

# Development Consent

## Section 89E of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, the Planning Assessment Commission approves the development application referred to in Schedule 1, subject to the conditions in Schedules 2 to 4.

These conditions are required to:

- prevent and/or minimise any adverse environmental impacts of the development;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the development.

**Member of the Commission**

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Sydney

2017

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### **SCHEDULE 1**

**Application Number:**

SSD 8183

**Applicant:**

First Solar Pty Ltd

**Consent Authority:**

Minister for Planning

**Land:**

See Appendix 2

**Development:**

Beryl Solar

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## DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Applicant	First Solar Pty Ltd, or any person who seeks to carry out the development approved under this consent
Cessation of operations	Operation of the development has ceased for a continuous period of 6 months
Conditions of this consent	Conditions contained in Schedules 1 to 4 inclusive
Construction	The construction of the development, including but not limited to the carrying out of any earthworks on site and the construction of solar panels and any ancillary infrastructure (but excludes any upgrades to the public road network and site entry point required under this consent, installation of fencing, artefact survey, overhead line safety marking, geotechnical drilling and/or surveying)
Council	Mid Western Regional Council
Decommissioning	The removal of solar panels and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning and Environment
Development	The development as described in the EIS
Development footprint	The area described as the development footprint and shown as the hatched area in the figure in Appendix 1
EIS	The Environmental Impact Statement for Beryl Solar dated April 2017 and associated response to submissions dated July 2017
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Heavy vehicle	A vehicle that has a combined Gross Vehicle Mass or Aggregate Trailer Mass of more than 4.5 tonnes
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	A set of circumstances that: <ul style="list-style-type: none"> <li>• causes or threatens to cause material harm to the environment; and/or</li> <li>• breaches or exceeds the limits or performance measures/criteria in this consent</li> </ul>
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
OEH	Office of Environment and Heritage
Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
Project site	As shown in the figure in Appendix 1 and the table in Appendix 2
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee
Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, concrete batching plants, materials storage compounds, maintenance workshops, testing laboratories or material stockpiles
Upgrading	The augmentation and/or replacement of solar panels and ancillary infrastructure on site
Vehicle Movement	One vehicle entering and leaving the site

## **SCHEDULE 2 ADMINISTRATIVE CONDITIONS**

### **OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT**

1. In addition to meeting the specific environmental performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation or decommissioning of the development.

### **TERMS OF CONSENT**

2. The Applicant must carry out the development:
  - (a) generally in accordance with the EIS;
  - (b) in accordance with the conditions of this consent.

*Note: The general layout of the development is shown in Appendix 1.*

3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.
4. The Applicant must comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
  - (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
  - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
  - (c) the implementation of any actions or measures contained in these documents.

### **FINAL LAYOUT PLANS**

5. Prior to the commencement of construction, the Applicant must submit detailed plans of the final layout of the development to the Secretary, including details on the siting of solar panels and ancillary infrastructure.

*Note: If the construction of the development is to be staged, then the provision of these plans may be staged.*

### **UPGRADING OF SOLAR PANELS AND ANCILLARY INFRASTRUCTURE**

6. Over time, the Applicant may upgrade the solar panels and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans of the development to the Secretary incorporating the proposed upgrades.

### **WORK AS EXECUTED PLANS**

7. Prior to the commencement of operations or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to the Department.

### **NOTIFICATION OF WORKS**

8. Prior to the commencement of construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing of the date of commencement, or cessation, of the relevant phase.

If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to the commencement of the relevant stage, and clearly identify the development that would be carried out during the relevant stage.

## **STRUCTURAL ADEQUACY**

9. The Applicant must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the *Building Code of Australia*.

*Notes:*

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## **DEMOLITION**

10. The Applicant must ensure that all demolition work on site is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

## **PROTECTION OF PUBLIC INFRASTRUCTURE**

11. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

## **OPERATION OF PLANT AND EQUIPMENT**

12. The Applicant must ensure that all plant and equipment used on site, or in connection with the development, is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## **SCHEDULE 3 ENVIRONMENTAL CONDITIONS – GENERAL**

### **TRANSPORT**

#### **Heavy Vehicle Restrictions**

1. The Applicant must ensure that the:
  - (a) development does not generate more than:
    - 30 heavy vehicle movements a day during construction, upgrading or decommissioning; or
    - 5 heavy vehicle movements a day during operations;on the public road network; and
  - (b) length of any vehicles used for the development does not exceed 25 metres; unless the Secretary agrees otherwise.
2. The Applicant must keep accurate records of the number of heavy vehicles entering or leaving the site each day.

