



# **MURRAY RIVER COUNCIL**

## **Development Application – Moama Solar Farm**

**Lots 71, 112 & 114 DP751152  
Cobb Highway  
MOAMA**

## **Development Assessment Report**

**May 2018**



This Report has been prepared for:

**Murray River Council**

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**Environment Design Management**

Town Planning   Surveying   Engineering   Environmental Planning   Building Design   Project Management

## Environment Design Management

Town Planning

Surveying

Engineering

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Building Design

Project Management

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## 1. INTRODUCTION

EDM Group has been engaged by Murray River Council to undertake an independent review and assessment of Development Application No. 039-18.

A Statement of Expertise to prepare such an assessment report is provided at Appendix 1. Documents supplied by Murray River Council to assist in this independent assessment are listed at Appendix 2.

This particular development application relates to a proposal for a 28 Megawatt AC photovoltaic electricity generating system with ancillary site office, site access works and removal of native vegetation. The infrastructure is to be located adjacent to the Cobb Highway approximately 5kms to the north of the Moama Township.

The proposal to be known as the “Moama Solar Farm” (MSF) is defined as being Regionally Significant Development under the provisions of State Environmental Planning Policy (State and Regional Development) 2011 – Schedule 7 being “Private infrastructure and community facilities” with a CIV over \$5 million but less than \$30 million. As a consequence this development application is required to be reported for determination to the Joint Regional Planning Panel (JRPP) for the Western Region in accordance with Division 4.2 of the Environmental Planning & Assessment Act (the ‘Act’).

The following assessment is provided in the context of the relevant provisions of the Murray Local Environmental Plan 2011 and related DCP provisions.

This assessment report subsequently recommends that Development Application No. 039-18 be approved subject to the imposition of suitable conditions of consent as noted at Appendix 2.

### 1.1 Scope of this Report

This report is structured to firstly provide an overview of the proposed development and the statutory assessment procedure used during processing the development application. An assessment of the development application is then provided which culminates in the recommendations.

This report has been divided into the following structure:

- Section 1 – Introduction: provides an introduction to the development application, details of the subject land and a basic description of the proposed development.
- Section 2 – Description of the statutory assessment process used to assess the development application.
- Section 3 – Assessment of the Application: identifies the relevant statutory and strategic land use and development policies and guidelines applicable to the development application and assesses the considered performance of the development application against these policies and guidelines.
- Section 4 – Concluding Comments & Recommendations: discusses the recommendations arising from the assessment of the development application.
- Appendices

## 1.2 Subject Land

The property is described as Lots 71, 112 & 114 DP751152 and is situated approximately 6.7km to the north of the Moama Post Office. The property is essentially rectangular in shape comprising of a total area of 82.28ha approximately (Figure 1). The property has a collective frontage to the Cobb highway of 852m approximately.

The land is vacant rural land affected by the RU1 – Primary Production Zone.



**Figure 1 – Locality plan: Cobb Highway, Moama (Source: SixMaps)**

Adjoining the property to the north, east and south is farm land within the same zoning as the subject land. To the immediate west is the Cobb Highway which is affected by the SP2 – Infrastructure Zone. Further to the west opposite Lot 112 DP751152 is land within the IN1 – General Industrial Zone while to the south and opposite Lots 71 and 114 DP751152 is also land within the RU1 – Primary Production Zone.

## 1.3 Development Proposal

As noted within the submitted SEE the development proposal can be summarised as follows:

*The proposed Moama Solar Farm is a 28 MW<sub>AC</sub> electricity generation works that will be comprised of solar photovoltaic modules, steel racking and piled supports, electrical transformers and inverters, electrical cabling, telecommunications equipment, an operations and maintenance building, site switching station and perimeter fencing.*

*The solar panels will be similar to those used for domestic purposes and will operate as a single axis tracking system (SAT) which follows the sun during the course of the day to ensure optimal energy generation. The farm will consist of linear strings of mounted panels organised into blocks. Each block will connect to an inverter station that will convert the direct current (DC) energy into grid compatible alternating current (AC) energy.*

*The farm's switching station will comprise electrical switch gear and protection equipment. The generated electricity will be exported into the network by an underground 22 kV*

transmission line into Essential Energy's Moama Zone Substation located approximately 2.5 km south of the development site.

