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Tuesday, 30 July 2024

The Planning Secretary
NSW Department of Planning and Environment
12 Darcy Street
Parramatta NSW 2150
Locked Bag 5022
Parramatta NSW 2124

CC: Nicole Brewer

Dear Ms Fishburn

Re: EnergyConnect (NSW – Eastern Section) (SSI-9172452) – Progress of biodiversity offset measure implementation and delivery

I refer to EnergyConnect (NSW – Eastern Section) (SSI-9172452) (the project), which the then NSW Minister for Planning and Public Spaces approved on 12 September 2022 under section 5.19 of the NSW *Environmental Planning and Assessment Act 1979* (the EP&A Act).

This letter:

- Summarises proposed amendments to the project's approved Biodiversity Offset Package (per condition C24).
- Describes progress to date with implementation of the biodiversity offset measures.
- Identifies potential issues with the timing of offset measure implementation by the date specified in condition C24.
- Requests an administrative modification to SSI-9172452 to allow an extension of 12 months to implement and deliver offset measures.

Further information to support and discussion are provided below.

Biodiversity Offset Package amendments

Condition C24 requires the preparation, to the satisfaction of the Planning Secretary, of a Biodiversity Offset Package that includes specific biodiversity offset measures to address the project's biodiversity impacts and the implementation of these measures no later than 1 September 2024 (the offset measure implementation date). On 31 October 2022, the Planning Secretary approved the project's initial Biodiversity Offset Package (the Package) per condition C24 (refer to SSI-9172452-PA-2). The offset measures in the approved Package included two Biodiversity Stewardship Agreement (BSA) sites and a payment into the Biodiversity Conservation Fund (BCF) to cover the residual credit liability not addressed by the two BSAs.

The approved Package notes Transgrid's intention to target additional properties on which to establish BSA sites to address the project's credit liability. Transgrid has identified and has substantially progressed with five additional BSAs to address the project's offset credit liability. The proposed final biodiversity offset measures for the project, indicative equivalent BCF payment for each, and an updated residual BCF payment are included in **Table 1**. The estimated equivalent BCF payments for the Singorimbah, Woodpark, Ardmore and The Overflow BSAs outlined in **Table 1** are still subject to confirmation of credit generation from each property, which the NSW Nature Markets and Offsets (NMO) is currently processing (see below). An updated credit reconciliation and residual BCF payment, based on current information and assumptions, are indicated in **Appendix 1 and Appendix 2**. Transgrid will confirm all details in the final Biodiversity Offset Package.

The information presented in this request reflects the current standing of the BSAs and also includes residual credit reduction strategies that explore all available mechanisms to reduce the final residual BCF Payment. When Transgrid has confirmed the final suite of offset measures, it will prepare a final Biodiversity Offset Package in consultation with the Biodiversity, Conservation and Science Directorate of the Department of Planning and Environment (BCS) prior to seeking the Planning Secretary's approval, per condition C24.

Table 1 Proposed final biodiversity offset measures and equivalent Biodiversity Conservation Fund (BCF) payments

Offset Measure	Equivalent BCF payment
Big Bend BSA	\$34,500,000
Singorimbah BSA	\$195,000,000.00*
Nulla Nulla BSA	\$14,900,000
Parkview BSA	\$7,000,000
Ardmore BSA	\$15,000,000*
The Overflow BSA	\$33,800,000*
Wood Park BSA	\$11,900,000*
Residual BCF payment ¹	\$2,628,860**
Residual BCF payment ²	\$9,054,055***
Total biodiversity liability	\$313,484,031.25
<p><i>*Final credit generation unknown until BSA execution by NMO</i> <i>**Post application of variation rules and assumed presence reduction</i> <i>*** Without application of variation rules</i> <i>1 Credit liability analysis shown in Appendix 1</i> <i>2 Credit liability analysis shown Appendix 2</i></p>	

Progress update

Transgrid has implemented the Big Bend BSA, Nulla Nulla BSA and Parkview BSA biodiversity offset measures. Each BSA is now registered on the respective titles of each affected lot. The NSW NMO has issued the credits generated by each BSA to Transgrid. Transgrid has retired credits generated from the Big Bend BSA to address the project's offset liability and is in the process of retiring the credits from the Nulla Nulla and Parkview BSAs.

