



Office of
Environment
& Heritage

Your reference: SSD 9039
Our reference: DOC18/450846
Contact: Simon Stirrat
Ph 03 5051 6218
Date: 25 July 2018

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Department of Planning & Environment
GPO Box 39
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Via email: iwan.davies@planning.nsw.gov.au

Dear Mr Davies

RE: Mulwala Solar Farm (SSD 9039) – Exhibition of Environmental Impact Statement

I refer to your email dated 28 June 2018 seeking comment from the Office of Environment and Heritage (OEH) about the Environmental Impact Statement (EIS) for the Mulwala Solar Farm in the Federation Local Government Area.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs), issued by the Department of Planning and Environment (DPE) on 5 February 2018, and provide the following comments.

OEH considers that the EIS **does** meet the SEARs for biodiversity, Aboriginal cultural heritage (ACH) and flooding assessment. Recommended conditions of approval are provided in **Attachment A**. Detailed comments and advice are in **Attachment B**.

If you have any questions regarding this matter, please contact Simon Stirrat on (03) 5051 6218 or email simon.stirrat@environment.nsw.gov.au.

Yours sincerely

ANDREW FISHER
Senior Team Leader Planning
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Office of Environment & Heritage

ATTACHMENT A – OEH Assessment Summary for Mulwala Solar Farm Environmental Impact Statement (SSD 9039)
ATTACHMENT B – Detailed comments for Mulwala Solar Farm Environmental Impact Statement (SSD 9039)

ATTACHMENT A OEH Assessment Summary for Mulwala Solar Farm Environmental Impact Statement (SSD 9039)

Key Issues

1	<i>Issue</i>	Biodiversity offsets should be in place before the commencement of clearing for construction.										
	<i>Extent and Timing</i>	Pre-construction										
	<i>Recommended Condition of Approval</i>	<p>Prior to construction commencing, the Applicant must retire biodiversity credits of a number and class specified in the table below to the satisfaction of OEH.</p> <p><i>Ecosystem Credit Requirements</i></p> <table> <tr> <th>Vegetation Community</th><th>PCT ID</th><th>Credits Required</th></tr> <tr> <td>Yellow-box – White Cypress Pine grassy woodland on deep sandy-loam alluvial soils of the eastern Riverina region and western NSW South Western Slopes Bioregion</td><td>75</td><td rowspan="3">30.75</td></tr> <tr> <td>Western Grey Box tall grassy woodland on alluvial loam and clay soils in the NSW South Western Slopes and Riverina Bioregions</td><td>76</td></tr> <tr> <td>Western Grey Box - White Cypress Pine tall woodland on loam soil on alluvial plains of the NSW South Western Slopes Bioregion and Riverina Bioregion</td><td>80</td></tr> </table>	Vegetation Community	PCT ID	Credits Required	Yellow-box – White Cypress Pine grassy woodland on deep sandy-loam alluvial soils of the eastern Riverina region and western NSW South Western Slopes Bioregion	75	30.75	Western Grey Box tall grassy woodland on alluvial loam and clay soils in the NSW South Western Slopes and Riverina Bioregions	76	Western Grey Box - White Cypress Pine tall woodland on loam soil on alluvial plains of the NSW South Western Slopes Bioregion and Riverina Bioregion	80
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2	<i>Issue</i>	Biodiversity Management Plan
	<i>Extent and Timing</i>	Pre-construction
	<i>Recommended Condition of Approval</i>	Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with OEH

3	<i>Issue</i>	Aboriginal Cultural Heritage – Unanticipated Finds Protocol
	<i>Extent and Timing</i>	Pre-construction
	<i>Recommended Condition of Approval</i>	The Applicant must follow the prepare Unanticipated Finds Protocol for the development as detailed in the ACHAR.

OEH Advice

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|-----|--|-----|
| 1.1 | Is the 'baseline' for impact assessment reasonable? | Yes |
| 1.2 | Are predictions of impact robust (and conservative) with suitable sensitivity testing? | Yes |

1.3 Has the assessment considered how to avoid and minimise impacts? Yes

1.4 Does the proposal include all reasonably feasible mitigation options? Yes

2. Is the assessed impact acceptable within OEH's policy context? Yes

The biodiversity offset calculations for impacts on paddock trees using the streamlined assessment module are reasonable.

3. Confirmation of statements of fact

Facts regarding biodiversity, flooding and ACH are generally correct.

4. Elements of the project design that could be improved

The project adequately addresses impacts through mitigation measures and offsetting.

