



Office of
Environment
& Heritage

Your reference: SSD 7955
Our reference: DOC17/373794
Contact: Miranda Kerr
Ph 02 6022 0607

Mr Anthony Ko
Planning Officer
Resource & Energy Assessments
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Ko

**RE: Hillston Solar Project (SSD 7955) – Carrathool LGA
Exhibition of Environmental Impact Statement**

I refer to your email dated 14 July 2017 seeking comment from the Office of Environment and Heritage (OEH) about the Environmental Impact Statement (EIS) for the Hillston Solar Project (SSD 7955). We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) provided by the Department of Planning and Environment (DP&E) to the proponent on 14 October 2016.

OEH considers that the EIS **does** meet the Secretary's requirements. A summary of our assessment and advice, and recommended conditions of approval, is provided in **Attachment A** and detailed comments in **Attachment B**.

The Hillston Sun Farm is a good example of how impacts to biodiversity, flooding and Aboriginal cultural heritage can be avoided while planning a development, by using an iterative process of project design with information gathering and input from subject matter experts.

All plans required as a Condition of Approval that relate to flooding, biodiversity or ACH should be developed in consultation and to the satisfaction of 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 (02) 6022 0607 or email miranda.kerr@environment.nsw.gov.au.

Yours sincerely

PETER EWIN
Senior Team Leader Planning
South West Branch
Regional Operations
Office of Environment & Heritage

ATTACHMENT A – OEH Assessment Summary for Hillston Solar Project Environmental Impact Statement (SSD 7955)

ATTACHMENT B – Detailed comments for the Hillston Solar Project Environmental Impact Statement (SSD 7955)

ATTACHMENT A OEH Assessment Summary for the Hillston Solar Project Environmental Impact Statement (SSD 7955)

Key Issues

1	<i>Issue</i>	DP&E to refer the proposal to WaterNSW. Approval of development in designated floodplains is the legislative responsibility of WaterNSW.
	<i>Extent and Timing</i>	Pre-determination
2	<i>Issue</i>	The Biodiversity Offset Strategy (BOS) will be updated and revised based on the result of each step as the BOS is implemented. Amendments to the BOS must be agreed with OEH to make sure that the retirement of credits associated with this project are consistent with the NSW biodiversity offsets policy for major projects.
	<i>Extent and Timing</i>	Post-determination
	<i>Recommended Condition of Approval</i>	<i>Implement the Biodiversity Offset Strategy as per section 9 of the Biodiversity Assessment Report, and in consultation with OEH. Amendments to the BOS must be agreed with OEH. Retirement of credits associated with this project must be consistent with the NSW biodiversity offsets policy for major projects</i>
3	<i>Issue</i>	The EIS lists land management activities that will be included in a proposed environmental management strategy, without supplying any details. 'Vegetation maintenance' is one of the land management activities that may impact on biodiversity. We have insufficient information to determine whether it includes removal or lopping of native vegetation, in addition to clearing identified as a requirement for construction. Recommended Conditions of Approval: Clearing of native vegetation not identified in the EIS is not permitted. Any clearing that is additional or different to that included in the Biodiversity Assessment Report must be assessed for biodiversity impacts and documented accordance with the Framework for Biodiversity Assessment
	<i>Extent and Timing</i>	Post-determination
	<i>Recommended Condition of Approval</i>	<i>Clearing of native vegetation not identified in the EIS is not permitted. Any clearing that is additional or different to that included in the Biodiversity Assessment Report dated 18 April 2017, and will be cleared or lopped for construction or operation of the proposal, must be assessed for biodiversity impacts and documented accordance with the Framework for Biodiversity Assessment, unless otherwise agreed by OEH. The assessment must be undertaken by a person accredited in accordance with s142B(1)(c) of the Threatened Species Conservation Act 1995.</i>

3	<i>Issue</i>	<p>Mitigation and management actions have been listed in Table 7.1 (page 127). To ensure that these actions are carried out at the appropriate time, OEH request that the following details are supplied for each mitigation action:</p> <ul style="list-style-type: none"> • who will be responsible for individual actions (including the position title of the officer responsible); • outcome or measure of success; and • when the action will be completed. <p>These details should be completed before the start of construction to clearly identify the proponent's commitments for management and mitigation.</p> <p>OEH have noticed that Cultural Heritage and Environmental management plans have not been required by DP&E for some recently approved developments. If conditions do not require the preparation of individual plans, OEH will need to see more detail for actions relating to biodiversity and Aboriginal cultural heritage before the start of construction.</p>
	<i>Extent and Timing</i>	Pre- and Post-determination

OEH Advice

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**

The Hillston Sun Farm is a good example of how impacts to biodiversity, flooding and Aboriginal cultural heritage can be avoided while planning a development, by using an iterative process of project design with information gathering and input from subject matter experts.

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

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

3. Confirmation of statements of fact

Statements of fact are correct.

4. Elements of the project design that could be improved

The proponent's commitment to mitigation and management actions would be clarified by including details about project stage, timeframes, outcomes and responsibility for each action (see page 6).

ATTACHMENT B Detailed comments for the Hillston Solar Project Environmental Impact Statement (SSD 7955)

Flooding

The EIS considers the relevant studies and plans that apply to flooding in the area i.e. *Lachlan River Hillston Rural Floodplain Management Plan* (2005) and *Hillston Floodplain Risk Management Study and Plan* (2005). Although these plans are now old and in need of updating, they are the best available for considering impacts of development on the floodplain. However, as the proposal is within a “designated floodplain” it must comply with the *Lachlan River Hillston Rural Floodplain Management Plan*.