#### **Access Route**

3. All vehicular traffic associated with the development must travel to and from the project site via the Castlereagh Highway, Beryl Road and the approved site entry point off Beryl Road (shown in Appendix 1).

#### **Road Upgrades**

4. Prior to the commencement of construction, the Applicant must:
  - (a) upgrade the intersection of the Castlereagh Highway and Beryl Road to provide, as a minimum, a Channelised Right (CHR) turn lane and Auxiliary Left (AUL) turn lane to the satisfaction of RMS, and in accordance with the *Austroads Guide to Road Design* (as amended by RMS supplements), unless RMS agrees otherwise; and
  - (b) upgrade Beryl Road between the Castlereagh Highway and the project site access point to allow two-way construction traffic, including:
    - sealing the road a minimum of 30 metres from the edge of the Castlereagh Highway travel lane;
    - paving and widening of the road shoulders to 1.5 metres on either side; and
    - line-marking on the centre line and edge lines of the road;to the satisfaction of RMS and Council.

#### **Site Access**

5. Prior to the commencement of construction, the Applicant must construct one site entry point off Beryl Road (shown in Appendix 1) to the satisfaction of Council and in accordance with Council's relevant guidelines.

#### **Operating Conditions**

6. The Applicant must ensure:
  - (a) the internal roads are constructed as all-weather roads;
  - (b) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
  - (c) all vehicles are loaded and unloaded on site; and
  - (d) vehicles leaving the site are in a clean condition and do not result in dirt being tracked onto the public road network.

#### **Unformed Crown Roads**

7. The Applicant must ensure any unformed Crown road reserves affected by the development are maintained for future use, unless otherwise agreed with the Department of Industry – Lands & Forestry.

## **Traffic Management Plan**

8. Prior to the commencement of any road upgrades required under this consent, the Applicant must prepare a Traffic Management Plan for the development to the satisfaction of the Secretary. This plan must be prepared in consultation with the RMS and Council, and include:
- (a) details of the entire transport route to be used for development-related traffic;
  - (b) the origin, destination, number, loads, weights and lengths, frequency, including peak and daily traffic volumes and destination of vehicles accessing/exiting the site;
  - (c) a protocol for undertaking dilapidation surveys to assess the:
    - existing condition of Beryl Road prior to construction, upgrading or decommissioning activities; and
    - condition of Beryl Road following construction, upgrading or decommissioning activities;
  - (d) a protocol for the repair of any roads identified in the dilapidation surveys to have been damaged during construction, upgrading or decommissioning works;
  - (e) details of the measures that would be implemented to minimise traffic safety issues and disruption to local users of the transport route during construction, upgrading or decommissioning works, including:
    - temporary traffic controls, including detours and signage;
    - notifying the local community about project-related traffic impacts;
    - minimising potential for conflict with school buses and other motorists as far as practicable;
    - scheduling of haulage vehicle movements to minimise convoy length or platoons;
    - minimising vehicles entering and leaving the site in a backward direction as far as practicable;
    - responding to local climate conditions that may affect road safety such as fog, dust, wet weather; and
    - responding to any emergency repair or maintenance requirements;
  - (f) a driver's code of conduct that addresses:
    - travelling speeds;
    - driver fatigue;
    - procedures to ensure that drivers adhere to the designated transport routes; and
    - procedures to ensure that drivers implement safe driving practices.

Following the Secretary's approval, the Applicant must implement the Traffic Management Plan.

## **LANDSCAPING**

### **Visual Impact Mitigation Measures**

9. The Applicant must establish and maintain a mature vegetation buffer around the site at the locations outlined in the figure in Appendix 1, and supplementary visual impact mitigation measures at Lot 59 DP755434, to the satisfaction of the Secretary. These measures must:
- (a) be planted prior to the commencement of operations;
  - (b) consist of vegetation species that facilitate the best possible outcome in terms of visual screening;
  - (c) be effective at screening views of the solar panels and ancillary infrastructure on site from surrounding residences within 3 years of the commencement of construction; and
  - (d) be properly maintained and kept free of weeds.