Transgrid has purchased Singorimbah and lodged the BSA application with the NSW NMO in July 2022. Negotiations with the NSW NMO to confirm the type and quantum of credits the BSA will generate and the details of the ongoing management were resolved in July 2024. The key matters delaying the finalisation and execution of the Singorimbah BSA included:

- Historical and current grazing practices on the property have been responsible for creating and maintaining the habitat present for the critically endangered species Plains-wanderer yet are incompatible with NSW Government policy concerning ongoing management of BSAs.

- Lengthy negotiations between parties about appropriate ongoing management of the site to conserve and improve key biodiversity values (namely, Plains-wanderer habitat).

Transgrid anticipates the resolution of these matters and BSA execution in August 2024.

Concerning the remaining proposed BSAs:

- Wood Park BSA: The landholder has signed a Credit Transfer Agreement with Transgrid and the BSA application was lodged with the NSW NMO on 4 March 2024.
- Overflow BSA: The landholder has signed a Credit Transfer Agreement with Transgrid and the BSA application was lodged with the NSW NMO on 19 March 2024.
- Ardmore BSA: The Credit Transfer Agreement is with the landowners' solicitor for signing for and the BSA application was lodged with the NSW NMO on 28 March 2024.

Transgrid and NMO have been meeting fortnightly to discuss the remaining BSAs and confirm the execution, generation and retirement of the required credits. While both parties are working collaboratively to execute these BSAs, it is unlikely to occur before the offset measure implementation date specified in Condition C24.

Timing

From recent experience, Transgrid notes that the application review process with the NSW NMO can take up to 12 months, before execution of the BSA. Following execution, the NSW NMO manages the subsequent processes. The credits are issued after NSW Land Registry Services register the BSA on the title of each affected lot. The NSW NMO has little control over the NSW Land Registry Services process, which can take up to 4 weeks. Transgrid has no role and limited ability to influence and expedite the processes that occur after BSA execution.

Transgrid and its consultants maintain regular contact and consultation with the relevant Departments responsible for regulating BSAs (currently NSW NMO). Recent consultation has highlighted potential delays around NMO's cross-departmental consultation processes (particularly Ministerial consultation and mining consultation). Based on observed negotiated timeframes and discussions of achievable timing with the NSW NMO, it is unlikely that the Wood Park, Overflow and Ardmore BSAs will be executed, and credits generated and transferred to the Transgrid by the offset measure implementation date.

Transgrid acknowledges and is grateful for the NMO's efforts to prioritise assessment of the remaining BSAs and streamlining review processes to enable certain steps to occur in parallel.

Discussion

Transgrid notes that the market has insufficient available credits to substantially contribute to acquitting the project's offset liability. Establishment of land-based offsets remains the most practical, effective for the preservation of biodiversity, and lowest-cost option for consumers to acquit the project's offset liability. BSAs deliver tangible and ongoing conservation outcomes that are superior to alternate acquittal options under the BOS and should be prioritised as the preferred offset acquittal pathway. BSAs, however, require identification and assessment of suitable sites, agreements with landholders, negotiations with the NSW NMO, and registration of the executed BSA on title by NSW Land Registry Services. In combination, these requirements take considerable time and, despite best efforts by Transgrid and its consultants, it has not been possible to establish the BSAs required by the Project by the offset measure implementation date.

Transgrid is now concerned that implementation and delivery of all offset measures will not be achieved by the current timeframe. The BSA review, execution, registration and credit generation processes, which are beyond Transgrid's control, consume approximately half the time allowed by condition C24.

Transgrid expects the proposed BSAs to offset approximately 96% of the project's ecosystem biodiversity impact and 51% of the project's species biodiversity impact, demonstrating their significant conservation outcomes. These BSAs, with their long-term biodiversity conservation benefits, align with the objectives of the *Environmental Planning & Assessment Act 1979* to promote ecologically sustainable development and protect threatened and native species, ecological communities, and their habitats.

Transgrid is committed to undertaking targeted seasonal surveys for outstanding species through variations to existing BSAs to reduce the 'like for like' offset requirements as much as practicable prior to the final application of the variation rules. Transgrid is also committed to consulting with the regulator to find alternative agreeable solutions that will achieve sound outcomes for individual species where like-for-like land-based offsets cannot be found (for example Regent Parrot). With these additional surveys and credit generation, and final application of the variation rules, it is not expected that there will be any outstanding BCF payment.

Given the timing challenges identified above, an extension to the offset measure implementation date is the only feasible option to ensure the proponent can comply with the consent conditions and ensure all potential avenues to maximise biodiversity values is explored. An extension will also act to maximise delivery of land-based offsets contributing to the Project.

