

29 October 2024

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Council Ref:
Enquiries: PDS

Dear Kurtis

Stratford Renewable Energy Hub - SSI and CSSI Proposal

Thank you for the opportunity to provide comments on the Stratford Renewable Energy Hub - SSI and CSSI proposal. Council's comments relate to 4 specific areas:

1. Payment of Section 7.12 Development Contributions
2. Mitigation of Landscape and Visual Impact
3. Social and Economic Impact
4. Biodiversity Impact

These areas are outlined in detail below.

Payment of Section 7.12 Development Contributions

Section 7.12 of the Environmental Planning and Assessment Act (the Act) - Fixed development consent levies (cf previous s 94A) states

- “(1) A consent authority may impose, as a condition of development consent, a requirement that the applicant pay a levy of the percentage, authorised by a contributions plan, of the proposed cost of carrying out the development.*
- (2) A consent authority cannot impose as a condition of the same development consent a condition under this section as well as a condition under section 7.11.*
- (2A) A consent authority cannot impose a condition under this section in relation to development on land within a special contributions area without the approval of—*
- (a) the Minister, or*
 - (b) a development corporation designated by the Minister to give approvals under this subsection.*
- (3) Money required to be paid by a condition imposed under this section is to be applied towards the provision, extension or augmentation of public amenities or public services (or towards recouping the cost of their provision, extension or augmentation). The application of the money is subject to any relevant provisions of the contributions plan.*

- (4) *A condition imposed under this section is not invalid by reason only that there is no connection between the development the subject of the development consent and the object of expenditure of any money required to be paid by the condition.*
- (5) *The regulations may make provision for or with respect to levies under this section, including—*
- (a) *the means by which the proposed cost of carrying out development is to be estimated or determined, and*
 - (b) *the maximum percentage of a levy”.*

At present the Gloucester Shire Council Section 94A Contributions Plan 2015 applies to the land on which the development is proposed.

The purposes of the plan are:

- To authorise Council, or the consent authority, to impose, as a condition of development consent, a requirement that the applicant pay to Council a levy determined in accordance with this Plan;
- To require a certifying authority (Council or an accredited certifier) to impose, as a condition of issuing a complying development certificate, a requirement that the applicant pay to the Council a levy determined in accordance with this Plan; and
- To govern the application of money paid to Council under condition authorised by this plan.

The Plan applies to all applications for development consent and complying development certificates, except for:

- Single dwellings (one dwelling on one lot); and
- Development which is deemed to have an ongoing heavy haulage impact on Council's road transport network, as identified in the Gloucester Shire Council s94 Haulage Plan 2015. The decision on whether to apply section 94A or section 94 will be based on the amount of ongoing heavy vehicle movements generated by a proposed development of this type.

The development is neither a “single dwelling on one lot” or a “development which is deemed to have an ongoing heavy haulage impact on Council’s road transport network” on the basis that the documentation accompanying the application states –

“It is anticipated that an average of 300 full-time equivalent (FTE) construction workers would be required over a period of around 48 months (4yrs), with a peak of approximately 350 FTE workers.

Generally, construction activities would occur during daytime construction hours. However, due to the need for continuous activities for the tunnelled waterways, these activities are required to occur 24 hours per day, seven days per week.

Other minor construction activities may occur 24 hours per day, seven days per week, subject to compliance of out of hours construction noise criteria” and

“During operations, Yancoal expects to incur operational expenditures of approximately \$6 million per annum (excluding purchase of electricity), and to employ a workforce of around 10 people over an operational life of 50 to 100 years (or more)”.

Given that heavy haulage is only likely to occur during the first 4yrs of construction out the 100 year life of the development it is argued that the heavy haulage impact is not ongoing and therefore the Gloucester Shire Council s94 Haulage Plan 2015 does not apply.

