

89-2018-4
Parcel 45592
dtq:DQ

21 December 2018

Ms N Homsey
Environmental Assessment Officer
GPO Box 39
SYDNEY NSW 2001



Dear Ms Homsey

Maryvale Solar Farm - SSD 8777

Property: 'Waroona' 121 Maryvale Road & 'Scarborough House' 801 Cobbora Road, Maryvale, Lot 2 DP 573426, Lots 1 & 2 DP 1095725, Lot 1 DP 1006557, Lots 122 & 182 DP 754318, 87 Maryvale Road, Maryvale.

I refer to the public exhibition of the abovementioned State Significant Development (SSD) and Council's previous correspondence.

The following comments are provided to assist in the consideration of the development having regard to the Environmental Impact Statement (EIS) dated 31 October 2018 and prepared by Pitt and Sherry (Operations) Pty., Ltd.,:

1. Property Details

The property description as stated above reflects that on page (iv) of the submitted EIS. However, the proposal also includes the part use of Lot 1 DP 1031281, Lot 130 DP 754318 & Lot 2 DP 252522 and the part closure of Bakers Lane.

There is a Road Closure application and subsequent land disposal of Bakers Lane currently under consideration by Council. The resolution of this matter may take some time and as such, it may restrict what can be approved in the short term.

2. Infrastructure and Operations

Council's Infrastructure and Operations Officers have raised no general objections to the proposal. However, the following is provided as the likely works required:

- Upgrade of the intersection at Cobbora Road and Maryvale Road;
- Upgrade of gravel intersection at Maryvale and Seatonville Road to a sealed intersection;
- Widening and strengthening of Seatonville Road to cater for semi-trailers;
- Widening and strengthening of Maryvale Road to cater for semi-trailers;



All communications to: **CHIEF EXECUTIVE OFFICER**

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- Upgrade of Maryvale Road to a fully bitumen sealed road;
- Rural culverted accesses with appropriate gate setbacks to the property;
- Traffic Management Report prior to construction;
- Dilapidation Report prior to construction; and
- Maintenance Schedule prior to construction.

3. Developer Contributions

With regard to Wellington Council's Section 94A Developer Contribution Plan 2012, it is noted that it applies to the entire former Wellington Local Government Area and levies are payable at the rate of 1% of the proposed development cost. Given the proposal is valued at \$188,000,000 the applicable levy would be \$1,880,000.

From the EIS, Section 4 Stakeholder Consultation and subsection 4.4 Dubbo Regional Council, provides a synopsis of the consultation undertaken thus far. *"Table 4-3: Moderate concerns raised by Dubbo Regional Council through consultation."*

Concern: S94 of the EP&A Act enabling Council's to levy for public amenities and services as a consequence of development.

Outcome: Dubbo Regional Council appreciates that the MSF won't trigger S94 Contribution requirements and suggested developing a community benefit fund in lieu of a S94 Contribution." (EIS p.51).

Council's statement as per correspondence dated 11 October 2017, is that the Section 94A is applicable and has made no suggestions regarding a community benefit fund as the singular form of developer contributions.

Council's S94A Development Contributions Plan 2012, includes section 1.9 *Are there any exemptions to the levy?* If the S94A levy is not to be levied, then the applicant needs to address the variation sought, providing reasons for the variation, for the consideration of the consent authority. It should also be noted that Council is happy to further discuss the capabilities and opportunities for a Planning Agreement.

4. Riparian Corridor

The EIS Section 6 Environmental Impact Assessment, subsection 6.6.2 Existing Environment – Surface Water Drainage, states that *"The main channels of Maryvale and Bodangora Creeks are mapped in the LEP as riparian lands, however, neither of these sections of watercourses flows through the Proposal Site except a small section of Bodangora Creek in the south-east corner of the Site that would not be subject to development or disturbance."*

The question is the distance between any proposed works / structures and the Creek / bank. Guidelines from the NSW Office of Water indicate a distance of 40 metres is required, but the EIS does not provide such detail.

As stated in Council's correspondence dated 11 October 2017, the proposal may be designated as per Section 4.46 Integrated Development, of the Act. The NSW Office of Water should be contacted to provide advice accordingly.

