



Your reference: SSD 9098
Our reference: DOC18-764481
Contact: Simon Stirrat
Ph 03 50516218
Date: 7 November 2018

Jack Murphy
Resource Assessments, Planning Services
Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Via email: jack.murphy@planning.nsw.gov.au

Dear Mr Murphy

RE: Sebastopol Solar Farm (SSD 9098) – Exhibition of Environmental Impact Statement

I refer to your email dated 9 October 2018 seeking comment from the Office of Environment and Heritage (OEH) about the Environmental Impact Statement (EIS) for the Sebastopol Solar Farm located in the Temora local government area.

We have reviewed the exhibited EIS against the Secretary's Environmental Assessment Requirements (SEARs) issued by the Department of Planning and Environment (DPE) on 9 March 2018. A summary of our assessment, advice and recommended conditions of approval is provided in **Attachment A**. Detailed comments are in **Attachment B**.

We consider that the EIS largely meets the Secretary's requirements for biodiversity and Aboriginal cultural heritage assessment (ACH). Before we can endorse the ACH and biodiversity components of the EIS the proponent should address the issues contained in **Attachment A**.

All plans required as a Condition of Approval that relate to biodiversity and 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 Simon Stirrat on (03) 5051 6218 or email simon.stirrat@environment.nsw.gov.au.

Yours sincerely

ANDREW FISHER
Senior Team Leader Planning
South West Branch
Conservation and Regional Delivery
Office of Environment & Heritage

ATTACHMENT A – OEH Assessment Summary for Sebastopol Solar Farm Environmental Impact Statement (SSD 9098)

ATTACHMENT B – Detailed comments for Sebastopol Solar Farm Environmental Impact Statement (SSD 9098)

ATTACHMENT A OEH Assessment Summary for Sebastopol Solar Farm Environmental Impact Statement (SSD 9098)

Key Issues

1	<i>Issue</i>	Draft Aboriginal Cultural Heritage Assessment Report (ACHAR) provided without consultation being finalised. <i>Recommended action</i> Any comments from the RAPs on the draft report should be documented in the final report including how the proponent has considered any submissions. The consultation log needs to be finalised. Please provide a copy of the response from Bundyi Cultural Services and any other responses received from the RAPs, separately to the publicly exhibited report.
	<i>Extent and Timing</i>	Pre-determination
2	<i>Issue</i>	Historic value is not documented in the ACHAR. <i>Recommended action</i> Document the assessed historic value.
	<i>Extent and Timing</i>	Pre-determination
3	<i>Issue</i>	10 m buffer for scarred trees. <i>Recommended action</i> Larger trees may require buffers greater than 10 m to ensure protection of the canopy and to consider below ground impacts to the root system. Buffers may be determined on a tree by tree basis. Consideration could be given to seeking specialist advice from an arborist or ecologist regarding buffers to ensure protection of the trees.
	<i>Extent and Timing</i>	Pre-construction
4	<i>Issue</i>	Timing of salvage of Aboriginal objects. <i>Recommended action</i> May only occur following issue of development consent for State Significant Development. See comments in Attachment B.
	<i>Extent and Timing</i>	Post-determination and pre-construction
5	<i>Issue</i>	Aboriginal site impact recording forms <i>Recommended action</i> An Aboriginal Site Impact Recording Form must be completed and submitted to AHIMS following harm for each site collected or destroyed from salvage and construction works.
	<i>Extent and Timing</i>	Timing post determination and post salvage.
6	<i>Issue</i>	The credit details for the Small Purple-pea (<i>Swainsona recta</i>) are not correct in the most recent BAM calculations. See comments in Attachment B. <i>Recommended action:</i> The BDAR and BAM calculator need to be updated with the correct details for this species.
	<i>Extent and Timing</i>	Pre-determination

7	<i>Issue</i>	The final biodiversity credit report has not been provided with the BDAR. <i>Recommended action</i> The BDAR needs to include a final biodiversity credit report generated by the BAM calculator.
	<i>Extent and Timing</i>	Pre-determination

OEH Advice

1.1 Is the 'baseline' for impact assessment reasonable? Yes

The baseline impact assessment is reasonable. The ACH consultation log must be finalised and a Cultural Heritage Management Plan must be developed (see comments in Appendix B).

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

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

Various mitigation options were considered for the management of ACH in the ACHAR and for biodiversity in the BDAR and EIS.

The Unexpected Finds Protocol for ACH should be completed prior to construction and in consultation with RAPs and OEH.

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

Once the proponent has addressed OEH comments, the assessment will be acceptable.

3. Confirmation of statements of fact

Some points need to be clarified. See detailed comments in Attachment B.

4. Elements of the project design that could be improved

Selection of a site that did not require the removal of large paddock trees would have reduced the biodiversity impact of the development.

ATTACHMENT B Detailed comments for Sebastopol Solar Farm Environmental Impact Statement (SSD 9098)

Biodiversity

Overall the Biodiversity Development Assessment Report (BDAR) presents the information required in the SEARs and the credit requirement generated from the assessment is appropriate based on the values described at the site.