Transgrid respectfully requests the Departments consider 12-month extension to the 1 September 2024 deadline under Condition C24.

Proponents Request

Transgrid would like to formally request the below;

1. An administrative modification to condition C24 that either;
 - a. extends the implementation and delivery date in Condition C24(d) to 1 September 2025 or
 - b. includes 'Unless agreed otherwise by the Planning Secretary' to enable the offset implementation date to be agreed to by the Planning Secretary.

Transgrid is open to other options to achieve the requested extension in the offset measure implementation date.

In addition, Transgrid notes that the Bank Guarantee provides a mechanism to allow a second opportunity to implement the offset measures if not implemented by 1st September 2024. Recent consultation with the Biodiversity Conservation Trust indicates their preference to execute BSAs to offset the impact of State Significant Infrastructure projects, rather than paying directly into the Biodiversity Conservation Fund (BCF).

Thank you for considering this matter and request. If you wish to discuss the matter further or require any additional information, please do not hesitate to contact the undersigned.

Yours Sincerely



Luke Fania

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Appendix 1 – Credit liability Analysis – Post-application of variation rules

Table 1 - Ecosystem credit liability analysis

Offset Trading Group (Vegetation Formation - Variation)	Ecosystem credit liability	Credit type for retirement	Rationale	BSA from which credits will be retired	Credits available	Variation credits	Outstanding ecosystem credit liability	BCF Max \$ per credit	Equivalent BCF liability
Acacia melvillei Shrubland EEC	290	Sandhill Pine EEC	Same vegetation formation and same or a higher offset trading group (EEC for EEC)	Parkview BSA 3	867	290	0	\$5,831.84	
Allocasuarina luehmannii Woodland EEC	89	Can be offset with Sandhill Pine TEC	Same vegetation formation and same or a higher offset trading group (EEC for EEC)			89	0	\$5,831.84	
Forested Wetlands - MT	1	N/A	N/A	N/A	N/A	N/A	1	\$8,188.19	\$8,188.19
Grassy Woodlands - HT	14	White Box - Yellow Box - Blakely's Red Gum Grassy Woodland CEEC	Same vegetation formation and same or a higher offset trading group (CEEC for EEC)	Ardmore BSA 7	1,297	14	0	\$3,962.83	
Inland Grey Box Woodland EEC	830	White Box - Yellow Box - Blakely's Red Gum Grassy Woodland CEEC	Same vegetation formation and same or a higher offset trading group (CEEC for EEC) (excl. 484 EPBC Credits)			346	484	\$4,123.14	\$1,995,599.76
Semi-arid Woodlands - MT	384	Semi-arid Woodlands - MT	Same vegetation formation and same or a higher offset trading group	Nulla Nulla Station BSA 2	753	384	0	\$2,782.19	
Total	1,608					1,123	485		\$2,003,788

Table 2 - Species credit retirement (variation rules) for those species to which the variation rules apply (including indirect impact species credits)

Group	OTG (Listing Status)	Outstanding Species Credit liability	Surplus BSA credits	Credits retired	Outstanding species credit liability
Fauna	Endangered	695	5,034	695	0
Fauna	Vulnerable	1,220	2,677	1,220	0
Flora	Critically Endangered	0	216	-	-
Flora	Endangered	1,036	2,832	2,029 [#]	0
Flora	Vulnerable	993	0		0
Total		3,944	10,759	3,944	

Table 3 - Species credit species to which the variation rules do not apply

Species	Common Name	Group	BCA Status	EPBC Status	Outstanding Species Credit liability	BCF Max \$ per credit	Outstanding BCF liability
Brachyscome papillosa	Mossgiel Daisy	Flora	Vulnerable	Vulnerable	1,333	\$289	\$385,237
Maireana cheelii	Chariot Wheels	Flora	Vulnerable	Vulnerable	885	\$271	\$239,835
Total					2,218		\$625,072

