning - South East
Regional Operations Group
OFFICE OF ENVIRONMENT AND HERITAGE



Office of
Environment
& Heritage

DAS 17/262
CE 2018/1594

DOC18/8831-3
DA122/2017

The General Manager
Upper Lachlan Shire Council
PO Box 10
Crookwell NSW 2583
Via email: council@upperlachlan.nsw.gov.au

Attention: Tina Dodson

DA 122/2017 – Carrying out works for the purpose of an electricity transmission or distribution network – Newtricity Biala Property Pty Ltd – Biala, Gurrundah and Bannister

Dear Tina

Thank you for providing the Office of Environment and Heritage (OEH) the opportunity to comment on the development application described above, and providing further information. We have reviewed the proposal on Biodiversity and Aboriginal Cultural heritage matters only. Our comments are outlined below;

Biodiversity:

OEH considers that the information provided is still unclear as to whether all impacts have been avoided. It is understood that 29 trees from the *Tablelands Snow Gum, Black Sallee, Candlebark and Ribbon Gum Grassy Woodland* (EEC) will be removed, including 11 hollow-bearing trees. The alignment has avoided other areas along the route however, a large patch of intact forest has not been avoided even though alternative options appear to be available. OEH has reviewed the alignment of the electricity transmission and requires further justification and clarification as to why this patch has not been avoided.

The information provided does not adequately address the impact of the alignment on this patch, therefore further information on the quality of the vegetation should be provided. Nor does it provide detail on the size of the hollows or if any of the hollows are utilised by threatened species. There are known threatened species and species of concern in that area, which utilise hollow bearing trees and forest areas, therefore further information on the size of the hollows and if the hollows have been surveyed for threatened species should be provided. OEH would be interested to know if there are any Wedge-tailed eagle nests within the forest patch. Wedge-Tailed eagles are a species of concern in regard to windfarms as they are regularly the victims to blade strikes.

Within Appendix 1 we have provided two options for the design alignment that would be more appropriate in avoiding the impacts outlined above.

Aboriginal Cultural Heritage

OEH has previously provided advice regarding Aboriginal Cultural Heritage (ACH) matters in January 2018. This advice requested a full archaeological survey and subsurface archaeological test excavation if required. The results of these investigations were to be documented in an Aboriginal Cultural Heritage Assessment Report (ACHAR).

It appears that a full archaeological survey has been undertaken for the proposed transmission line by ERM. OEH is aware that ERM are planning to conduct a program of subsurface archaeological test excavation. A methodology for this excavation has been submitted to OEH that appears to meet requirements under the *Code of Practice for Archaeological Investigations of Aboriginal Objects in New South Wales* (DECCW 2010).

In accordance with previous OEH advice the program of subsurface testing must be undertaken prior to any development approval. The results of this, along with the results of the archaeological survey must be documented in an ACHAR in accordance with OEH guidelines.

OEH would like to remind the proponent and the consultant that the ACHAR (and required fieldwork) must consider all areas of related infrastructure or ground disturbance such as access roads, construction compounds, laydown and stockpiling areas as well as the transmission line route.

Finally, we note that numerous Aboriginal sites have been recorded as part of ongoing investigations for this project. As of 9 May 2018, no Aboriginal Site Recording Forms have been submitted to the Aboriginal Heritage Information Management System (AHIMS) for these sites. We remind the consultant that this is a legal requirement under Section 89(A) of the *National Parks and Wildlife Act 1974*.

Recommendations

- The ACHAR must consider all areas of related infrastructure or ground disturbance such as access roads, construction compounds, laydown and stockpiling areas as well as the transmission line route.
- The planned program of subsurface test excavation must be undertaken prior to any development consent. The results of this investigation must be documented in an ACHAR in accordance with OEH guidelines.
- An Aboriginal Heritage Impact Permit (AHIP) is required if impacts to Aboriginal objects cannot be avoided.

If you have any further questions regarding the contents of this letter, please contact Lyndal Walters (02) 6229 7157 for matters relating to biodiversity, please contact Julia Maskell (02) 6229 7039 for matters relating to Aboriginal Cultural Heritage.