Importantly, Section 5.22, specifically subsection (3) of the Act - Application of other provisions of Act (cf previous s 115ZF) states:

- “(1) Part 4 and Division 5.1 do not, except as provided by this Division, apply to or in respect of State significant infrastructure (including the declaration of the infrastructure as State significant infrastructure and any approval or other requirement under this Division for the infrastructure).*
- (2) Part 3 and environmental planning instruments do not apply to or in respect of State significant infrastructure, except that—*
 - (a) they apply to the declaration of infrastructure as State significant infrastructure or as critical State significant infrastructure (and to the declaration of development that does not require consent), and*
 - (b) they apply in so far as they relate to section 3.16, and for that purpose a reference in that section to enabling development to be carried out in accordance with an environmental planning instrument or in accordance with a consent granted under this Act is to be construed as a reference to enabling State significant infrastructure to be carried out in accordance with an approval granted under this Division.*
- (3) Divisions 7.1 and 7.2 apply to State significant infrastructure that is not carried out by or on behalf of a public authority (and to the giving of approval for the carrying out of any such infrastructure under this Division) in the same way as they apply to development and the granting of consent to the carrying out of development under Part 4, subject to any necessary modifications and any modifications prescribed by the regulations.*
- (4) A development control order cannot be given in relation to critical State significant infrastructure.*
- (5) (Repealed)*
- (6) Section 6.28 applies to approved State significant infrastructure.*

Note — Section 6.33(2) authorises the regulations to apply provisions of Part 6 relating to building and subdivision certification to State significant infrastructure”.

Therefore a “Fixed development consent levy” is able to be lawfully imposed under section 7.12 of the Act by the Minister when determining an application for SSI.

Accordingly, if the Minister grants consent to the development it is respectfully requested that it be subject to a condition requiring the applicant to pay to MidCoast Council a levy based on the

proposed cost of carrying out the development as determined in accordance with the following table taken from the Gloucester Shire Council Section 94A Contributions Plan 2015:

Development cost Levy amount

Where the proposed cost of carrying out the development is up to and including \$100,000	Nil
Where the proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000	0.5% of the cost of the development
Where the proposed cost of carrying out the development is more than \$200,000	1% of the cost of the development

The estimated Development Cost (excl GST) on the application form submitted for the proposal is AUD \$1,923,000,000.00

This equates to a payment to MidCoast Council of \$19,230,000.00 based on the Gloucester Shire Council Section 94A Contributions Plan 2015.

Mitigation of Landscape and Visual Impact

The MidCoast Council *Local Strategic Planning Statement* indicates that:

- Much of our rural area is used for agriculture, primarily dairy and beef cattle grazing, with a growing poultry industry.
- This landscape is characterised by pristine waterways, striking rural scenery and an abundance of natural treasures.
- One of the key objectives is to maintain the high levels of liveability, environmental amenity and rural character that the MidCoast is renowned for.

The MidCoast Regional Economic Development Strategy (REDS), a NSW Government initiative, identifies land and water resources as one of the three pivotal regional strengths.

These objectives and values are supported by MidCoast Council’s *Rural Strategy* which indicates that the MidCoast area is rich in natural diversity, with unique landforms and landscape areas of state, national and international significance.

Council has committed to the ongoing management and protection of these physical environments and the cultural significance these areas hold to the people of the MidCoast, recognising their importance in 'ensuring we maintain the unique character of our existing towns, villages and rural areas.'

This unique rural character dominates the views of those (both residents and visitors alike) who travel 'The Bucketts Way', which extends through the site and is recognized as the second oldest tourist drive in NSW.

'The Bucketts Way' holds significant historical and scenic value and serves as a vital route through the Gloucester region, providing access to attractions like the Barrington Tops National Park. Improvements to 'The Bucketts Way' are part of the Australian Government's Roads of Strategic Importance program, which focuses on upgrading priority road corridors to better connect agricultural and mining regions to transport hubs.

The link between 'The Bucketts Way' and rural tourism in the Gloucester region cannot be understated. MidCoast Council's award winning tourism brand destination "Barrington Coast" celebrates the unique rural character of the Gloucester basin which is a key rural destination in the MidCoast.