The solar farm has been designed to locate all major infrastructure outside the 1% annual exceedance probability (AEP) event extent defined in these plans. There does, however, need to be consideration where the proposed development crosses the defined “floodway” by a “connecting corridor” between the two areas of solar panels. The EIS indicates that this area is to contain “internal electrical connection lines between the PV solar panels (above or below ground) and internal access roads”. It is stated that “the project will be designed such that there will be no changes to the landform that would alter the flow of floodwater through this area”.

Based on consideration of the above, we recommend that:

- The access road and all infrastructure proposed for the corridor that crosses the defined floodway be built at or near ground level, to ensure that this floodway is not impeded in any way and water flows are not altered.
- DP&E refer the proposal to WaterNSW for advice. Approval of development in designated floodplains is the legislative responsibility of WaterNSW.

Aboriginal cultural heritage

The Aboriginal Cultural Heritage Assessment (ACHA) (EIS Appendix D) complies with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales* (OEH 2010) (CoP).

The assessment undertaken by Biosis (Atkinson and Morris 2017a and 2017b) meets the requirements of the EIS, the CoP and Part 6 of the *National Parks and Wildlife Act 1974*.

OEH confirms that the proposed development poses no known direct threat to Aboriginal Cultural Heritage and no further assessment will be required prior to construction.

No previously registered sites were recorded in the Aboriginal Heritage Information Management System (AHIMS) for the subject area. The survey of the study area identified seven previously unrecorded Aboriginal objects, including three scarred trees, one isolated quartz manuport and an artefact scatter, which are located outside the development footprint. These objects have now all been registered on AHIMS (Atkinson & Morris 2017a, 2017b).

The management and mitigation measures identified in Section 6.3.4 of the EIS are appropriate. These will either need to be incorporated into the conditions of approval, or presented in a Cultural Heritage Management Plan.

Biodiversity

The EIS meets the Secretary's requirements for biodiversity assessment. The Biodiversity Assessment Report (BAR) and Biodiversity Offset Strategy (BOS) fulfil the requirements of the Framework for Biodiversity Assessment (FBA).

Biodiversity Offset Strategy

The proposed offset strategy is appropriate. Revisions and updates to the strategy must be agreed with OEH. The conditions relating to the retirement of credits associated with this project must be consistent with the NSW biodiversity offsets policy for major projects.

Site maintenance

Section 3.6 of the EIS (page 31) identifies on-going site maintenance as necessary during operation of the project, including vegetation maintenance, weed and pest management, fence and access road management and landscaping. These activities are not detailed in the EIS and will be included in an environmental management strategy (EMS) that is yet to be prepared.

There is no description of the activities considered to be 'vegetation maintenance'. If vegetation maintenance during construction or operation includes clearing or lopping that is additional or different to that included in the BAR (dated 18 April 2017), then it must be assessed for biodiversity impacts and documented accordance with the FBA, unless otherwise agreed by OEH. The assessment must be undertaken by a person accredited in accordance with s142B(1)(c) of the *Threatened Species Conservation Act 1995*.

Landscaping

OEH support the plant species to be used for landscape screening listed in *Section 6.6.4i Landscaping* (EIS page 90). The selected plant species occur within the region's native vegetation communities so are appropriate for the site.

Mitigation measures

The minimum information requirements for Stage 2 of the BAR are listed in Appendix 7 of the FBA (Table 21, page 102). Included is a table for mitigation measures to be implemented before, during and after construction to avoid and minimise the impacts of the project, including action, outcome, timing and responsibility. However, this data requirement is not specified in the text of the FBA and is inconsistently applied in BARs submitted to OEH.

Section 6.1.2 of the BAR (page 38) includes recommendations for minimising and mitigating impacts to biodiversity. Section 6.5.4 (EIS page 79) lists the land management and mitigation measures for each stage of the project, which will be incorporated into an EMS described in Section 3.8 of the EIS (page 32). Neither the BAR or EIS give a timeframe for preparation of the EMS.

To ensure that mitigation and management actions are carried out at the appropriate time, OEH would prefer to see the following details for each mitigation action:

- who will be responsible for individual actions (including the position title of the officer responsible);
- outcome or measure of success; and
- when the action will be completed.

These details should be completed before the start of construction to clearly identify the proponent's commitments for management and mitigation.

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

- *All clearing of native vegetation, which is additional or different to that included in the Biodiversity Assessment Report dated 18 April 2017, and will be cleared or lopped for construction or operation of the proposal, must be assessed for biodiversity impacts and documented accordance with the Framework for Biodiversity Assessment, unless otherwise agreed by OEH. The assessment must be undertaken by a person accredited in accordance with s142B(1)(c) of the Threatened Species Conservation Act 1995.*
- *Implement the Biodiversity Offset Strategy as per section 9 of the Biodiversity Assessment Report, and in consultation with OEH. Amendments to the BOS must be agreed with OEH. Retirement of credits associated with this project must be consistent with the NSW biodiversity offsets policy for major projects.*

References

- Atkinson, A. and R. Morris. 2017a. 'Hillston sun farming project: NSW Aboriginal cultural heritage assessment report (DRAFT)'. Report prepared by Biosis Pty Ltd for Overland Sun Farming, Melbourne.
- Atkinson, A and R. Morris. 2017b. 'Hillston sun farming project: archaeological report (DRAFT)'. Report prepared by Biosis Pty Ltd for Overland Sun Farming, Melbourne.
- OEH. 2010. *Code of Practice for Archaeological Investigation of Aboriginal objects in NSW*. Office of Environment and Heritage, Sydney.