

2 March 2018

Senior Planning Officer
Resource & Energy Assessments
Planning Services
Department of Planning and Environment
GPO Box 39 SYDNEY NSW 2001

Attention: Mr Anthony Ko

Dear Anthony,

Subject: Vales Point Solar Project (SSD 8533)

Response to Environmental Impact Statement (EIS)

Thank you for the opportunity to comment on the EIS lodged by Delta Electricity for the Vales Point Solar Project SSD 8533.

The EIS has been reviewed by Council staff and a site visit has been undertaken. The following comments are requested to be considered in your determination of the proposal.

Land Use Planning

The proposal is a permissible land use within the SP2 Infrastructure – Electricity Generation Works zone of the Lake Macquarie Local Environmental Plan 2014 (LMLEP).

The EIS notes that renewable energies are a supported technology and will allow Council to work towards its 3% per annum Emission Reduction target. The proposal is consistent with Council's Community Strategic Plan 2017-2027, which aims to encourage the uptake of smart and sustainable infrastructure.

The proposal is also consistent with Council's Lifestyle 2030 Strategy, *Strategic Direction 2 – A city that makes an equitable contribution to global sustainability* and the outcomes that:

- *consumption in the Lake Macquarie LGA is based primarily on renewable resources with a declining per capita use of non-renewable resources, and*
- *New and emerging industries are established and expand, particularly green technology and renewable energy industries.*

The proposal is also consistent with the Hunter Regional Plan 2036, Direction 12 which seeks to diversify and grow the energy sector.

The proposal is supported from a land use planning perspective.

Flora and Fauna

The conclusions and recommendations within the Biodiversity Assessment Report (BAR) are generally supported with the exception of the following.

The BAR states that none of the Plant Community Types (PCTs) as they occur on the site correspond to threatened ecological communities listed under the Biodiversity Conservation

Act 2016 (BC Act), the Threatened Species Conservation Act 1995 (TSC Act) or the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

In relation to saltmarsh, the BAR accepts that the PCT recorded onsite is composed of characteristic vascular plant species found in the Coastal Saltmarsh in the NSW North Coast, Sydney Basin and South East Corner Bioregions Endangered Ecological Community (EEC) listed under the BC Act (i.e. *Sarcocornia quinqueflora*, *Triglochin striatum*, and *Juncus kraussii*). However the BAR concludes that the PCT on the subject site does not occur in the intertidal zone on the shores of estuaries and lagoons, and as such the PCT is not considered to be part of this EEC.

According to the *Commonwealth Conservation Advice for Subtropical and Temperate Coastal Saltmarsh* (Threatened Species Scientific Committee, 2013) the physical environment for the ecological community is 'coastal areas under regular or intermittent tidal influence'. As the saltmarsh on the site is not under tidal influence the BAR concludes it does not form part of the Subtropical and Temperate Coastal Saltmarsh vulnerable ecological community under the EPBC Act.

It is suggested that further justification is required regarding the PCT 1746 in relation to its status as an EEC or threatened / vulnerable ecological community listed in the BC Act/TSC Act and/or the EPBC Act.

Pond 3 occurs within close proximity to Lake Macquarie, and although it has been highly altered by past land management, it is subject to saline influence in some form. It appears the watercourse through Pond 3 supports saline riparian habitat (*Sarcocornia quinqueflora*-which extends further through Pond 3), however it is unclear from the submitted documents where the source of the salinity comes from, and if these influences are tidal. This source of salinity is important as it determines if PCT 1746 is included in the definition of an EEC or threatened / vulnerable ecological community, which further influences whether or not a biodiversity offset is required under the Framework for Biodiversity Assessment (FBA).

The coastal saltmarsh contains areas categorised as moderate-good and supports EPBC Act listed migratory shorebirds (Pacific Golden Plover *Pluvialis fulva*), as well as providing potential habitat for threatened shorebirds listed in the BC Act / TSC Act.

It is acknowledged that the ash dams are the most appropriate location to avoid impacts to adjacent areas of known high biodiversity value. However, the loss of 9.9 ha of coastal saltmarsh (regardless of condition and whether or not it constitutes a listed threatened community), remains substantial in relation to the availability of this habitat within the local area and wider Lake Macquarie shoreline.

As a suggestion it is requested that biodiversity offsets are provided to compensate for the loss of 9.9 ha of coastal saltmarsh. It appears that coastal saltmarsh habitat may occur on other parts of Delta Electricity land and that another biodiversity offset site has been previously established on Delta electricity land (associated with the Coolongra gas pipeline).