Yours sincerely



15/5/18

ALLISON TREWEEK
Senior Team Leader, Planning – South East
Regional Operations Division

Appendix 1: Alternate route options for the design alignment

**Option 1: Alternate route
for design alignment**



**Option 2: Alternate route
for design alignment**





21 May 2018

DAS17/262

PO Box 398, Parramatta NSW 2124
Level 14, 169 Macquarie Street
Parramatta NSW 2150
www.watnsw.com.au
ABN 21 147 934 787

CE2018/1681

Our Ref: 17188-a2
Your Ref: DA 122/2017

General Manager
Upper Lachlan Shire Council
PO Box 42
GUNNING 2581

Attention: Roland Wong

Dear Sir/Madam

Subject: Sydney Drinking Water Catchment SEPP
DA No 81/2017; Lot 2 DP 1168750, Lots 1, 2, 6 DP 1115746, Lots 185 to 188, 197, 204, 224, 226, 319 DP 754126, Lot 7 DP 1119818, Lots 1 and 2 DP 877769, Lot 4 DP 1031856, Lot 100 DP 1026064, Lot 103 DP 750043, Lot 101 DP 1083286; Grabben Gullen Road, Humes Creek, Bannisters Lane, Prices Lane, Storries Lane, Biala

I refer to Council's letter received 13 April 2018 providing submissions and additional information in relation to a proposal for the minor upgrade to the Gullen Range Windfarm substation and construction of an underground 33kV transmission line. Water NSW has previously provided concurrence advice to Council on 11 January 2018 under Clause 11 of State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 (the SEPP).

The subject property, which has been inspected by Water NSW, is partly located within the Warragamba catchment which forms part of Sydney's water supply.

The following have been considered in the assessment of the application:

- a Statement of Environmental Effects, including proposed development plans prepared by ERM (dated 21 November 2017), and
- the Submission to Upper Lachlan Shire Council in response to JRPP Deferral Notice prepared by ERM (dated 6 April 2018).

Based on Water NSW's site inspection and the information provided, the proposed development has been assessed by Water NSW as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.

If, after receipt of this letter, revisions are made to any of the DA plans, Council does not need to refer the plans to Water NSW if the revisions do not impact on water quality. Council is requested to amend the relevant Water NSW condition/s to reference the revised plans, and notify the assessing officer by email.

Water NSW concurs with Council granting consent to the application subject to the following conditions (Note these conditions only apply to that part of the project located within the Sydney Drinking Water Catchment). This advice replaces Water NSW previous concurrence advice dated 11 January 2018:

1. The site layout and works shall be as specified in the Statement of Environmental Effects (dated 21 November 2017) and the Submission to Upper Lachlan Shire Council in response to JRPP Deferral Notice (dated 6 April 2018) both prepared by ERM. No

revised site layout or external works that will impact on water quality, shall be permitted without the agreement of Water NSW.

Reason for Condition 1 - Water NSW has based its assessment under the State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development.

Construction Activities

2. Effective erosion and sediment controls consistent with the requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book", and the Department of Environment & Climate Change Managing Urban Stormwater: Soils and Construction Volume 2A Installation of Services (2008), shall be installed prior to any construction activity including the proposed compound and any agreed underground cabling.
3. The erosion and sediment controls shall be to the satisfaction of Council and consistent with any requirements for Controlled Activities Approval under the Water Management Act, 2000 issued by the Department of Industry - Water. The controls shall be implemented and shall prevent sediment or polluted water leaving the site or entering any natural drainage system. The controls shall be regularly maintained and retained until works have been completed and ground surface stabilised or groundcover re-established.

Reason for Conditions 2 & 3 - To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

Under Clause 11 of the SEPP, Council must provide Water NSW with a copy of its determination of the application within 10 days of the determination.

If you wish to discuss this matter further please contact James Caddey on 4824 3401.

Yours sincerely



MALCOLM HUGHES
Manager Catchment Protection

Our Ref: STH13/00123/08
Contact: Rachel Carocci 4221 2423
Your Ref: DA122/2017

DAS17/262 CE2018/1504



Transport
Roads & Maritime
Services

8 May 2018

Tina Dodson
Upper Lachlan Shire Council
BY EMAIL: TDodson@upperlachlan.nsw.gov.au
CC: council@upperlachlan.nsw.gov.au

**DEVELOPMENT APPLICATION 122/2017 – BIALA, GURRUNDAH AND BANNISTER -
BIALA WIND FARM TRANSMISSION LINE CONNECTION AND SUBSTATION UPGRADE**

Dear Tina,

Roads and Maritime Services (RMS) refers to your correspondence dated 13 April 2018 regarding the subject development application.