5. On-site Infrastructure

The EIS Section 3 Description of the Proposal, subsection 3.3.1 Key Infrastructure Components, refers to 2 x 40' shipping containers for storage and maintenance equipment will be permanently situated within the Site on the compound areas used during construction. No details have been provided regarding location, screening, footings, as previously requested in Council's correspondence dated 11 October 2017.

The 'construction parking and temporary facilities' are shown in Figure 3-3, but it appears that the area (black shading) is located generally beneath the transmission line. The area is in excess of 1 kilometre long and will provide parking for up to 70 vehicles. Again, specific details are required regarding this facet of the development.

6. Development Closure

The EIS Section 3 Description of the Proposal, subsection 3.4.3 Decommissioning, doesn't address the issue of how this can be achieved and enforced. Council could be unaware that a site is closing down and the site could be left in a condition not suitable for agricultural pursuits in accordance with the zoning of the land.

7. Development Alternatives

The EIS Section 2 Need and Justification for the Proposal, subsection 2.4.1 Alternative site locations, makes mention of nine (9) alternative locations however no details have been provided.

8. Substation

The development proposes to construct amongst other things, substation switchyard which includes a transformer, 33kV switchgear building and auxiliary services building. No details of the proposed site switchgear building and auxiliary services building have been provided, including its size, construction materials or floor plan.

9. Sewer

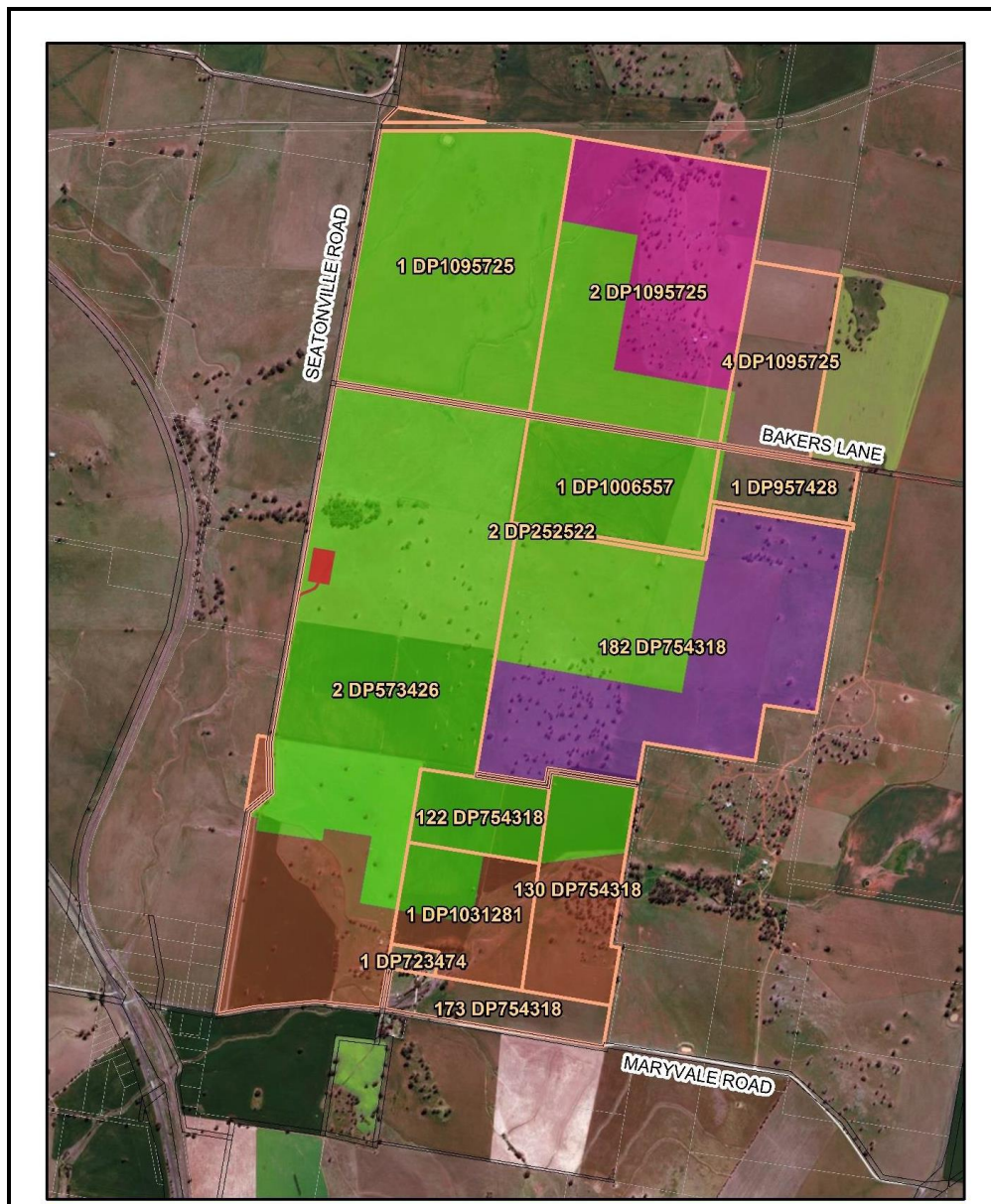
There is no gravity sewer available to which the proposed development can drain. The submitted Environmental Impact Statement (EIS) indicates that temporary portable toilets will be provided during construction of the development. There appears to be no indication in the EIS that such facilities will remain for maintenance staff after the development has been constructed. Under the BCA, the proposed buildings may require toilet facilities to be provided.