### **Landscaping Plan**

10. Prior to the commencement of construction, the Applicant must prepare a detailed Landscaping Plan for the planting within the vegetation buffer and any supplementary mitigation measures in consultation with OEH, Council and the owner of Lot 59 DP 755434, to the satisfaction of the Secretary. The plan must:
- (a) include a description of measures that would be implemented to ensure that the vegetated buffer and any supplementary mitigation measures achieve the objectives of Schedule 3 condition 9 (b) – (f) of this consent;
  - (b) include a program to monitor and report on the effectiveness of these measures; and
  - (c) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following the Secretary's approval, the Applicant must implement the Landscaping Plan.

## LAND MANAGEMENT

11. Following any construction or upgrading on site, the Applicant must:
- restore the ground cover of the site as soon as practicable, using suitable species;
  - maintain ground cover; and
  - keep this ground cover free of weeds.

## BIODIVERSITY

### Retirement of Credits

12. Within two years of commencing development under this consent, unless otherwise agreed by the Secretary, the Applicant must retire biodiversity credits of a number and class specified in Table 1 below to the satisfaction of OEH.

The retirement of these credits must be carried out in accordance with the *NSW Biodiversity Offsets Policy for Major Projects*, and can be achieved by:

- acquiring or retiring credits under the Biobanking Scheme in the *Threatened Species Conservation Act 1995*;
- making payments into an offset fund that has been developed by the NSW Government; or
- providing supplementary measures.

Table 1: Ecosystem Credit Requirements

Vegetation Community	PCT Number	Credits Required
Rough-Barked Apple – Red Gum – Yellow Box woodland on alluvial clay to loam soils on valley flats in the NSW South Western Slopes and Brigalow Belt South Bioregions (CW111)	281	684

13. The Applicant must not use any land zoned R5 – Large Lot Residential on Lot 20 DP 1173059 as an offset to retire the required biodiversity credits specified in Table 1.

Note: To identify the land zones, see the figure in Appendix 1.

## BIODIVERSITY MANAGEMENT PLAN

14. Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with OEH, to the satisfaction of the Secretary. This plan must:
- include a description of the measures that would be implemented for:
    - managing the remnant vegetation and fauna habitat on site;
    - minimising clearing and avoiding unnecessary disturbance associated with the construction and operation of the development;
    - minimising the impacts to fauna on site (including fauna interaction with perimeter fencing) and implementing fauna management protocols;
    - rehabilitating and revegetating temporary disturbance areas;
    - protecting vegetation and fauna habitat outside the approved disturbance areas;
    - maximising the salvage of vegetative and soil resources within the approved disturbance area for beneficial reuse in the enhancement of the offset area or the rehabilitation of the site;
    - controlling weeds and feral pests;
  - include a seasonally-based program to monitor and report on the effectiveness of these measures; and
  - include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following the Secretary's approval, the Applicant must implement the Biodiversity Management Plan.

Note: If the biodiversity offset area is conserved via a Biobanking Agreement, then the Biodiversity Management Plan does not need to include any of the matters that are covered under the Biobanking Agreement.

## AMENITY

### Construction, Upgrading and Decommissioning Hours

15. Unless the Secretary agrees otherwise, the Applicant must only undertake construction, upgrading or decommissioning activities on site between:

- (a) 7 am to 6 pm Monday to Friday;
- (b) 8 am to 1 pm Saturdays; and
- (c) at no time on Sundays and NSW public holidays.

The following construction, upgrading or decommissioning activities may be undertaken outside these hours without the approval of the Secretary:

- the delivery of materials as requested by the NSW Police Force or other authorities for safety reasons; or
- emergency work to avoid the loss of life, property and/or material harm to the environment.

### Noise

16. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009), or its latest version.

### Dust

17. The Applicant must minimise the dust generated by the development.

### Visual

18. The Applicant must:

- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
- (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
- (c) not mount any advertising signs or logos on site, except where this is required for safety purposes.

### Lighting

19. The Applicant must:

- (a) minimise the off-site lighting impacts of the development, including the potential for any glint, glare or reflection from the solar panels; and
- (b) ensure that all external lighting associated with the development:
  - is installed as low intensity lighting (except where required for safety or emergency purposes);
  - does not shine above the horizontal; and
  - complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version.

## HERITAGE

### Discovery of Human Remains

20. If human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must notify the NSW Police and OEH as soon as possible following the discovery, and work must not recommence in the area until this is authorised by OEH.