Once built the MSF will generate approximately 70,000 MWh of clean electricity a year, enough to power over 8,230 households annually during the life of the farm: almost double the electricity demand of all existing homes in the Murray River LGA.

During the estimated twelve (12) month construction effort it will require a peak workforce of up to 100 on-site.

In addition to the above the following matters are also of relevance:

- The development site currently comprises three separate parcels which will be consolidated into a single allotment which is to be accessed from off the Cobb Highway via the southern end of the development site.
- Apart from the feeder line this proposal does not identify or assess the environmental impacts associated with the grid connection. It is expected that this aspect of the development will be separately assessed by Essential Energy as a Part 5 matter under the Act.
- The expected life of the MSF is at least 30 years. The proposal will incorporate a proposed Decommissioning Management Plan which has an objective of restoring the land capability to its pre-existing agricultural use.

## **2. STATUTORY ASSESSMENT PROCESS**

### **2.1 Environmental Planning and Assessment Act 1979**

#### **Section 1.3 Objects**

Comment: It is considered that the proposed development is consistent with the objects of the *Environmental Planning and Assessment Act 1979* (the "Act").

#### **Section 4.14 Consultation and development consent – Certain bush fire prone land**

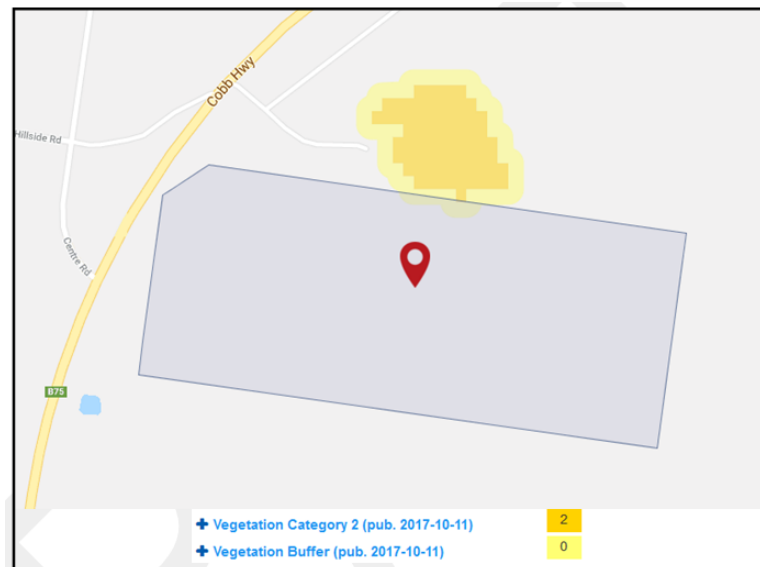
Comment: It is noted that a small section of the northern part of Lot 112 DP751152 is included with an area identified as subject to Bush Fire Risk on Council's Bush Fire Prone Land Map (BFPLM) (Figure 2).

This part of property is mapped as being located within the Vegetation Category 2 and Vegetation Buffer, in this case being related to a remnant patch of vegetation to the north of the property. As a consequence assessment under the relevant provisions of the NSW RFS "Planning for Bushfire Protection Guidelines" (PBP) is required.

It is also to be noted that as proposed development is not related to residential/rural subdivision, Special Fire Protection Purposes (SFPP) or residential infill, then as a consequence, the proposal only need consider Section 4.3.6 of the PBP.

The proposed Solar Farm and associated works are situated on land that has been previously cleared and given to cropping and grazing purposes. The applicant has identified that the development site has the potential to carry grass fires.





**Figure 2: Extract of Murray Shire BFPLM (Source NSW Planning & Environment)**

Among other measures the applicant has advised as follows:

*A security fence will be installed around the solar farm infrastructure. Inside this fence a 10 m wide asset APZ will be maintained to provide for bush fire control and tanker access. A further 5 m buffer from the APZ to the solar modules will also be provided.*

*The APZ will be maintained consistent with the standards prescribed in the Rural Fire Service (RFS) Practice Note for Telecommunication Towers in Bush Fire Prone Areas (RFS, 2012).*

Given that no works are proposed that are related to any sensitive land use nor will they result in any material change to existing bushfire risk in respect of the subject land it is concluded that a Bushfire Safety Authority from NSW Rural Fire Service (Section 100B of the Rural Fires Act 1999) is not required in relation to the proposed development.