Acoustic Impact

The Noise and Vibration Impact Assessment prepared by Jacobs dated 3 November 2017 indicates exceedances for construction noise that affects one receiver in the Lake Macquarie area. Limited construction duration, restricted construction hours and management measures recommended by the report should address the construction noise concerns.

Regarding ongoing noise levels from the proposed development, minor exceedances were predicted which can be addressed by the recommended attenuation measures.

Should consent be issued, a condition is suggested that requires the preparation of a noise management plan to manage the above noise issues.

Aboriginal Archaeology

Although the site is affected by the Sensitive Aboriginal Cultural Landscape under the LMLEP and as mapped in the Lake Macquarie Aboriginal Heritage Management Strategy (LMAHMS 2011) the specific location of the proposal falls outside the mapped area.

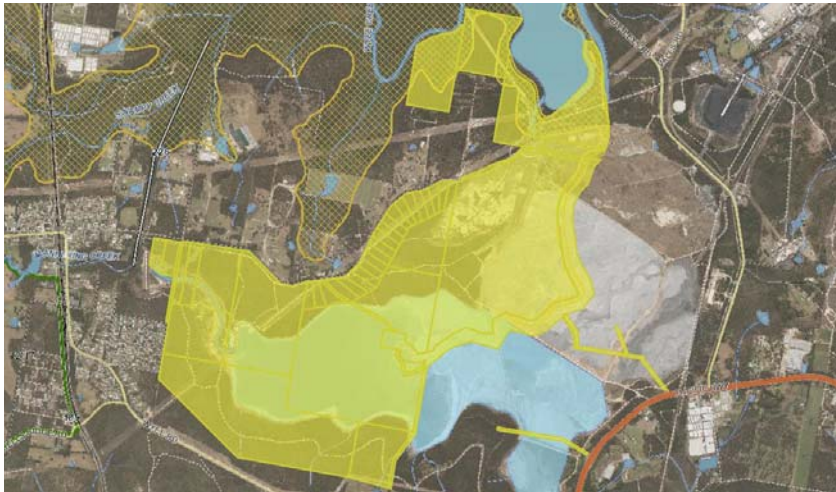


Figure 1 – Subject site is shaded and Sensitive Aboriginal Cultural Landscape hatched.

The Aboriginal Heritage Impact Assessment undertaken by Jacobs Group, including consultation with the local Aboriginal stakeholders, is consistent with Lake Macquarie Development Control Plan 2014 and the LMAHMS 2011. The recommendations contained in the assessment are supported.

Lake and Foreshore Impacts

The assessment carried out by Jacobs Group with regard to the likely impacts of the development on surface water, groundwater resources and flooding adequately addresses the potential impacts of the development. Delta Electricity's existing EPL 761 to monitor and manage surface and groundwater quality should mitigate the potential for offsite impacts.

Visual Impact

The proposal is unlikely to result in a significant visual impact.

Summary

The proposal is supported in principle with one issue requiring further consideration.

The source of salinity and resultant characterisation of the Coastal Saltmarsh is required to determine the appropriate assessment pathway and mitigation measures. Notwithstanding the outcomes of this investigation, a biodiversity offset is recommended.

In response to your specific questions:

a) if there is a problem, does it matter? If so, then clarify the extent of the problem.

The Coastal Saltmarsh issue matters as it relates to a possible EEC and/or a threatened / vulnerable ecological community. Certainty in characterisation will inform the appropriate assessment process and mitigation measures.

b) is this an issue that needs to be addressed pre or post determination, that is when will this matter?

The Coastal Saltmarsh issue should be addressed prior to determination.

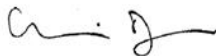
Conclusion

With the exception of the Coastal Saltmarsh issue, it appears that the 'baseline' for impact assessment is reasonable, predictions of impact are robust with suitable sensitivity testing, the assessment considers how to avoid and minimise impacts, and the proposal includes all reasonably feasible mitigation options.

Again with the exception of the Coastal Saltmarsh issue, it appears that the assessed impact is consistent with relevant Council policy and regulatory responsibilities, and no additional requirements or improvements regarding the design of the proposal are required.

Should you require further information, please contact the undersigned on 4921 0311 or by e-mail on cbdwyer@lakemac.nsw.gov.au.

Yours faithfully



Chris Dwyer
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Development Assessment and Compliance