NSW GOVERNMENT | Office of Environment & Heritage

Your reference: SSD 6604
Our reference: DOC16/133038
Contact: Miranda Kerr
Ph 6022 0607

Ms Diana Charteris
Resource Assessments
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Charteris

RE: Griffith Solar Farm Project (SSD 6604) – Griffith LGA
Environmental Impact Statement Exhibition

I refer to your email dated 14 March 2016 seeking comment from the Office and Environment and Heritage (OEH) about the Environmental Impact Statement (EIS) for the Griffith Solar Farm Project (SSD 6604).

We have reviewed the exhibited EIS and the supplementary information provided on 29 March 2016. The OEH review takes into account Secretary's Environmental Assessment Requirements (SEARs) provided by the Department of Planning and Environment to the proponent on 26 August 2014. OEH considers that the EIS does meet the Secretary's requirements, however we recommend that development approval be conditioned to avoid impacts to Aboriginal cultural heritage (ACH) and biodiversity. Detailed comments are provided in **Attachment A**.

While the biodiversity assessment is deficient, the site is highly disturbed so it is unlikely that the proposal will have a significant impact on species or communities listed in the *Threatened Species Conservation Act 1995* (TSC Act). We consider that planting components of the Myall Woodland endangered ecological community as vegetation screenings will provide adequate compensation for any biodiversity loss due to the development.

Attachment A includes a number of actions that should be addressed within the EIS, or could be included as conditions of approval. Key among these are the following:

- All screenings should be with species components of the Myall Woodland endangered ecological community, including the use of *Acacia pendula* as the main species.
- No clearing of *Acacia pendula* without further threatened species assessment, including targeted searches for mistletoe.
- Further detail on the assessment of ACH, including preparation of a Cultural Heritage Management Plan to consider mitigation of impacts and protection of ACH.

All plans required as a Condition of Approval that relate to flooding, biodiversity or ACH should be developed in consultation with OEH, to ensure that issues identified in this submission are adequately addressed.

If you have any questions regarding this matter please contact Miranda Kerr on 6022 0607 or email miranda.kerr@environment.nsw.gov.au.

Yours sincerely

19/4/16

ANDREW FISHER
A/Senior Team Leader Planning
South West Region
Regional Operations Group
Office of Environment & Heritage

Enclosures: Attachment A: Detailed comments for the Griffith Solar Farm Project Environmental Impact Statement (SSD 6604)

ATTACHMENT A Detailed comments for the Griffith Solar Farm Project Environmental Impact Statement (SSD 6604)

Aboriginal cultural heritage

The Aboriginal Cultural Heritage Assessment (ACHA) (EIS Section 6.2 and Appendix G) does not fully comply with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH2010a) and the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* (OEH 2010b).

Site registration

From the ACHA (Section 4.3, page 16) it would appear that the sites found during the current survey have not been submitted to the Aboriginal Heritage Information Management System (AHIMS). Insufficient location information is provided in the report to enable OEH to accurately re-locate the sites if necessary.

The *National Parks and Wildlife Act 1974* (NPW Act) requires that, if a person finds an Aboriginal object on land and the object is not already recorded on AHIMS, they are legally bound under s.89A of the NPW Act to notify OEH as soon as possible of the object's location. This requirement applies to all people and to all situations. An Aboriginal Site Recording Form must be completed and submitted to the AHIMS Registrar, for each Aboriginal site that is recorded during archaeological investigations completed for these environmental assessment requirements. This must be done prior to any Care Agreement being made or Site Impact recording forms being completed. The forms can be downloaded at:
www.environment.nsw.gov.au/licences/DECCAHIMSSiteRecordingForm.htm

Based on consideration of the above, we recommend the following conditions of development consent:

- *Aboriginal sites identified during the visual inspection need to be reported to AHIMS in the prescribed format for formal registration of the objects.*

Site Impact

The objects are located on the Poletta Road access route. There is no detail about how the sites will be protected during the construction and operation of the proposal, or if they will be relocated.

If the objects are to be relocated, the EIS should consider returning the relocated objects to the original site context during site decommissioning. An Aboriginal site impact recording form has been developed by OEH to ensure that current information about the status of AHIMS sites is maintained for all registered Aboriginal sites across NSW. This form should be completed after any authorised impacts (i.e. surface collection/salvage) occur and submitted to the AHIMS Registrar.

The proponent, in consultation with Griffith Local Aboriginal Land Council, needs to determine where those objects will be going (the keeping place) prior to salvage and enter into a Care Agreement.

