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Senders ref: SSD-10288

Tatsiana Bandaruk

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23 June 2020

Dear Ms Bandaruk

**Subject: Culcairn Solar Farm (SSD 10288) - Response to Submissions**

Thank you for your email dated 11 June 2020 regarding the Response to Submissions (RTS) for the Culcairn Solar Farm (SSD 10288), seeking comments from the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (the Department).

We have reviewed the RTS including the Submissions Report and the Amendment Report against the Secretary's Environmental Assessment Requirements (SEARs) provided by the then Office of Environment and Heritage to the proponent on 2 May 2019 and the BCD comments about the exhibited Environmental Impact Statement (EIS) provided to Planning and Assessment on 20 February 2020.

The two key issues and two reporting issues relating to Aboriginal cultural heritage have been addressed in the Response to Submissions report.

BCD considers no further work is required on the Biodiversity Development Assessment Report (BDAR) or the Amendment Report.

We provide a summary of our considerations and recommended conditions of consent at **Attachment A**.

All plans required as a Condition of Approval that relate to Aboriginal cultural heritage or biodiversity should be developed in consultation with, and to the satisfaction of BCD, to ensure that issues identified in our EIS response, and in this submission, are adequately addressed.

If you have any questions about this advice, please contact Marcus Wright, Senior Conservation Planning Officer, via [rog.southwest@environment.nsw.gov.au](mailto:rog.southwest@environment.nsw.gov.au) or 02 6983 4917.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Fisher'.

Andrew Fisher

**Senior Team Leader Planning**

**South West Branch**

**Biodiversity and Conservation Division**

**Department of Planning, Industry and Environment**

ATTACHMENT A – BCD assessment summary for Culcairn Solar Farm (SSD 10288) – Response to Submissions

## ATTACHMENT A BCD assessment summary for Culcairn Solar Farm (SSD 10288) - Response to Submissions

Feedback about the Applicant's response to the BCD EIS submission is provided below numbered according to Attachment A of our submission dated 20 February 2020.

### Aboriginal cultural heritage (ACH)

<i>BCD Issue 1</i>	Clarification on the proposed management of isolated artefact site Culcairn Solar IF7 (55-6-0207). Tables 6.2 and 6.3 in the Aboriginal cultural heritage assessment report state this site will be avoided as it is outside of the development footprint. This conflicts with Figure 6-3 which shows this site is in the middle of the development footprint. Please confirm if this site is to be avoided, or if in fact the site to be avoided is another isolated artefact site (such as Culcairn Solar IF1 (55-6-0239) which is shown mapped in Figure 6-2 outside of the development footprint).
Comment on applicant's response	<p>The 'Response to Submissions Culcairn Solar Farm' report states that site IF1 will have no impact, being outside of the development footprint, and IF7 will be directly impacted (NGH, June 2020:90).</p> <p>BCD is satisfied the issue has been addressed.</p>

<i>BCD Issue 2</i>	Unexpected finds protocol
Comment on applicant's response	<p>The response to submissions report states these measures form part of a current commitment of the project as Safeguard and Mitigation Measure AH1. The unexpected finds protocol is to be included as part of Cultural Heritage Management Plan (CHMP).</p> <p>The CHMP is to be prepared in consultation with DPIE and Aboriginal Stakeholders following project approval and prior to construction.</p>
Recommendation	<p><b>Recommended condition of consent:</b></p> <p><i>An appropriate unexpected finds protocol within a Cultural Heritage Management Plan is to be developed prior to the commencement of construction, and to the satisfaction of the Department of Planning, Industry and Environment, that includes the following:</i></p> <p><i>If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:</i></p> <ol style="list-style-type: none"> <li><i>1. Not further harm the object</i></li> <li><i>2. Immediately cease all work at the particular location</i></li> <li><i>3. Secure the area to avoid further harm to the Aboriginal object</i></li> <li><i>4. Notify the Department of Planning, Industry and Environment as soon as practical on 131555, providing any details of the Aboriginal object and its location</i></li> <li><i>5. Not recommence any work at the particular location unless authorised in writing by the Department of Planning, Industry and Environment.</i></li> </ol> <p><i>If human skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised</i></p>

	<i>access and contact made with NSW Police and the Department of Planning, Industry and Environment.</i>
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## **Biodiversity**

<i>BCD Issue 3</i>	<p>The number of plots sampled for the BAM is under-representative.</p> <p>The number of plots in the certain zones does not meet the minimum required by the BAM. This may have reduced the integrity of the BAM assessment.</p>
Comment on applicant's response	<p>The applicant has undertaken an enhanced survey effort with an additional 15 plots completed in March and May 2020. A number of changes were made to the vegetation zoning as a result of observed changed floristics.</p> <p>The number of plots increased, and BCD is satisfied that a more representative assessment has been achieved. the assessment of indirect impacts on retained vegetation has been better informed.</p>

BCD Issue 4	<p>Impact Assessments do not provide sufficient evidence to support the findings related to prescribed impacts, risk of SAI on the candidate TEC, or EPBC matters.</p> <p>The EIS and appendices describe construction and operation actions that either potentially impact or mitigate impacts to native vegetation or habitat. These have not adequately informed the assessment undertaken in the BDAR.</p> <p>The BDAR assessment of direct and indirect impacts, prescribed impacts, Matters of National Environmental Significance and the risk of serious and irreversible impacts on the candidate threatened ecological community (Box-Gum Woodland) is generally not informed by the EIS.</p>
Comment on applicant's response	<p>BCD is satisfied that the revised BDAR has appropriately considered direct and indirect impacts, including the actions detailed in the EIS, and including the following assessments:</p> <p><u>SAII</u></p> <p>The revised assessment of the potential for serious and irreversible impacts on the woodland TEC candidate (PCT 277) is better informed by; indirect impacts, the loss of scattered paddock trees, factors described in the EIS, and by enhanced evidence regarding the status of the TEC. The effect is that more native vegetation associated with PCT 277 has been avoided.</p> <p><u>Prescribed, Indirect and Direct Impacts</u></p> <p>The revised assessment of indirect and direct impacts is more informed by mitigation measures and other actions listed in the EIS. The effect is that more native vegetation is avoided.</p> <p><u>EPBC Matters</u></p> <p>BCD does not agree with the applicant's decision to not notify the Australian Government regarding matters under the EPBC Act. The applicant bears the associated risk.</p>