#### **Section 4.15 Evaluation**

Comment: The Act provides that in determining a development application, the following matters take where relevant to the development are to be taken into consideration, namely:

##### **(1) Matters for consideration - general**

(a) the provisions of:

- (i) any environmental planning instrument, and
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
- (iii) any development control plan, and
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

In respect of the consideration of a Development Control Plan the Act provides as follows:

**(3A) Development control plans**

*If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:*

- (a) *if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) *if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) *may consider those provisions only in connection with the assessment of that development application.*

*In this subsection, standards include performance criteria.*

**Section 4.46 What is “integrated development”?**

Comment: The proposed development of the land is regarded as being an Integrated Development as defined by Section 4.46 of the Act as works associated with access from the Cobb Highway requires approval under s.138 of the Roads Act, 1993.

**2.2 Chronology of events and public notification and statutory referral process.**

The below table provides an overview of the timeline with respect to the lodgement and assessment of the application.

***Application history/timeline***

Application lodged	20 February 2018
Agency Referrals	8 March 2018
JRPP Confirmation	9 March 2018
Neighbour Notification	3 April 2018
Public Notice (Newspaper)	6 April 2018
Notice on Site	3 April – 30 April 2018
Request for Additional Information	3 April 2018
Information provided	5 April 2018

**2.3 Referrals and Owners Consent**

Internal Referrals - Engineering Department – Conditions recommended

External Referrals -

- EPA - No objections
- NSW OEH – No objections. Conditions recommended in respect of biodiversity & aboriginal heritage.
- DOI – Lands & Water Division – No objections subject to appropriate arrangements for Murray LLS approval for any modified access across the

Travelling Stock reserve as provided for under s.75 of Local Land Services Act 2013.

- DOI - Crown Lands – No objections subject to conditions.
- DPI – Concerns raised about permissibility of the development. No objections raised to the development itself
- NSW Water – No objections. No flood work approval required under Water Management Act 2000.
- Essential Energy – No objections. Conditions and comments recommended for inclusion in any subsequent DA consent.
- Civil Aviation Safety Authority – No objections. CASA has no current regulatory advice of “reflectivity standards” with respect to solar installations. Condition recommended in respect of “after image glare”.
- RMS – No objections. GTA issued 9 May 2018
- NSW Murray Local Land Services – No response received
- Australian Government – Department of the Environment and Energy – No response received

Advertised - No submissions received .

Public Notification - No submissions received

Owners Consent - Landowners consent has been provided.

## 2.4 Contributions

Comment: Under the provisions of the Act Section 7.11 Development Contributions are not required. Land is zoned RU1 – Primary Production.

Under the provisions of the *Local Government Act 1993* Section 64 Levy Development Contributions are not required.

## 3. TOWN PLANNING ASSESSMENT

As previously noted assessment of the development application needs to be undertaken in respect to relevant considerations arising from Section 4.15 of the Act as follows:

### 3.1 (a)(i) Environmental Planning Instruments

#### 3.1.1 State Environmental Planning Policies

Comment: There are a range of SEPP's that generally apply to the subject land. Of those that cover the property the following are considered to be of some relevance requiring more detailed response.

#### SEPP No 44 – Koala Habitat Protection

Comment: No native vegetation is required to be removed. The subject land is not considered to be core koala habitat or potential core koala habitat.

## SEPP No 55 – Remediation of Land

Comment: There is no information available that would indicate that the property is subject to land contamination. This notwithstanding the proposed works are considered to be appropriate in the context of the existing rural land use practices.

In accordance with Clause 7 of SEPP 55, it is concluded that, the land is suitable in its current state for the purpose for which the development is proposed to be carried out.

## SEPP (Infrastructure) 2007

Comment: The following provisions of the SEPP have been taken into consideration.