Based on consideration of the above, we recommend the following condition of development consent:

- *If objects are to be temporarily removed and returned to the site, an Aboriginal Site Impact Recording Form needs to be completed following salvage of the archaeological material:* www.environment.nsw.gov.au/resources/cultureheritage/120558asirf.pdf.

6.2.4 Safeguards and mitigation measures (page 63), 8.2 Mitigation measures (page 143) Appendix G 4.2, page 14

Ground surface visibility during the survey was very poor and affected the ability of surveyors to see potential objects (section 4.2, page 14). There is a significant likelihood that more ACH is present in the low visibility area where solar panel erection is planned. Mitigation measures have not been defined and site monitoring has not been proposed.

It is not clear within the EIS or supporting information how the proposed activities will impact/harm known sites nor have any alternatives to harm been considered (such as relocating vehicle access points or site layout modification and adjustment of proposed development activities).

Table 6-4 of the EIS outlines the aim of a Cultural Heritage Management Plan (CHMP) (page 63). We recommend that the aim of the CHMP be expanded to include details about how the final site design avoids harm, mitigation measures and site monitoring.

Based on consideration of the above, we recommend the following conditions of development consent:

- *A Cultural Heritage Management Plan be prepared that will:*
    - *Confirm the cultural values of the site and objects, based on feedback from the Griffith Local Aboriginal Land Council.*
    - *Outline specific avoidance and mitigation measures for the proposal, including monitoring during construction.*
    - *Consider and detail alternatives to harm prior to any application for an Aboriginal site impact or Care Agreement.*
    - *Include site impact recording forms for any sites modified as part of the activity (this includes collection).*
    - *Detail how objects are to be protected during construction and operation if they are relocated.*
    - *Describe how relocated objects are returned to the original site context during the decommissioning stage, or what other long term management arrangements may be made.*

Biodiversity

The EIS meets the Secretary's requirements for biodiversity assessment but is deficient in the assessment of threatened fauna and ecological communities. However, the site is highly disturbed and tree clearing is not proposed so it is unlikely that the development will have a significant impact on species or communities listed on the TSC Act.

3.2.9 Site access (page 20)

Disturbance to adjoining roadside vegetation due to fencing the proposal site has not been considered as a potential impact of construction. There is potential for disturbance to roadside vegetation during fence construction and associated material storage. Roadside vegetation is important for habitat connectivity in predominantly cleared landscapes, such as the Griffith area, so disturbance outside the proposal site should be prevented.

Based on consideration of the above, we recommend the following condition of development consent:

- *Construction activities and storage of materials for boundary fencing should be wholly contained within the proposal site. Disturbance to road reserves other than access points identified in the EIS is prohibited.*

6.4 Biodiversity (Flora and Fauna) (page 76)

The biodiversity map at Appendix D.2 (page D-iii) shows native vegetation on roadsides adjoining the proposal site. Vegetation mapping for the Griffith LGA[1] identifies this vegetation as a strip of 'Myall or Boree (*Acacia pendula*) woodland', which corresponds to the Myall Woodland endangered ecological

[1] GCC (2013). *Griffith City Council Biodiversity Strategy Draft.* Griffith City Council, Griffith; 2. OEH (2011). *Vegetation mapping by 3-D digital aerial photo interpretation: vegetation of central-southern New South Wales.* Technical Report. NSW Office of Environment and Heritage, Queanbeyan (VIS ID 3884).

communities listed in the NSW TSC Act and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

The TSC Act-listed Myall Woodland EEC can exist without an overstorey so it is important to determine whether native species other than *Acacia pendula* are present at a site. The flora and vegetation description in Section 6.4.2 (page 78) describes the understorey to Myall Woodland EEC as being dominated by weedy, exotic species. A plant species list is not provided to support this assessment, and Table 6-9 (page 79) does not provide an indication of the relative proportion of native and exotic plant species present or their percentage cover.

Acacia pendula individuals will not be removed during clearing of the roadside vegetation for site access (page 84). The EIS does not evaluate the likelihood of the EEC occurring without a tree layer, apart from describing the roadside vegetation as "weedy".