Offsets

The BDAR concludes with a summary of biodiversity credits applicable to the development but does not specify how the credits will be retired. To finalise the BDAR the Biodiversity Credit Report from the BAM calculator (showing credit classes for ecosystem credits and species credits at the development site) must also be included.

At the time of preparing the BDAR, the BAM calculator required updating with background information to generate the correct species credits for some species. This affected the BAM calculation for the Small Purple-pea (*Swainsona recta*). Through consultation with the proponent's consultant, OEH commented that the credits were incorrect for this species. The text of the BDAR has since been updated and Section 10.3 and Table 10.1.3 show the correct number of 3 credits for this species. The Executive Summary needs to be updated too.

However, the final calculations that include the correct credits for *Swainsona recta* still need to be done in the BAM calculator. At the time of this assessment the BAM calculator was still not generating the correct details for this species. Once fixed, the calculations must be redone and the BDAR finalised.

Revegetation

The EIS refers to revegetation of some sections of the perimeter of the property with native species that will be suited to site conditions. Landscape plantings should be with locally occurring native species. DPE's standard conditions of consent for solar farms include a requirement for planting with local species.

Conditions of approval

EIS Section 6.2.7 *Safeguards and mitigation measures* provides tabulated commitments to mitigation measures for the project. These commitments should be included as conditions of approval. This could potentially be limited to four conditions relating to the preparation of the following plans to be approved by relevant authorities:

- Biodiversity Management Plan
- Construction Environmental Management Plan
- Weed Management Plan
- Erosion and Sediment Control Plan.

The conditions can stipulate that the plans should include, but not be limited to, the relevant commitments from Table 6.13. In addition, these plans should include adaptive management strategies to monitor and respond to impacts on biodiversity values. This is alluded to in section 8.1 *Environmental Framework* of the EIS.

Aboriginal cultural heritage

Comments on Aboriginal cultural heritage assessment in the EIS

Comment on Table 6-17 (pages 146-147 of EIS) and repeated in the table in section 8.2 (page 251 of the EIS):

- AH4 –Aboriginal objects or sites cannot be salvaged until development consent is issued for SSD projects under the EP&A Act. This should be changed to 'following development consent and prior to work commencing'.

- AH5 – add to safeguard and mitigation measures, an Aboriginal Site Impact Recording Form will be completed and submitted to AHIMS for each site harmed or destroyed from salvage and construction works.

Comments on Appendix F: 2018. NGH Environmental Pty Ltd 'Aboriginal Cultural Heritage Assessment Sebastopol Solar Farm- Draft'

Comments on the recommendations in the Executive Summary (page vi) and in Section 9 (pages 65) of the ACHAR:

- Recommendation 1 and Table 8 – recommends a minimum 10 m a buffer of be provided around scar trees. Larger trees may require buffers greater than 10 m to ensure protection of the canopy and to consider below ground impacts to the root system. Buffers may be determined on a tree by tree basis. Consideration could be given to seeking specialist advice from an arborist or ecologist regarding buffers to ensure protection of the trees.
- Recommendation 2 - salvage can only occur following development consent and prior to works commencing.
- Recommendation 3 – an Aboriginal Site Impact Recording Form must also be completed and submitted to AHIMS for each site harmed or destroyed from salvage and construction works.

In section 2 of the ACHAR it says under Stage 4 of the consultation “*A minimum of 28 days was allowed for responses to the document*” (NGH, 2018:8). Further, under Section 2.1 it is highlighted in yellow “ADD comments following draft feedback” (2018:8). Any responses from RAPs on the draft ACHAR should be detailed here, including how the proponent responds to any issues raised. If no responses were received from the RAPs on the draft ACHAR it should be stated here.

In Section 5 historic value is not assessed. Historic value is one of the four values identified in the ‘Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW’ (OEH 2011:9). We request that historic value be assessed and documented.

Section 8 Legislation Context states: “*Proposals classified as State Significant Development or State Significant Infrastructure under the EP&A Act have a different assessment regime. As part of this process, Section 90 harm provisions under the NPW Act are not required, that is, an AHIP is not required to impact Aboriginal objects*” (NGH, 2018:64). This statement should be clarified that for State significant development that is authorised by a development consent an AHIP under section 90 of the NPW Act is not required (refer to Division 4.7 Section 4.41 of the *Environmental Planning and Assessment Act 1979*).

Appendix A – consultation log - no date is listed indicating when the draft report was sent or any comments received. We request the log be updated to include the date the draft was sent and document any responses received from RAPs.

Appendix C – we request a copy of the report provided by Bundyi Cultural Services and any other responses received from the RAPs.

Historic heritage

We are unable to comment on the Historic Heritage Assessment provided within the EIS. OEH's Heritage Division are the appropriate contact for historic cultural heritage. Please forward the relevant sections to heritage@heritage.nsw.gov.au if a copy of the assessment has not already been provided.