<p><i>Division 4 Electricity generating works or solar energy systems</i></p>	<p>Under the SEPP the following definitions are applicable:</p> <p><b>electricity generating works</b> means a building or place used for the purpose of making or generating electricity.</p> <p><b>solar energy system</b> means any of the following systems:</p> <ul style="list-style-type: none"> <li>(a) a photovoltaic electricity generating system,</li> <li>(b) a solar hot water system,</li> <li>(c) a solar air heating system.</li> </ul> <p>Notwithstanding the RU1 – Primary Production zone provisions applicable to the land, pursuant to Clause 34 of the SEPP the development is permissible with consent, as noted as follows:</p> <p><b>34 (7) Solar energy systems</b></p> <p><i>Except as provided by subclause (8), development for the purpose of a solar energy system may be carried out by any person with consent on any land.</i></p> <p><u>Comment:</u> The comments of DPI – Lands and Water are noted in respect of the objectives of the RU1 Zone, however it is clear that the SEPP prevails in respect of any inconsistency with the Murray LEP. The development is consequently permissible with consent.</p>
<p><i>Division 5 Electricity transmission or distribution</i></p> <p><i>(i) Subdivision 1 - Electricity transmission or distribution networks</i></p> <p><i>(ii) Subdivision 2 - Development likely to affect an electricity transmission or distribution network</i></p>	<p>(i) At Clause 40 of the SEPP the following definition applies:</p> <p><b>electricity transmission or distribution network</b> includes the following components:</p> <ul style="list-style-type: none"> <li>(a) above or below ground electricity transmission or distribution lines (including related bridges, cables, conductors, conduits, poles, towers, trenches, tunnels, access structures, access tracks and ventilation structures) and telecommunication facilities that are related to the functioning of the network,</li> <li>(b) above or below ground electricity switching stations or electricity substations, feeder pillars or transformer housing, substation yards or substation buildings.</li> </ul> <p>Clause 41 provides among other things:</p> <p>1) Development for the purpose of an electricity transmission or distribution network may be carried out by or on behalf of</p>

	<p><i>an electricity supply authority or public authority without consent on any land.</i></p> <p><b>Comment:</b> The connection of the Solar Farm to the grid (comprising both the switching station and underground 22 kV feeder back to the Moama Zone Substation) will be a 'gifted' asset that will be owned by Essential Energy. As a consequence this component of the proposal is considered to form 'electricity transmission or distribution network' as defined by Clause 40.</p> <p>These works therefore comprise 'development without consent'; and will be considered through a separate Part 5 assessment process, outside of this DA.</p> <p>(ii) Clause 45 provides among other things:</p> <p>2) <i>Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:</i></p> <p>(a) <i>give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and</i></p> <p>(b) <i>take into consideration any response to the notice that is received</i></p> <p><b>Comment:</b> The proposal has been referred to Essential Energy who have raised no objections to the matter proceeding subject to appropriate conditions and commentary added to any subsequent consent being issued.</p>
<p><b>Division 17 Roads and traffic</b></p> <p><b>Subdivision 2 - Development in or adjacent to road corridors and road reservations</b></p>	<p>Clause 101 provides among other things that the Consent Authority must be satisfied in respect of development with frontage to a classified road that:</p> <p><i>the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</i></p> <p>(i) <i>the design of the vehicular access to the land, or</i></p> <p>(ii) <i>the emission of smoke or dust from the development, or</i></p> <p>(iii) <i>the nature, volume or frequency of vehicles using the classified road to gain access to the land, and</i></p> <p>(c) <i>the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</i></p> <p><b>Comment:</b> The proposal has been referred to RMS who have raised no objections to the matter proceeding subject to appropriate GTA conditions being included to any subsequent consent being issued.</p>

## SEPP (Rural Lands) 2008

Comment: Notwithstanding the abovementioned provisions of Division 4 of SEPP (Infrastructure) the matter of the development being considered with regard to the provisions of the objectives of the RU1 – Primary Production zone has been clearly raised by DPI – Lands and Water. In particular concerns about the impact of the MSF on productive agricultural land has been submitted as an area of concern.

In response it would seem prudent to have regard to SEPP (Rural Lands), and in particular the following Rural Planning Principles.