The value of linear vegetation remnants, such as roadsides, is discussed in the assessment of significance for Myall Woodland EEC (Appendix D.4, page D-I) and description of the existing environment on page 78. It appears that the authors consider linear remnants to be of low value due to their narrowness and associated edge effects such as weediness. Linear feature such as roadsides and creeklines are important in heavily cleared landscapes, such as the Griffith local government area where only 8 percent of natural vegetation remains[1]. The draft Griffith Biodiversity Strategy[1] includes the Mirrool Branch Canal Road reserve, which abuts the southern boundary of the proposal site, as a "connecting habitat area". Any remnant vegetation critical as core or linking habitat has been identified in the draft strategy for protection and enhancement.

The accurate identification of threatened ecological communities present on and adjacent to the subject land is important to ensure that construction, operation and site management activities, including species selection for revegetation, are ecologically appropriate and do not constitute harm to threatened entities.

The vegetation mapping referred to in Section 6.4.2 (page 77) should be cited as: OEH (2011). *Vegetation mapping by 3-D digital aerial photo interpretation: vegetation of central-southern New South Wales.* Technical Report. NSW Office of Environment and Heritage, Queanbeyan (VIS ID 3884).

Fauna

The assessment has not considered the potential for mature *Acacia pendula* trees supporting mistletoe to provide a foraging resource for the threatened Painted Honeyeater (*Grantiella picta*)[2], listed as vulnerable on the TSC Act. Appendix D (page D-XI) reports the species as unlikely to occur on the proposal site due to the lack of habitat. There are several Bionet (Atlas of NSW Wildlife) database records for Painted Honeyeater from the Mirrool Branch Canal Road reserve, one of which is within 200 metres of the proposal site (OEH 2016).

An assessment of significance should have been prepared for impacts to the Painted Honeyeater. If *Acacia pendula* individuals are not removed, then there is unlikely to be an impact.

6.4.4 Safeguards and mitigation measures (page 85)
8.2 Mitigation measures (page 143)

We consider that planting components of the Myall Woodland endangered ecological community as vegetation screenings will provide adequate compensation for any biodiversity loss due to the development.

Table 6-10 provides a list of species to be used during rehabilitation and visual screening. Screenings should consist of species associated with the Myall Woodland EEC. Specifically, *Acacia pendula* (Myall, locally known as Boree) should be planted where screening is required, and if necessary shrubs that are components of the EEC should be planted as understorey. The final determination for Myall

[2] OEH (2016). *Pained Honeyeater threatened species profile*. Office of Environment and Heritage www.environment.nsw.gov.au/threatenedSpeciesApp/profile.aspx?id=10357

Woodland EEC (OEH 2011)[3] does not include black box (*Eucalyptus largiflorens*) or poplar box (*Eucalyptus populnea*).

Impact of introduced species

The EIS does not discuss the potential for revegetation practices to introduce exotic species into remnant native vegetation, or the impact of plant species selection on EECs and remnant native vegetation on and adjacent to the development site. Introduction of pasture species, weed seeds from hay bales and non-local native plants into native remnant vegetation has the potential to further reduce vegetation condition.

Based on consideration of the above, we recommend the following conditions of development consent

- *Screening plantings should be with* Acacia pendula *(Myall) to a minimum width of 5 metres, comprising at least two rows of staggered trees. Any plantings should be with species that are components of the Myall Woodland endangered ecological community.*
- *Revegetation works within 100 metres of threatened ecological communities and remnant native vegetation mapped in the Griffith LGA Biodiversity map (regardless of vegetation condition) should be with species that naturally occur within the relevant community. Pasture species, weed seeds from hay bales and non-local native plants should not be introduced into native remnant vegetation.*
- *No clearing of* Acacia pendula *(Myall) is to occur without further assessment, including targeted searches for mistletoe in the tree canopy. Areas mapped as Myall Woodland endangered ecological community without an overstorey of* Acacia pendula *should be assessed for presence of other components of the ecological community.*
- *Plantings specified by the site restoration plan comprise species consistent with the Myall Woodland endangered ecological community listing, as fitting with the final site land use.*
- *The ground cover management plan not compromise the Myall Woodland endangered ecological community by introducing exotic species to the site. Native plant species should be used for ground cover.*

We also recommend mitigation measures in table 6-10 (page 85) and section 8.2 (page 143) be modified according to the points above.

[3] NSWSC (2005). *Myall woodland in the Darling Riverine Plains, Brigalow Belt South, Cobar Peneplain, Murray-Darling Depression, Riverina and NSW South Western Slopes bioregions – endangered ecological community final determination.* NSW Scientific Committee, Sydney. http://www.environment.nsw.gov.au/determinations/MyallWoodlandWesternEndSpListing.htm.