Appendix 2 – Credit liability Analysis – Pre-application of variation rules

Table 1 - Ecosystem credit liability analysis

Offset Trading Group (Vegetation Class - Like for Like)	Ecosystem credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding ecosystem credit liability	BCF Max \$ per credit	Outstanding BCF Liability
		Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Acacia melvillei Shrubland EEC	290	0	0	0	0	0	0	0	0	0	0	0	0	0	0	290	\$5,832	\$1,691,234
Aeolian Chenopod Shrublands - LT	0	0	0	6,156	0	0	0	0	0	0	0	0	0	0	0	0	\$4,518	\$0
Allocasuarina luehmannii Woodland EEC	89	0	0	0	0	0	0	0	0	0	0	0	0	0	0	89	\$5,832	\$519,046
Dune Mallee Woodlands - LT	2,067	8,751	2,067	650	0	0	0	0	0	0	0	0	0	0	0	0	\$4,518	\$0
Floodplain Transition Woodlands - HT	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	\$3,963	\$55,480
Inland Floodplain Shrublands - LT	1,511	0	0	0	0	64	64	1,826	1,447	0	0	0	0	0	0	0	\$7,999	\$0
Inland Floodplain Shrublands - MT	773	0	0	0	0	0	0	1,292	773	150	0	240	0	0	0	0	\$13,332	\$0
Inland Floodplain Swamps - LT	2	0	0	0	0	0	0	0	0	0	0	190	2	0	0	0	\$7,999	\$0
Inland Floodplain Swamps - MT	174	0	0	0	0	0	0	0	0	0	0	231	174	0	0	0	\$11,936	\$0

Offset Trading Group (Vegetation Class - Like for Like)	Ecosystem credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding ecosystem credit liability	BCF Max \$ per credit	Outstanding BCF Liability
		Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Inland Floodplain Woodlands - MT	798	0	0	0	0	3,248	798	32	0	0	0	2	0	0	0	0	\$2,782	\$0
Inland Grey Box Woodland EEC	830	0	0	0	0	0	0	0	0	0	0	0	0	0	0	830	\$4,123	\$3,422,206
Inland Riverine Forests - LT	573	0	0	0	0	0	0	0	0	0	0	840	573	0	0	0	\$7,378	\$0
Inland Riverine Forests - MT	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	\$8,188	\$8,188
Inland Rocky Hill Woodlands - LT	0	0	0	0	0	0	0	0	0	0	0	0	0	129	0	0	N/A	\$0
Inland Rocky Hill Woodlands - MT	384	0	0	0	0	0	0	0	0	0	0	0	0	0	0	384	\$2,782	\$1,068,361
Inland Saline Lakes - LT	0	0	0	4,367	0	0	0	0	0	0	0	0	0	0	0	0	\$10,717	\$0
Myall Woodland EEC#	2,994	0	0	0	0	0	0	5,484	5,484	3,908	2,197	1	0	0	0	0	\$5,998	\$0
Riverine Plain Woodlands - VHT#	4,687	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$5,998	\$0
Riverine Chenopod Shrublands – LT#	10,199	0	0	0	16	409	318	15,823	9,857	0	0	0	0	0	0	0	\$10,717	\$0

Offset Trading Group (Vegetation Class - Like for Like)	Ecosystem credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding ecosystem credit liability	BCF Max \$ per credit	Outstanding BCF Liability
		Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Riverine Chenopod Shrublands - MT#	2,642	0	0	0	2,642	8	8	0	0	0	0	0	0	0	0	0	\$2,782	\$0
Riverine Chenopod Shrublands - VHT#	0	0	0	3,019	0	0	0	0	0	0	0	0	0	0	0	0	\$9,086	\$0
Riverine Plain Grasslands - LT	1,612	0	0	0	0	0	0	9,951	1,612	0	0	0	0	0	0	0	\$19,864	\$0
Riverine Plain Grasslands - MT	1,102	0	0	0	0	0	0	35	35	0	0	3,296	1,067##	0	0	0	\$12,340	\$0
Riverine Plain Grasslands - HT	1,853	0	0	0	0	0	0	9,866	528	0	0	5,852	1,325##	0	0	0	\$10,829	\$0
Riverine Sandhill Woodlands - HT#	163	0	0	0	0	0	163	0	0	0	0	0	0	0	0	0	\$5,832	\$0
Sand Plain Mallee Woodlands - LT	5,476	23,454	5,476	803	0	0	0	0	0	0	0	0	0	0	0	0	\$4,518	\$0
Sand Plain Mulga Shrublands - LT	107	780	107	140	0	0	0	0	0	0	0	0	0	0	0	0	\$4,518	\$0
Sandhill Pine Woodland EEC	406	13	0	21	0	1,766	406	0	0	0	0	24	0	0	0	0	\$4,976	\$0
Semi-arid Sand Plain Woodlands - MT	2,712	1,038	0	4,675	2,712	0	0	0	0	0	0	0	0	0	0	0	\$2,782	\$0