Given the importance of the local rural character, the natural scenic beauty of the locality and the broader visual catchment as a key tourism and therefore economic driver for local business, it is important that the scenic vistas from 'The Bucketts Way' are maintained and enhanced as a result of the development. Maintaining these vistas does not only support rural tourism and the destination "Barrington Coast" brand, it also has significant value to the local community in terms of maintaining the unique rural character of the Gloucester basin in which they live which has positive benefits for their psycho-social health and well-being.

Accordingly, if the Minister grants consent to the development it is respectfully requested that it be subject to a condition requiring the applicant to mitigate direct views of the development from 'The Bucketts Way' through a combination of setbacks to the Solar Farm, and visual screening to act as a barrier for any views to the development. Visual screening should comprise a mix of quick-grown and long-lived local native species to provide a sustained visual barrier for the life of the development.

Social and Economic Impact

The Stratford Coal Mine has been the largest single employer in the Gloucester region for the last 30 years. As indicated in the documentation accompanying the application:

"As of 2022, Stratford Coal reportedly employed around 100 workers, and Yancoal's procurement expenditures with businesses in the region amounted to around \$74 million".

Following the completion of mining operations, a portion of the workforce will remain on-site to continue closure works, however the number employees and local expenditure will significantly decline. The impact of both a loss of employment in community and a significant reduction in the level of investment in the Gloucester region has begun to have a negative impact both socially and economically in the locality as the cessation of mining takes effect.

There is however an opportunity to offset this impact through the Stratford Renewable Energy Hub - SSI and CSSI proposal.

As indicated in the documentation accompanying the application:

"Project construction is expected to take place over approximately 4 years. Total construction expenditures (excluding wages) are estimated at approximately \$1.56 billion, of which:

- *approximately \$1.4 billion would be sourced from NSW suppliers; and*
- *approximately \$156 million would be sourced from suppliers located in the MidCoast Council LGA.*

Over the four-year timeframe, the average construction workforce is expected to amount to approximately 300 FTE persons with a peak of 350 FTE persons, of which approximately 90% would be expected to reside in NSW and 10% in the MidCoast Council LGA. Total construction income and wages accruing to the NSW construction workforce over that timeframe are expected

to amount to approximately \$327 million, with corresponding total disposable income of approximately \$189 million.

During operations, Yancoal expects to incur operational expenditures of approximately \$6 million per annum (excluding purchase of electricity), and to employ a workforce of around 10 people over an operational life of 50 to 100 years (or more)".

Expenditure of approximately \$6 million per annum (excluding purchase of electricity) and employing a workforce of around 10 people over an operational life of 50 to 100 years is not comparable to an employing a workforce of 100 and expending \$74 million per annum which has occurred over the last 30 years.

Similarly, the employment of up to 30 people and expenditure of \$39 million per annum locally during the construction period is not comparable to the historic employment at and expenditure by Stratford Coal in the local region.

There is no doubt that the proposed development will have a positive economic impact at a State level however Council is concerned that this positive benefit will not sufficiently extend to the local Gloucester region which will be impacted by the development and certainly it will in no way offset the impact of the Stratford mine closure on the local community.

Therefore, given the significant capital investment value of the project (AUD \$1,923,000,000.00) it would seem fitting that a Gloucester Community and Economic Development Fund should be established by Yancoal in partnership with MidCoast Council and the local community. This would be a proactive approach to managing the impacts of the development by using a one-off sum of money in the order of \$10,000,000 provided by the developer to increase economic growth and productivity, as well as promote health and wellbeing for the people in the Gloucester region.