RMS has reviewed the submitted additional information. As per the response dated 12 December 2017 (attached), RMS does not object to the development application in principle, subject to the following comments being included in the conditions of development consent:

- Prior to transporting any oversized or over mass loads, you will to obtain a permit for an oversized and over mass load from the RMS Special Permits Unit in Glen Innes. The contact number is 1300 656 371. It should be noted that the issue of a Special Permit may be subject to route and bridge assessment/s if deemed necessary by the RMS Special Permits Unit.

If you have any questions please contact Rachel Carocci on 4221 2423.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Chris Millet".

Chris Millet
Manager Land Use
Southern Region

Tina Dodson

From: Fiona Duncan <fiona.duncan@essentialenergy.com.au>
Sent: Tuesday, 5 June 2018 3:11 PM
To: Tina Dodson
Cc: Upper Lachlan Shire Council
Subject: HPE CM: DA 122/2017 Biala Wind Farm Transmission Connection - Erection of Building & Proposed Electricity Network Route Corridor (Various Lands at Biala, Gurrundah & Bannister) - Additional Information ATTENTION: ENVIRONMENT & PLANNING

Attachments: UPPER LACHLAN SHIRE COUNCIL - BIALA WIND FARM - VARIOUS LANDS, BIALA GURRUNDAAH AND BANNISTER.pdf; Email fm Applicant 23.5.18.pdf; F1_0422199s_SOEE_G004_R0.pdf; F2-1_0178462m_TLI_G010_R2.pdf

Importance: High

Record Number: SE2018/01653

Hi Tina,

Please refer to my below email.

I received an undeliverable message today, indicating that you did not receive this email, so I am sending it again.

Thanks.

Regards

Fiona Duncan
Conveyancing Officer



T: 02 6589 8773 (Ext 88773) | conveyancingteam@essentialenergy.com.au
PO Box 5730 Port Macquarie NSW 2444 | essentialenergy.com.au
General enquiries: 13 23 91 | Supply interruptions (24hr): 13 20 80

Follow us



From: Fiona Duncan
Sent: Tuesday, 29 May 2018 10:10 AM
To: 'Tina Dodson' <TDodson@upperlachlan.nsw.gov.au>
Subject: DA 122/2017 Biala Wind Farm Transmission Connection - Erection of Building & Proposed Electricity Network Route Corridor (Various Lands at Biala, Gurrundah & Bannister) - Additional Information

Dear Tina,

We refer to the above matter and to your correspondence of 6 December 2017 and 19 April 2018 seeking comment from Essential Energy in relation to the proposed development. As noted in your letter of 19 April 2018, the Southern Joint Regional Planning Panel required additional information be provided to enable further consideration and assessment of the proposed development.

Strictly based on all documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the titles of the affected properties should be complied with.
3. Essential Energy has key existing infrastructure traversing where the proposed electricity network route is to be located. This existing electrical infrastructure is crucial to ensure the reliability and security of the network in that area. In some places, the proposed electricity network route will cross or run parallel to Essential Energy's existing electrical infrastructure. This may affect Essential Energy's operation of its network. All proposed crossings and proposed infrastructure / powerlines that will be adjacent to Essential Energy's existing electrical network and/or easements will require certification by Essential Energy to ensure that the associated risks are identified and addressed. Careful consideration as to access and safety aspects of the existing electrical infrastructure must also occur. The Applicant will need to provide more information for consideration and review, once the proposed electricity network route is finalised, enabling each situation to be assessed by Essential Energy. Refer Essential Energy's Asset Management team for further requirements.
4. As noted, Essential Energy's records indicate there is electricity infrastructure located within some of the properties affected by the proposed electricity network route and within close proximity to the properties. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
5. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.
6. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

Should you require any clarification, please do not hesitate to contact us.

Regards

Fiona Duncan
Conveyancing Officer



T: 02 6589 8773 (Ext 88773) | conveyancingteam@essentialenergy.com.au

PO Box 5730 Port Macquarie NSW 2444 | essentialenergy.com.au

General enquiries: 13 23 91 | Supply interruptions (24hr): 13 20 80

Follow us