- (a) the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*
- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

In giving due consideration the above it is concluded that the proposed development can be regarded as being generally consistent with these principles for the following reasons:

- (a) The land is located within close proximity of the Moama Township and immediately opposite land situated within the IN1 – General Industrial zone. In terms of primary production the site is not identified as being of state or regional significance. Further the proposal will not:
  - adversely impact upon the maintenance of any significant farm production within the locality or opportunities for potential productive and sustainable economic activities within the broader rural economy of the LGA;
  - limit the operation and/or expansion of adjoining and nearby agricultural uses;
  - diminish the existing long term capacity of the site to sustain agricultural uses for broad acre farming purposes;
  - permanently remove productive land from possible future agricultural land use opportunities;
  - result in the fragmentation or alienation of high quality agricultural land; or
  - lead to a undesirable change in the general use and character of the area.
- (b) As for (a) above.
- (c) The medium term loss (ie 30yr) of a relatively small parcel of rural land (ie 80ha) through its use and development for Solar Farm purposes will have little or no impact on the local rural community. Indeed given the location of the land relative to the Moama Township and nearby Industrial land it can be readily concluded that



the proposed will not be likely to have any adverse impact upon social and economic circumstances as they relate to long term sustainable farming outcomes.

- (d) On balance the proposed use of the subject land for Solar Farm purposes development as part of Moama's continued growth is considered to be likely to have a greater net community benefit as compared with the existing limited broad acre rural use of the land.
- (e) Apart from a number of scattered paddock trees, as well as a lineal windrow of Black Box trees comprising a total area of 0.2ha the subject land is largely devoid of environmental features that would preclude the development. A number of specialist reports have been supplied that support this conclusion. Issues in respect of natural hazards such as bushfire and flooding in a 1 in 100 year event have also been duly considered.
- (f) The land is not identified for future residential development as part of the Moama Township. The site has also been recently considered for possible rural residential purposes with the locality to the east of the Cobb Highway being deemed unsuitable for such purposes. The underlying long term landuse will remain rural with a Decommissioning Plan to be implemented at end of operations for Solar Farm purposes.
- (g) Not applicable. No rural hosing proposed.
- (h) The development outcome is not be inconsistent with the Riverina Murray Regional Strategy.

#### **SEPP (State and Regional Development) 2011**

Comment: Part 4 of the SEPP provides for declaration of certain development as being regionally significant for the purposes of the Act.

Schedule 7 of the SEPP includes electricity generating works that have a capital investment of more than \$5 million.

For such developments, Division 4.2 of the Act provides:

##### **4.5 Designation of consent authority**

*For the purposes of this Act, the consent authority is as follows:*

*(b) in the case of development of a kind that is declared by an environmental planning instrument as regionally significant development—the Sydney district or regional planning panel for the area in which the development is to be carried out,*

In this regard, the Western Joint Regional Planning Panel (JRPP) will be the consent authority for this development.

#### **SEPP (Vegetation in Non-Rural Areas) 2017**

Comment: There is no vegetation prescribed under the Murray DCP to be removed. (See further comment in respect of Chapter 9 of the Murray DCP.

#### **Murray Regional Environmental Plan No. 2 (Riverine Land)**

Comment: The subject site is mapped as Murray Regional Environmental Plan 2 – Riverine Land. Detailed consideration of the various provisions of the REP2 is provided as follows.

Provision	Comment
<b>PART 1 INTRODUCTION</b>	

Provision	Comment
<b>Clause 2 Aims of the plan</b>	<i>The development is deemed to be generally consistent with the aims of this plan. The proposal will be unlikely to detrimentally impact upon the riverine environment of the River Murray being situated over 4.6km to the north east of the Murray River and over 4.3 km to the north west of Backwater Creek a tributary of the Murray River. The proposed solar farm is considered to be acceptable in this context.</i>
<b>Clause 3 Objectives of the plan</b>	<i>The proposed development is not inconsistent with the objectives of this plan.</i>
<b>Clause 4 Where the plan applies</b>	<i>Noted.</i>
<b>Clause 5 How this plan affects other plans</b>	<i>Noted.</i>
<b>PART 2 PLANNING PRINCIPLES</b>	
<b>Clause 8 When planning principles should be applied</b>	<i>Noted</i>
<b>Clause 9 General principles</b>	<i>The proposed development is considered to be consistent with the general principles of this plan. The proposed development is unlikely to significantly adversely affect the River Murray</i>
<b>Clause 10 Specific principles</b>	<i>The proposed development is considered to be consistent with the specific principles of this plan. No issues are raised in respect of access to the river and / or bank disturbance. With respect to flooding it is noted that NSW Water have raised no objections to the development proceeding.</i>
<b>PART 3 PLANNING REQUIREMENTS AND CONSULTATION</b>	
<b>Clause 11 Consultation—who consults and procedure for consultation</b>	<i>Noted</i>
<b>Clause 12 General provisions for consultation</b>	<i>Noted</i>
<b>Clause 13 Planning Control and Consultation Table</b>	<i>Noted. The application was not required to be referred under this plan.</i>
<b>Clause 14 Building setbacks—special provisions</b>	<i>Noted.</i>

