

Emails sent to OR-J re DoP Report CRWF (Feb2016)
(See Attachment 5 --- Ecological)

Hi Owain

Just left a message (10.10am), ok to call be back anytime today on 02 xxxxxxxx or 04xx xxxxxx (if I'm out at lunch 12-2pm sometime)

I just did a quick read through the documentation. I will discuss with you any questions you have but I have a few comments to add:

Process

As far as I can tell, there is no documentation to prove that the OEH and commonwealth environment department approve DOPs decision that the impacts to biodiversity and the offset strategy are acceptable. It says that they do, but to what extent is unknown. It may be worth at PAC to ask something along the lines of evidence of OEH's full support for the recommendation (or OEH may be at the meeting and will answer to this).

In the event that the PAC approve the project, the project still must go to the commonwealth environment minister for approval of the Controlled Action on the project. The minister will need to approve the impact to

- Listed threatened species and ecological communities
- Listed migratory species (I would worry less about this one)

Now, he has the right to refuse or approve no matter what PAC say. The decision he makes, will need to publically published (probably on NSW DOP website) with a list of conditions within 30 days of the assessment report being sent to the minister. The assessment by the commonwealth will not be made public, but you have the right to ask for a Statement of Reasons if you feel like you need more information. But this is really for further down the track.

Box Gum woodland

White Box – Blakely's Red Gum – Yellow Box grassy woodland of the NSW South Western Slopes Bioregion
I would ask for clarification on what Box Gum Woodland LISTED Endangered Ecological Community (EEC) "pasture" is – why is it different from Box Gum Woodland 'grassland'. Why I ask is under the conditions:

BIODIVERSITY (p11)

Operating Conditions 20.

The Applicant shall:

- (a) ensure that no more than 5.7 hectares of Box Gum Woodland EEC is cleared for the development, unless the Secretary agrees otherwise;

when there is clearly 6ha of EEC to be cleared as per table 6 below p 47.

Comments on condition b)

(b) implement all reasonable and feasible measures to:

- minimise any impacts on the Small-Purple Pea (*Swainsona recta*);
- minimise impacts on threatened bird and bat populations;
- minimise the approved clearing of native woodland vegetation and fauna habitat;

Small Purple Pea

Small Purple Pea *Swainsona recta* – these are extremely hard to locate and extremely endangered and are OFTEN smaller than the 30cm stated in the Departments assessment report. I have worked with them before, they are so difficult to see year to year that metal tags and a metal detector need to be used to monitor populations year to year. So I doubt the ability of the wind turbine micro-siters to avoid clearing/driving over this important population. You should take a copy of this recovery plan to the meeting and ask how the project adheres to it Download

here: <http://www.environment.gov.au/system/files/resources/18ed9fb5-5eeb-425b-a303-24e2aa74b849/files/swainsona-recta.pdf>

Under the National Recovery Plan for *Swainsona Recta*: (p9)

*“Given the small number of extant populations, small area of occupancy and the reliance on in-situ protection for the conservation of the species, all populations and the habitat they occupy are **critical** to the survival of the Small Purple-pea.”*

Guidance for Environmental Assessment (p10)

All populations are important to the long-term survival of the species and the maintenance of existing genetic diversity. To avoid significant impacts on the species, any of the following management practices or on ground works in the vicinity of the species may require assessment:

- *Clearing of native vegetation for agricultural purposes, application of fertilisers, intensification of domestic stock grazing, switching the type of domestic stock, application of herbicide, urban development, rural subdivision, road and railway maintenance works, soil disturbance, slashing and recreational activities.*

*Detailed field surveys in appropriate seasonal conditions should be undertaken prior to the assessment and approval of any proposed developments within potential habitat. In circumstances where loss of individuals is permitted, the loss should be offset by achieving improved long term protection and management of a suitable, **currently unreserved population** or other compensatory arrangements are agreed to by the consent authority.*

AND

Management Practices (p10)

Management practices required to avoid a significant impact include:

- *Protect known populations from changes to land use.*
- *Do not undertake road works, pasture modification or other changes in land use that may affect populations....*

The Assessment report states:

The Department notes that avoidance of impacts should be readily achievable given the overhead transmission line poles can be micro-sited to avoid known plant locations.