### Chance Finds Protocol

21. Prior to commencement of construction, the Applicant must prepare a Chance Finds Protocol for the development in consultation with the Aboriginal Stakeholders, and to the satisfaction of OEH.

Following OEH's approval, the Applicant must implement the Chance Finds Protocol.

## Operating Conditions

22. Prior to the commencement of construction, the Applicant must salvage and relocate Aboriginal heritage items Beryl Solar Farm IF1, Beryl Solar Farm IF2, Beryl Solar Farm IF3, Beryl Solar Farm IF4 and Beryl Solar Farm AS 1, to suitable alternative locations on the site, in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010), or its latest version.

*Note: The locations of the Aboriginal heritage items referred to in this condition are shown in the figure in Appendix 1.*

## SOIL AND WATER

### Water Pollution

23. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the *Protection of the Environment Operations Act 1997*.

### Operating Conditions

24. The Applicant must:
- ensure the solar panels and associated infrastructure are designed, constructed and maintained to avoid causing any tunnel erosion on site;
  - minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version; and
  - ensure all waterway crossings are constructed in accordance with the:
    - Water Guidelines for Controlled Activities on Waterfront Land (2012)*, or its latest version; and
    - Why Do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (2004)*, or its latest version.

## HAZARDS

### Storage and Handling of Dangerous Goods

25. The Applicant must:
- store and handle all dangerous or hazardous materials on site in accordance with *AS1940-2004: The storage and handling of flammable and combustible liquids*, or its latest version;
  - ensure the substation is suitably bunded; and
  - minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.

### Operating Conditions

26. The Applicant must:
- minimise the fire risks of the development;
  - ensure that the development:
    - complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection 2006* (or equivalent);
    - is suitably equipped to respond to any fires on site;
  - assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
  - notify the relevant local emergency management committee following construction of the development, and prior to the commencement of operations.

### Emergency Response Plan

27. Prior to the commencement of operations, the Applicant must prepare an Emergency Response Plan for the development in consultation with the RFS and Fire & Rescue NSW. This plan must identify the fire risks and controls of the development, and the procedures that would be implemented if there is a fire on site or in the vicinity of the site. Two copies of the plan must be kept on site in a prominent position adjacent to the site entry point at all times.

## WASTE

28. The Applicant must:
- minimise the waste generated by the development;
  - classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
  - store and handle all waste on site in accordance with its classification;
  - not receive or dispose of any waste on site; and
  - remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal.

## DECOMMISSIONING AND REHABILITATION

29. Within 18 months of the cessation of operations, unless the Secretary agrees otherwise, the Applicant shall rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must comply with the objectives in Table 2.

Table 2: Rehabilitation Objectives

<b>Feature</b>	<b>Objective</b>
Development site (as a whole)	<ul style="list-style-type: none"><li>Safe, stable and non-polluting</li><li>Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use</li></ul>
Solar farm infrastructure	<ul style="list-style-type: none"><li>To be decommissioned and removed, unless the Secretary agrees otherwise</li></ul>
Land use	<ul style="list-style-type: none"><li>Restore land capability to pre-existing agricultural use</li></ul>
Community	<ul style="list-style-type: none"><li>Ensure public safety</li></ul>

## **SCHEDULE 4 ENVIRONMENTAL MANAGEMENT AND REPORTING**

### **ENVIRONMENTAL MANAGEMENT**

#### **Environmental Management Strategy**

1. Prior to the commencement of construction, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
  - (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (d) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (e) include:
    - copies of any plans approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring to be carried out in relation to the development.

Following the Secretary's approval, the Applicant must implement the Environmental Management Strategy.

#### **Revision of Strategies and Plans**

2. The Applicant must:
  - (a) update the strategies and plans required under this consent to the satisfaction of the Secretary prior to carrying out any upgrading or decommissioning activities on site; and
  - (b) review and, if necessary, revise the strategies and plans required under this consent to the satisfaction of the Secretary within 1 month of the:
    - submission of an incident report under condition 3 below; or
    - any modification to the conditions of consent.