ATTACHMENT B Detailed comments for Mulwala Solar Farm Environmental Impact Statement (SSD 9039)

Biodiversity

The Biodiversity Development Assessment Report (BDAR) (Appendix 1) meets the Secretary's Environmental Assessment Requirements.

The proponent has adjusted the development footprint to avoid many biodiversity values identified on the site and, through liaison with OEH, clarified the scope of biodiversity assessment required for the project prior to commencing work. OEH agreed that the site is highly disturbed and that the vegetation in the development footprint meets the definition of paddock trees under the Biodiversity Assessment Method (BAM).

The proponent used the Streamlined assessment module – clearing paddock trees (BAM Appendix 1) to assess impacts on vegetation and threatened species habitat and for calculating offset obligations and provides the baseline data used to apply calculations. This assessment generated 30.75 ecosystem credits resulting from the removal of 33 assessable paddock trees (based on calculations in Table 12, Appendix 1 of the BAM).

The BDAR provides a reasonable assessment of likely impacts on the project on threatened species likely to occur on the site, based on species associated with the most likely original Plant Community Types (PCT) in the development footprint (sourced from BioNet Vegetation Classification database).

The BDAR does not provide a mechanism for retiring the 30.75 biodiversity credits generated by the development.

Recommendation:

- As a condition of approval, the process for retiring biodiversity credits of a number and class must be provided as specified in section 11, Table 13 of Appendix I of the BDAR.
- Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with OEH, and to the satisfaction of the Secretary. This plan must include a description of the measures that would be implemented for:
 - minimising clearing and avoiding unnecessary disturbance of vegetation that is 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;
 - avoiding the removal of hollow-bearing trees between 1 September and 1 December to avoid the main breeding period for hollow-dependent fauna;
 - 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 or the rehabilitation of the site;
 - controlling weeds and feral pests; and
 - include a protocol for removing hollow-bearing trees;
 - include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Flooding

The EIS meets the Secretary's Environmental Assessment Requirements for flooding.

Although OEH agrees with the assessment that the site is not affected by mainstream flooding from the Murray River, the issue of overland flooding from local intense rainfall events should not be dismissed. Also, the fact that the site is not included in a Flood Planning Area as defined in the Council's Local Environment Plan (LEP) does not guarantee the site is not "flood prone". Rather,

only those areas that have been investigated in a formal flood study are usually mapped in LEPs. Those areas for which a formal flood study has not been completed may still be subject to either mainstream or major overland flooding. As such it cannot be assumed that these unmapped areas are not flood affected.

However, the EIS does include a desktop topographical assessment (as recommended in OEH correspondence) combined with a site inspection. These processes identified areas of “natural depression” across the site that potentially collect runoff during local rainfall events, but are likely not major flow paths during such events. OEH supports the decision to locate the development footprint to avoid these areas, rather than filling them in. This should provide some flood mitigation function to downstream areas during future runoff events to offset any increased impervious areas created by the development.

As such, OEH is satisfied that the EIS flood assessment has sufficiently addressed concerns regarding flooding for this development.

Aboriginal cultural heritage

The Aboriginal Cultural Heritage Assessment Report (ACHAR) meets the Secretary’s Environmental Assessment Requirements.

The ACHAR reported that 10 sites were located during field assessments. Sites included isolated artefacts (8), Aboriginal resource and gathering (1) and a culturally modified tree (1). All sites have been registered on the Aboriginal Heritage Information Management System (AHIMS). Also identified were two sensitive landform features (dunes) with a higher probability of containing Aboriginal cultural heritage (ACH). The project has been modified to avoid the majority of impacts to ACH. This includes site avoidance and creation of exclusion zones. Three objects will be impacted, these being isolated artefacts (AHIMS 55-4-0260, AHIMS 55-5-0140 and AHIMS 55-5-0139). All of these sites are of commonly occurring flaked stone artefacts of low significance and will be relocated outside of the impact area.

A thorough consultation process has been undertaken in accordance with the *Aboriginal cultural heritage consultation requirements for proponents 2010*. Consultation included active engagement in the field assessment. All Registered Aboriginal Parties who actively participated in consultation and provided comment on the ACHAR approved the recommendations and management of ACH.

The ACHAR contains an appropriate unanticipated finds protocol. The ACHAR contains a protocol if human skeletal remains are located that meets the requirements of the *Coroners Act 2009*.

Recommendation:

- The unanticipated finds protocol detailed in the ACHAR (Appendix A) be included as a condition of project approval.