While detailed field surveys at the appropriate time of year and seasonal conditions may have occurred (I didn't check), I don't believe the controlled action is in accordance with the National Recovery Plan. Firstly the assessment does not take into account the possibility of loss of any individuals that have not been located (using the precautionary principle of such a hard to find species and the very loose "reasonable and feasible" condition to reduce the impact). Secondly, any changes to the habitat and veg community and landuse of a site supporting the species is also not in accordance with the recovery plan. And even if the DOE and OEH and DOP approve the removal or impact to some individuals or populations as a whole, under the National Recovery Plan these must be offset using "*currently unreserved populations or other compensatory arrangements*". Small purple pea is not at ALL considered in the documentation on the proposed offset strategy as far as the documentation being provided to the PAC (that is publically available?...although I haven't really had a good look yet).

There are probably more issues with condition b) but I haven't got that far.

and (c) if micro-siting wind turbines, ensure that the revised location of the turbine is at least 30 metres from any existing hollow-bearing trees, unless the Secretary agrees otherwise.

Considering that the turbines are up to 160m tall and width up to 120m, I would encourage you to ask the DOP (and/or OEH) for any 'documentation', preferably scientifically peer reviewed, that hollow bearing trees situated 30m from a turbine reduces impact to a) use of that hollow b) risk of species utilising that hollow and being subsequently hit by the blades on flight (birds and bats). Seek clarification from them whether this is 30m from the base of the tower, or 30m from the full extent of the blade's rotation area. It would be a fairly logical statement to assume a 30m set back or buffer zone would be still impacted under a 63m wide blade?

That should start you off!

Jxxxxx

Hi Owain

I am not really sure there is anything in this worth arguing:

The original EA Biodiversity report does discuss 'pasture areas'. They stipulate that 5% of pasture areas have tree cover. *"Areas of pasture were those areas that had a tree canopy cover of less than 5%. In pastures, trees are randomly scattered, with actual tree numbers per hectare varying markedly. Therefore, the average canopy cover in pastures was calculated by averaging the canopy covers from areas that were deemed relatively densely, moderately and sparsely treed."*

Sooo...very subjective? And in the example provided in my original report p3 – the tree cover is more like 15-20% tree cover (see below). This may be an isolated incident and they may argue that it is "averaged" across sparse tree areas as it does appear that most 'pasture' treed areas are very sparse – but certainly in this case the mapping appears wrong.

This is possibly semantics but PASTURE it is a description used in Biometric Condition Mapping....in that case they describe "pasture" as being synonymous with grassland areas...which is fine BUT I am not sure why grassland and pasture is then again separated in Table 6 of the assessment report. If 'Pasture' is indeed not grassy box woodland secondary grassland than I am not sure that it would qualify as CEEC. But that is what they are calling it... so it should not be cleared as per the conditions.

There could be a very obvious reason why they have done this, I feel I have only done a quick assessment of the original EA and this new documentation. I feel anxious I have not analysed the entire report and appendices (500+ of pages?), nor the response to submissions, and they may turn around as say that was dealt with already. Just so you are aware.

And at the end of the day, we are talking 0.3ha....

Swainsona Recta

I note in their original EPBC Significance Assessment (an Appendix to an Appendix somewhere) they write that they will be fencing swainsona plants...no mention of this in the DOP assessment report and conditions.

I also note, that they do describe that potentially not all plants would have been found during surveys (in the original EA). But they still considered that no impact would occur to the habitat except to tree cover, potential invasion of weeds and fire. I would argue these would be a loss of the *S. recta*'s habitat.

It also occurs in the good quality box gum woodland impact zone which is being offset. They may argue that offset values are assumed for threatened species occurring in that zone. But impacts and offsets to *Swainsona recta* should be better described and considered.

SO I don't think I've been much help! There are probably heaps of small anomalies like these but I just don't have the time to look into it properly. Sorry. I have already spent much of the day on it, only to find these small things.

My boss would like me to charge out my hours I have spent on this today. I don't really want to charge for my advice this time but perhaps would one hour be acceptable to your budget? It would be approx. \$xxx-\$xxx?

Thanks