The broad principles of such a fund would be centred on supporting the socio-economic future of Gloucester by:

- Creating an environment that fosters and supports business, promotes job creation, supports entrepreneurship and diversifies the industry base.
- Provides education and training to create the foundations of a prosperous economy and community.
- Supports and promotes activities that provide personal fulfilment for residents through arts and culture, encouraging personnel development and by creating beautiful outdoor spaces.
- Supporting and promoting sporting activities and events that provide physical development and pathways to excellence.
- Minimising the impacts of social issues such as homelessness and mental health issues.
- Improving infrastructure to a standard equal to or better than what is available in our cities.
- Promoting and supporting initiatives that preserves regional biodiversity, minimises waste, supports long-term community sustainability and minimises environmental impacts for future generations.

The Fund could be administered by a Joint Management Board comprising representatives of MidCoast Council, Yancoal and the Gloucester Business Chamber so that funds are proactively used to increase economic growth and productivity and promote health and wellbeing in the Gloucester Region.

Biodiversity Impact

The proposed development is associated with a large residual impact on biodiversity and will impact the local occurrences of two (2) threatened ecological communities and many threatened plants and animals, including three (3) species which are likely to suffer serious and irreversible impacts. While the impacts of the solar farm component appear relatively benign, and the biodiversity impacts are generally associated with the construction of the new upper reservoir. It is acknowledged that the footprint of the new upper reservoir is confined because of parameters such as elevation, proximity to the lower reservoir, landform, etc and there is limited to no ability to adjust the footprint of this proposed asset.

The need to retire 3,230 ecosystem credits and 40,605 species credits (for 20 species) indicates that the development has a very high relative residual biodiversity impact.

Council has identified several biodiversity issues associated with the proposal and its' supporting information, which are discussed below:

- *The adequacy of some of the biodiversity knowledge and evaluations*

The BDAR is incomplete, which constrains a proper evaluation of the report.

There is a specialist frog study that is in progress, and which is not reported within the BDAR. Threatened frogs, especially the stuttering frog, are likely to be pertinent to the evaluation of this project with respect to biodiversity.

Field surveys undertaken for the project were generally extensive but were confined mostly to the impact footprint. Most of the records of threatened species were identified in the impact area. It is not known if their populations and habitat extend to the perimeter lands around the inundation area. Without this knowledge, it isn't known if the proposal has the potential to impact whole local populations of affected species, or just parts of the occupied ranges of such species. This is important for offset and conservation planning.

The BDAR is silent on the biodiversity offset strategy. An impact of this magnitude has profound local and sub-regional occurrences. Yancoal has a written interest in delivering a nature positive outcome (this was documented in the BDAR). A nature positive outcome means that an advanced local offset strategy must be prepared and exhibited with the proposal. Council and other agencies and stakeholders should have the opportunity to provide input to the local, advanced offset strategy for this project.

Finally, there is inadequate information on the water quality of the lower reservoir and the use of such water in the upper reservoir. This water has the potential to be acidic, with high heavy metal concentrations and other pollutants. It is acknowledged in the BDAR that the water used in the pumped hydro scheme, is "representative of lower quality water". There is insufficient discussion on the consequences of using this low-quality water in the upper reservoir environment and local creek releases.

The project should not be determined in the absence of satisfactory biodiversity information.

- *Avoidance measures and impacts to threatened species*

The proposal is associated with substantial impacts to threatened species.

Avoidance of biodiversity impacts is the highest priority in the consideration of the avoid – minimise – offset hierarchy enshrined in the *Biodiversity Conservation Act 2016*.

The proposal should be peer-reviewed and re-evaluated in relation to the avoidance, mitigation and offsetting actions to ensure that threatened species are not significantly or unreasonably harmed by the development. This includes consideration of edge effects and indirect impacts.

Further, avoided habitat does not appear to be actively conserved within this proposal at the present time. The advanced local offset strategy should consider the ongoing management of all the existing biodiversity offset obligations of the Stratford Coal Mine.

- *Inadequate offsetting of residual biodiversity impacts*

The proposal seeks to avoid, mitigate and then offset the biodiversity impacts of the development.