### 3.1.2 Murray Local Environmental Plan 2011

#### *Part 1 Preliminary*

#### **Clause 1.2 Aims of Plan**

Comment: The proposal is not inconsistent with the aims of Murray LEP 2011.



### **Clause 1.9A Suspension of covenants, agreements and instruments**

Noted: For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.

### **Part 2 Permitted or prohibited development**

#### **Clause 2.3 Zone objectives & Land Use Table (development permissibility)**

The subject land is located within the RU1 – Primary Production zone. The Zone Objectives are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones..*

Comment: The development can be characterised as being related to “*Electricity Generating Works*” under the provisions of the MLEP. Such development is defined as follows.

***Electricity Generating Works*** means a building or place used for the purpose of making or generating electricity..

Although Electricity Generating Works are not specified in either item 2 or 3 of the Land Use Table to the RU1 zone, the proposed development relies instead on permissibility with consent under the provisions of the above discussed SEPP (Infrastructure) 2007.

Further to the above in addition to the provisions of the Act and associated Regulation it is also noted that there are other DA triggers that also exist in this instance under the provisions of MLEP:

- Clause 7.3 - Biodiversity protection;
- Clause 7.8 - Flood planning

It is also to be noted that in the event of any inconsistency that SEPP (Infrastructure) prevails in relation to permissibility.

#### **Clause 2.6 Subdivision—consent requirements**

Comment: Not applicable

#### **Clause 2.7 Demolition requires development consent**

Comment: Not applicable

#### **Clause 2.8 Temporary use of land**

Comment: Not applicable

### Part 3 Exempt and complying development

Provision	Comment
Clause 3.1 Exempt Development	<i>Not applicable</i>
Clause 3.2 Complying Development	<i>Not applicable</i>
Clause 3.3 Environmentally sensitive areas excluded	<i>Noted</i>

### Part 4 Principal development standards

Provision	Comment
Clause 4.1 Minimum subdivision lot size	<i>Not applicable</i> <i>While the proposed consolidation of the land will result in a new of less than the minimum 120ha the process of consolidation of titles is not defined as subdivision at Part 6 of the Act.</i>
Clause 4.1AA Minimum subdivision lot size for community title schemes	<i>Not applicable</i>
Clause 4.1A Minimum subdivision lot size for strata plan schemes in certain rural, residential and environmental zones	<i>Not applicable</i>
Clause 4.1B Minimum subdivision lot sizes for certain split zones	<i>Not applicable</i>
Clause 4.2 Rural Subdivision	<i>Not applicable (Refer also to 4.1 above)</i>
Clause 4.2A Erection of dwelling houses on land in certain rural and environmental protection zones	<i>Not applicable</i>
Clause 4.2B Rural workers' dwellings	<i>Not applicable</i>
Clause 4.3 Height of buildings	<i>Not adopted</i>
Clause 4.4 Floor Space Ratio	<i>Not adopted</i>
Clause 4.5 Calculation of floor space ratio and site area	<i>Not adopted</i>
Clause 4.6 Exceptions to development standards	<i>Not applicable</i>