Offset Trading Group (Vegetation Class - Like for Like)	Ecosystem credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding ecosystem credit liability	BCF Max \$ per credit	Outstanding BCF Liability
		Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Western Slopes Dry Sclerophyll Forests - MT	0	0	0	0	0	0	0	0	0	0	0	0	0	1,510	0	0	\$2,735	\$0
Western Slopes Dry Sclerophyll Forests - HT	0	0	0	0	0	0	0	0	0	0	0	0	0	17	0	0	N/A	\$0
White Box - Yellow Box - Blakely's Red Gum Grassy Woodland CEEC	1,785	0	0	0	0	0	0	0	0	0	0	109	109	2,973	1,676	0	\$8,533	\$0
Total	43,244	34,036	7,650	19,831	5,370	5,495	1,757	44,309	19,736	4,058	2,197	10,785	3,250	4,629	1,676	1,608		\$6,764,515

Table 2 – Species credit liability analysis

Species	Group	Species credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding species credit liability	BCF Max \$ per credit	Outstanding BCF liability
			Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Acacia acanthoclada#	Flora		126	125														\$258	\$0
Austrostipa nullanulla	Flora				132													\$2,168	\$0
Austrostipa wakoolica	Flora	771															771	\$289	\$222,680
Brachyscome papillosa###	Flora	1408							75	75							1333	\$289	\$384,994
Calotis moorei	Flora						1168											\$1,124	\$0
Cratystylis conocephala	Flora		1																\$0
Dodonaea stenozyga	Flora		216																\$0
Eleocharis obicis##	Flora	44															44	N/A	\$TBC
Lepidium monoplacoides	Flora	71					201	71	23				1416					\$289	\$0
Leptorhynchus orientalis	Flora	28															28	\$1,124	\$31,474
Litoria raniformis	Fauna	52					708	52											\$0

Species	Group	Species credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding species credit liability	BCF Max \$ per credit	Outstanding BCF liability
			Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Lophochroa leadbeateri	Fauna	425															425	\$640	\$272,000
Maireana cheelii###	Flora	1110					201	201	24	24							885	\$271	\$240,244
Myotis macropus	Fauna	376															376	\$975	\$366,482
Ninox connivens	Fauna	86															86	\$289	\$24,839
Pedionomus torquatus	Fauna	25							4403	25								\$4,268	\$0
Petaurus norfolcensis	Fauna	741													3418	741		\$678	\$0
Pilularia novae-hollandiae	Flora	131															131	\$289	\$37,835
Pimelea serpyllifolia subsp. serpyllifolia	Flora	53															53	\$258	\$13,679
Polytelis anthopeplus monarchoides	Fauna	695															695	\$454	\$315,530

Species	Group	Species credit liability	BSA 1 Big Bend		BSA 2 Nulla Nulla Station		BSA 3 Parkview		BSA 4 Singorimbah		BSA 5 Wood Park		BSA 6 The Overflow		BSA 7 Ardmore		Outstanding species credit liability	BCF Max \$ per credit	Outstanding BCF liability
			Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired	Credits created	Credits retired			
Polytelis swainsonii	Fauna	333															333	\$975	\$324,675
Santalum murrayanum	Flora		3															\$2,168	\$0
Swainsona murrayana###	Flora	4137					201	201	2165	2165			4150	1771				\$289	\$0
Swainsona sericea	Flora	307					61	61					43	43			203	\$271	\$55,107
Total		10,793	346	125	132	0	2,540	586	6,690	2,289	0	0	5,609	1,814	3,418	741	5,363		\$2,289,540

Table 3 – EPBC TECs

EPBC TEC	Clearing limit (ha)	Ecosystem Credit liability	BSA 1 Big Bend	BSA 2 Nulla Nulla Station	BSA 3 Parkview	BSA 4 Singorimbah	BSA 5 Wood Park	BSA 6 The Overflow	BSA 7 Ardmore	Total credits retired	Outstanding ecosystem credit liability
Grey Box (<i>Eucalyptus microcarpa</i>) Grassy Woodlands EEC	17.56	484	0	0	0	0	0	0	0	0	484
Natural Grasslands of the Murray Valley Plains CEEC	62.47	2,392	0	0	0	0	0	2,392	0	2,392	0
Weeping Myall Woodlands EEC	101.83	2,994	0	0	0	797	2,197	0	0	2,994	0
White Box-Yellow Box-Blakely's Red Gum Grassy Woodland CEEC	34.89	1,124	0	0	0	0	0	109	1,015	1,124	0
Total		6,994	0	0	0	797	2,197	2,501	1,015	6,510	484