10. Agriculture

The site is currently used for agriculture, including grazing of sheep and the cultivation of cereal crops such as wheat, and fodder crops such as lucerne. The impact of the proposed development upon the Rural Planning Principles as stated in State Environmental Planning Policy (SEPP) (Rural Lands) 2008, requires careful consideration.

The EIS states: *"... this development will provide socioeconomic benefits during the duration of the Proposal, as well as agricultural land use opportunities (grazing) occurring throughout the Proposal life cycle, and subsequent to decommissioning."*

The EIS does not however address Part 3 Rural subdivision and dwellings, and specifically clause 9 Rural subdivision for agricultural purposes, subclause (1) to (5). Clause 9 is similarly repeated in Wellington Local Environmental Plan 2012, clause 4.2 Rural subdivision.



The EIS section 5.6.1 Wellington Local Environmental Plan (2012) discusses the proposed subdivision of the site, which will involve 'lease lots' as per Figure 5-1 (see above). The description of the proposed new lots does not match Figure 5-1, containing the following errors:

- Proposed Lot 1 includes Pt Lot 1 DP 1095725 & Pt Lot 2 DP 1095725; and
- Proposed Lot 4 is stated as being 64 ha, when Figure 5-1 states 84 ha.

11. Wellington Local Environmental Plan 2012

Wellington Local Environmental Plan (LEP) 2012, clause 4.1 Minimum subdivision lot size, subclause (3) states: *"The size of any lot resulting from a subdivision of land to which this clause applies is not be less than the minimum size shown on the Lot Size Map in relation to that land."* The Lot Size Map indicates that the minimum subdivision lot size is 400 ha, of which none of the proposed lots complies.

Wellington Local Environmental Plan (LEP) 2012, clause 4.2 Rural subdivision, states in subclauses (3) and (4):

- (3) *Land in a zone to which this clause applies may, with development consent, be subdivided for the purpose of primary production to create a lot of a size that is less than the minimum size shown on the Lot Size Map in relation to that land.*

The issue with the proposed 'lease lots' is that they can only be created below the stated minimum lot size, when that purpose is for 'primary production'. The proposed lots are being created for a solar farm (Lot 1), with the others simply being the remainder of the lots surplus to the solar farms area requirements. As such, the lots are not being created for 'primary production' and as such would be contrary to subclause (3) as stated above.

12. Biodiversity

The EIS, section 6.1 Biodiversity (flora and fauna) refers to native trees along fence lines (0.4 ha). The trees have been planted, but the question is by who and under what circumstances. While the landholder may have planted the trees, the more probable is that the trees were planted using public funds for a specific landcare related purpose.

If you have any enquiries in this matter, please do not hesitate to contact Council's Manager Building and Development Services, Darryll Quigley, during normal office hours, on 6801 4656.

Yours faithfully

Steven Jennings
Director Planning and Environment