### Part 5 Miscellaneous provisions

Provision	Comment
Clause 5.1 Relevant acquisition authority	<i>Noted</i>

Provision	Comment
Clause 5.2 Classification and reclassification of public land	<i>Noted</i>
Clause 5.3 Development near zone boundaries	<i>Noted</i>
Clause 5.4 Controls relating to miscellaneous permissible uses	<i>Not applicable</i>
Clause 5.5 Development within the coastal zone	<i>Not applicable</i>
Clause 5.6 Architectural roof features	<i>Not applicable</i>
Clause 5.7 Development below mean high water mark	<i>Not applicable</i>
Clause 5.8 Conversion of fire alarms	<i>Noted</i>
Clause 5.9 & 5.9AA	<i>Repealed</i>
Clause 5.10 Heritage conservation	<i>The site does not contain any known items of Environmental Heritage Significance.</i>
Clause 5.11 Bush fire hazard reduction	<i>Noted</i>
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	<i>Noted</i>
Clause 5.13 Eco-tourist facilities	<i>Noted.</i>
Clause 5.14 Siding Spring Observatory—maintaining dark sky	<i>Not adopted</i>
Clause 5.15 Defence communications facility	<i>Not adopted</i>

#### **Part 6 Urban release areas**

Provision	Comment
Clause 6.1 Arrangements for designated State public infrastructure	<i>Not applicable The subject site is not mapped as an Urban Release Area.</i>
Clause 6.2 Public utility infrastructure	<i>Not applicable</i>
Clause 6.3 Development control plan	<i>Not applicable</i>
Clause 6.4 Relationship between Part and remainder of Plan	<i>Not applicable</i>

#### **Part 7 Additional local provisions**

Provision	Comment
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<p><b>Clause 7.1 Essential services</b></p> <p><i>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:</i></p>	Noted
(a) the supply of water,	Satisfactory.
(b) the supply of electricity,	Satisfactory.
(c) the disposal and management of sewage,	Satisfactory.
(d) stormwater drainage or on-site conservation,	Satisfactory.
(e) suitable road access	Following consolidation of land titles into one lot, a single driveway located at the southern end of the development site is to be relied upon for access to the Cobb Highway.
<p><b>Clause 7.2 Earthworks</b></p>	<p>The proposal involves minor earthworks associated with installation of the supporting structures and the solar modules as well as construction of earthen pads for the switching station and operations and maintenance building. These works are acceptable in the circumstances being unlikely to result in:</p> <ul style="list-style-type: none"> <li>• disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, or</li> <li>• long term adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.</li> </ul>
<p><b>Clause 7.3 Biodiversity Protection</b></p>	<p>The north eastern and western boundaries of the subject land are affected by the Terrestrial Biodiversity mapping. It is noted that this relates to remnant Black Box vegetation present along the property perimeter.</p> <p>The SEE indicates that this particular vegetation is to remain. Further the biodiversity assessment provided concludes that there will be no areas of critical habitat that are affected by the proposal. The development of the land will also be highly unlikely to impact upon any threatened species, populations or ecological communities, or their habitats.</p> <p>The development will however lead to the need to remove approximately 0.2ha of similar woodland that is present as along a north south drainage ditch running through the property. The canopy is identified as comprising Black Box (<i>Eucalyptus largiflorens</i>) trees with a sparse understorey. The SEE concludes in respect of this woodland</p>

	<p>vegetation has also been assessed as being unlikely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land.</p> <p>In addition to the above any access across the adjoining travelling stock reserve will require further analysis as to possible impact upon the Riverine Western Grey Box grassy woodland present within this corridor. It is understood that this aspect of the development will be subject of further approval processes under the Land Services Act.</p>
<b>Clause 7.4 Development of River Front Areas</b>	<i>Not applicable</i>
<b>Clause 7.5 Riparian Land and Murray River and other watercourse</b>	<i>Not applicable</i>
<b>Clause 7.6 Additional provisions—development on river bed and banks of the Murray and Wakool Rivers</b>	<i>Not applicable</i>
<b>Clause 7.7 Wetlands</b>	<i>Not applicable</i>
<b>Clause 7.8 Flood planning</b>	<p>The eastern half of the subject land is mapped as being flood prone.</p> <p>Information has been provided by the applicant in respect of existing natural ground level as well as the finished floor level of the proposed buildings.</p> <p>It is concluded that with appropriate conditions there will be little or no risk of increased hazard associated with the development of the land for Solar Farm purposes. In addition it is to be noted:</p> <ul style="list-style-type: none"> <li>• No referral authorities have raised concern.</li> <li>• The proposal is not related to long term occupation of the land.</li> <li>• The subject land is partly protected by an existing rural levee that extends around part of the northern and all of the western boundary of the site (extending further south).</li> <li>• Given the particular location along the Murray River flood plain there would be more than sufficient time available prior to any flood event to prepare the buildings for possible inundation without additional risks for the property operators.</li> </ul> <p>It is however unclear for the submitted documentation as to the structural capability of the proposed development to withstand future inundation. As a consequence a condition is recommended requiring that prior to issue of a Construction Certificate that a report from a suitably qualified engineer be provided, demonstrating that</p>

