

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number	SSD 9039
Project name	Mulwala Solar
Applicant	ESCO Pacific Pty Ltd
Consent Authority	Minister for Planning

Decision

The Executive Director under delegation from the Minister for Planning has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (the Act) granted consent to the development application subject to the recommended conditions.

A copy of the Department of Planning & Environment's Assessment Report, development consent and conditions are available [here](#).

Date of decision

18 December 2018

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under sections 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted to the Department during the assessment of the development application and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits for the region and the State as a whole, including:
 - contributing to a more diverse local industry;
 - a capital investment of approximately \$119 million;
 - creating up to 130 construction jobs;
 - generating enough electricity to power up to 30,000 homes, saving up to 170,000 tonnes of greenhouse gas emissions per year; and
 - assisting in transitioning the electricity sector from coal and gas fired power stations to renewable energy;
- the project is permissible with development consent under *State Environmental Planning Policy (Infrastructure) 2007*, and under Section 4.38(3) of the Act, development consent may be granted despite the development being partly prohibited by an environmental planning instrument;
- the project is consistent with relevant NSW Government policies;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, subject to the recommended conditions of consent;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through the recommended conditions of consent (see Attachment 1); and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 5 July 2018 until 1 August 2018 (28 days) and received two public submissions, including one from a special interest group and one from a member of the general public. Both of these submissions were objections, including one from the Peter Thomas Family Trust, which owns land located approximately 1.7 km east of the site, and one from a resident of Mulwala.

The Department visited the site on 19 November 2018 and consulted relevant Government agencies throughout the assessment process.

The key issues raised in the objections and considered in the Department's Assessment Report and by the decision maker include the compatibility of the proposed land use, visual impacts, impacts of the project on property values and project funding.

Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Compatibility of proposed land use</i></p> <ul style="list-style-type: none"> Perceived incompatibility of the project with existing land uses on the site and with surrounding land uses 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The project is located on land zoned RU1 – Primary Production and R2 – Low Density Residential under the <i>Corowa Local Environment Plan 2012</i> (Corowa LEP). Under <i>State Environmental Planning Policy (Infrastructure) 2007</i> (Infrastructure SEPP) electricity generating works are permissible on any land in a prescribed rural, industrial or special use zone, including RU1. The Department considers that the loss of 215 ha of agricultural cropping and grazing land represents a very small fraction of the agricultural output of the region and would result in a negligible impact on its overall productivity. Further, the agricultural output of the land would not be affected by the project in the long term. Regarding land zoned R2 (i.e. approximately 86 ha of the site), both the Corowa LEP and the Infrastructure SEPP prohibit large-scale solar farms on land zoned R2. However, Section 4.38(3) of the <i>Environmental Planning and Assessment Act 1979</i> gives a consent authority the power to override a partial prohibition. The Department has carefully assessed the merits of its decision, including considering the views of Council and the public interest. Council supports the project on agricultural and residential zoned land and advised that there is sufficient supply of residential land elsewhere in Mulwala for future expansion. In addition, Council advised that the future growth of the town would likely be in a north-easterly direction along Lake Mulwala away from the project site. The Department and Council have no residual concerns about any effect that the proposed development would have on the availability of housing within Mulwala. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No specific conditions required.
<p><i>Visual Impacts</i></p> <ul style="list-style-type: none"> Visual impacts of the solar panels on surrounding residents 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Portions of the project would be visible to surrounding residences. The level of potential visual impacts is relatively minor at most surrounding residences due to intervening vegetation and/or distance. The Department considers that subject to the implementation of visual impact mitigation measures, including vegetation screening, there would be no significant visual impacts on the surrounding residences. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Establish and maintain a mature vegetation buffer along the eastern and southern boundaries. This buffer must: <ul style="list-style-type: none"> be established prior to the commencement of operations; consist of species that facilitate the best possible outcome in terms of visual screening (i.e. the buffer does not have to consist only of native vegetation); and be effective at screening views of the solar panels and ancillary infrastructure from surrounding residences within 3 years of the commencement of construction.
<p><i>Project funding</i></p> <ul style="list-style-type: none"> Perception that the government is funding the project, which would result in local government increasing land rates 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The project is funded wholly by the Applicant. <p><i>Conditions</i></p> <ul style="list-style-type: none"> No specific conditions required.