As mentioned above, it is critical that the proposal be evaluated only with an advanced local offset strategy, which has benefited from the input of key local stakeholders (including Council).

The advanced local offset strategy should further develop the alternative offset measures that are proposed for species likely to suffer serious and irreversible impacts; to make such measures locally relevant and effective.

The proposal (as yet) does not confine offsets to the local area, does not secure local populations of affected threatened species in perpetuity and does not explore novel approaches to effective conservation (e.g. expansion of local National Parks, establishment of a cross-valley corridor, partnerships with local landholders, etc).

As part of the finalisation of the offset areas, there should be further scientific analysis of the local or sub-regional wildlife connectivity for the proposed offset areas and their contribution to agency and community aspirations. Greater attention to local connectivity opportunities and constraints and sub-regional wildlife corridor targets are required and should be utilised to place an offset area into a more effective, broader landscape context. This should include reference to key regional corridors, existing protected areas and aspirations for relevant agencies.

In a sub-regional context, the proposed development occupies land between larger networks of remnant native vegetation, including agency lands of The Glen NP and the Avon River SF / Berrico NP.

An Offset Area Management Plan should consider issues associated with fencing, methods of active revegetation, the management of weeds and pests, management and use of fire, signage and restrictions on access, as well as the relocation of habitat features such as hollows and logs and performance measurement and monitoring.

Further, it should discuss pre-clearing capture and translocation of pertinent threatened fauna species from the disturbance area, which may be essential to avoid harm to individual species and serious loss of local populations. It should also program the compensation (at least on a 1:1 basis) of the loss of natural hollows from the disturbance area through a relocation of felled trees or artificial nesting box program and define the relocation and placement of other habitat furniture (rocks and fallen timber) into revegetation areas as cover for dependent fauna and to aid nutrient cycling and macro-invertebrate populations.

- Cumulative impact and strategic ecological context

Resource and renewable energy project proposals in the Stratford sub-region should be considered in a strategic framework.

In the broader context, MidCoast Council has developed the Tops to Lakes Initiative and has commissioned studies which demonstrate that the development is sited in an area that is an important connecting habitat (The Glen NP to Avon River SF / Berrico NP connection). The Tops to Lakes Initiative seeks to reinstate and protect connected landscapes and enhance the quality and integrity of natural landscapes to provide environmental services provisions. Relevantly, any decisions relating to this proposal should recognise the existence and aspirations of the Tops to Lakes Initiative and the Karuah Catchment modelled wildlife corridors (Lechner & Fung 2018).

One of the key goals of the Tops to Lakes Initiative is the establishment and ongoing management of a connecting corridor(s) of functional, resilient natural vegetation between The Glen NP and Avon River SF / Berrico NP, across the valley.

The BDAR for this project impacts but does not advance the preservation and restoration of regional connectivity.

Renewable energy and resource developments cumulatively have the potential to fragment and sever habitat, making the large-scale restoration of connecting lands and functional biodiverse natural areas in the landscape difficult to achieve.

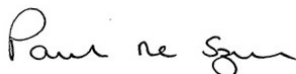
To the contrary, long term strategic planning of avoided lands, offset areas and restored perimeter lands presents an opportunity to deliver the connectivity and ecological enhancement / restoration that is beneficial.

To realise these benefits also requires the timely delivery of offset requirements, in both a practical sense (i.e. revegetation of degraded or modified areas) as well as in an administrative sense (public dedication, environmental zoning, conservation mechanisms, etc). The Minister and the community need to be assured that conservation outcomes are prioritised within the impact area, effectively and appropriately delivered, and managed and secured in perpetuity.

It is important that the true ecological risks and threats of the proposal be clearly understood by all agencies and the Minister in formulating a decision in relation to the development.

Should you require additional information or wish to discuss the content of this submission, please contact Paul De Szell – Director Liveable Communities at paul.deszell@midcoast.nsw.gov.au or on (02) 7955 7410.

Yours sincerely,



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