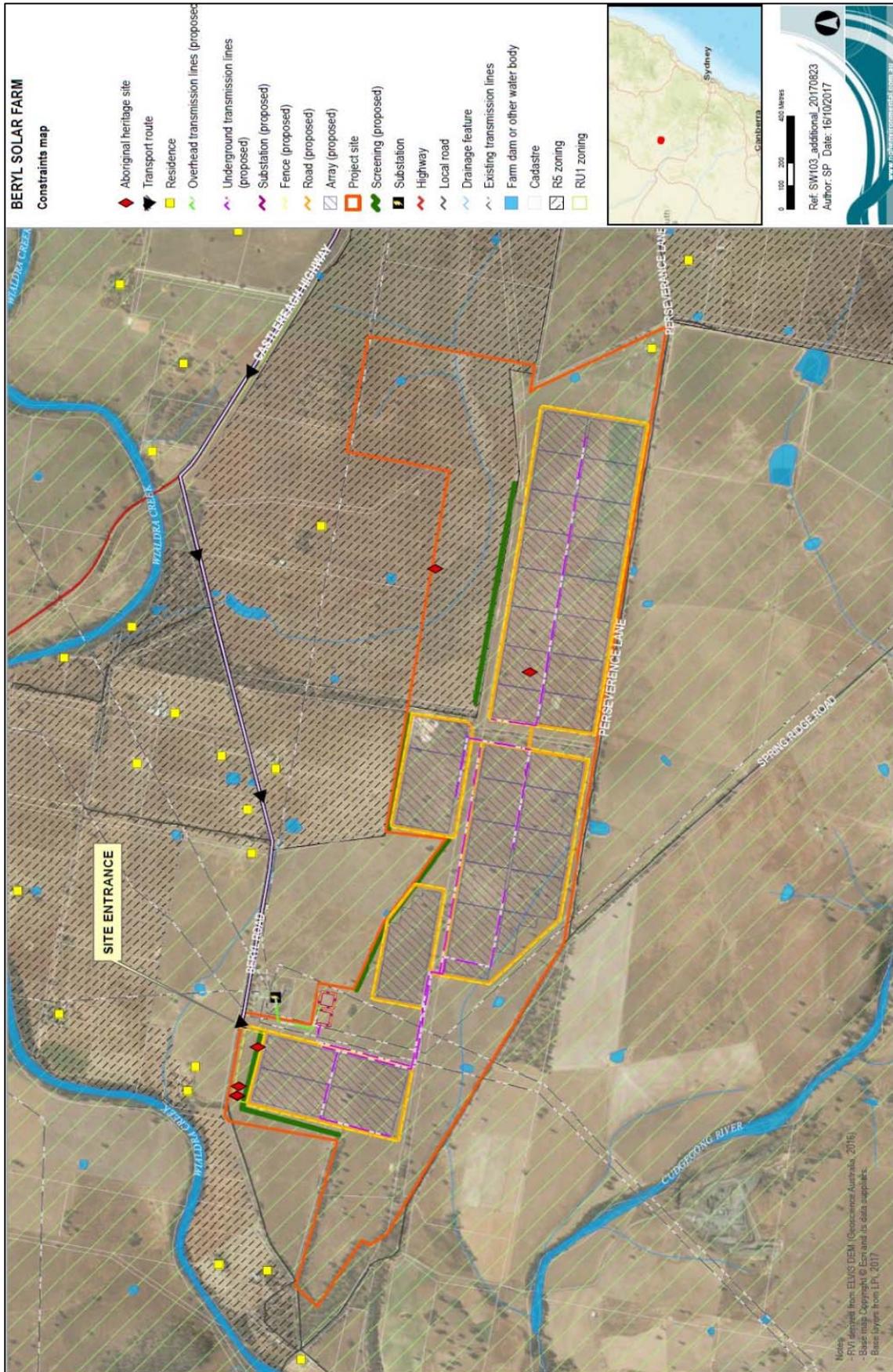
### **INCIDENT REPORTING**

3. The Applicant must immediately notify the Secretary and any other relevant agencies of any incident on site. Within 7 days of the date of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

### **ACCESS TO INFORMATION**

4. The Applicant must:
  - (a) make the following information publicly available on its website as relevant to the stage of the development:
    - the EIS;
    - the final layout plans for the development;
    - current statutory approvals for the development;
    - the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
    - how complaints about the development can be made;
    - a complaints register;
    - any other matter required by the Secretary; and
  - (b) keep this information up to date.

# APPENDIX 1 DEVELOPMENT LAYOUT



## APPENDIX 2 SCHEDULE OF LAND

<b>Lot</b>	<b>DP</b>
20	1173059
1	1012969
2	190927
1	1016556
1	523876

*Note: The project site is also taken to include any crown land, including road reserves, contained within the project site.*