	<i>the development can withstand the force of flood waters without significantly affecting flood behaviour or river water quality.</i>
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## Schedules

Provision	Comment
<b>Schedule 1 Additional permitted uses</b>	<i>Not applicable</i>
<b>Schedule 2 Exempt development</b>	<i>Not applicable</i>
<b>Schedule 3 Complying development</b>	<i>Not applicable</i>
<b>Schedule 4 Classification and reclassification of public land</b>	<i>Not applicable</i>
<b>Schedule 5 Environmental heritage</b>	<i>Noted</i>

### 3.2 (a)(ii) Proposed instruments

Comment: There are a number of draft amendments to Murray LEP 2011 that have been the subject of public consultation under the Act. While these draft amendments apply to land within Murray River Council it is noted that none of these Amendments specifically change the provisions affecting the subject land. As a consequence there are no relevant issues identified.

### 3.3 (a)(iii) Any development control plan

Comment: Murray Development Control Plan applies to the proposal. Relevant to this application are the following Chapters of the Murray DCP 2012 ("the DCP"):

Chapter 6 – Strategic Land Use Plan

Chapter 9 – Vegetation Removal

Chapter 11 – Flood Prone Land

Chapter 12 – Notification Policy.

DCP Chapter	Comment
<b>Chapter 1 Introduction</b>	<i>Noted</i>
<b>Chapter 2 Residential Development</b>	<i>Not applicable</i>
<b>Chapter 3 Industrial Development</b>	<i>Noted. While the solar farm is infrastructure it however is not defined as being industrial development. The development site is also not located on land zoned IN1 or IN2.</i>  <i>The various provisions of this Chapter have however been taken into account and there are no matters raised that would constitute non-compliance in the</i>

DCP Chapter	Comment
	<i>event that the proposal was to be considered to be of an industrial nature.</i>
<b>Chapter 4 Commercial Development</b>	<i>Not applicable</i>
<b>Chapter 5 Tourist Accommodation</b>	<i>Not applicable</i>
<b>Chapter 6 Strategic Land Use Plan</b>	<i>The proposal is not inconsistent with the SLUP. It is considered that the proposed land use is compatible with surrounding land uses and will not hinder future development and/or the ongoing rural use of the area in the future.</i>
<b>Chapter 7 Subdivision</b>	<i>Not applicable</i>
<b>Chapter 8 Urban Release Areas</b>	<i>Not applicable</i>
<b>Chapter 9 Vegetation Removal</b>	<p><i>While the development proposal includes the removal of Black Box (Eucalyptus largeiflorens) it is to be noted that the vegetation is not prescribed by the DCP as the subject land is not located within one of the nominated zones but instead is located within the RU1 zone.</i></p> <p><i>The issue of native vegetation removal has however been discussed in some detail within the SEE and considered by NSW OEH as part of the referral process.</i></p> <p><i>In response it can be reasonably concluded that while the north south windrow of trees (PCT 13 - 0.2ha) running adjacent to a drainage ditch running through the property are proposed to be removed, the proposed landscape plantings of Black Wood species around the northern and western perimeter will assist in providing a suitable offset for the loss of woody vegetation.</i></p>
<b>Chapter 10 Watercourses &amp; Riparian Land</b>	<i>Not applicable</i>
<b>Chapter 11 Flood Prone Land</b>	<p><i>The whole of the subject land is identified as being flood prone being within Flood Planning Area 2 (FPA2) comprising land considered to be subject to inundation in a 1 in 200 year ARI flood within the area to which the Moama Floodplain Management Study 1999 applies.</i></p> <p><i>This DCP adopts the following broad risk management objectives:</i></p> <ul style="list-style-type: none"> <li><i>• avoidance of flood risk;</i></li> <li><i>• minimisation of flood risk using appropriate planning controls; and</i></li> <li><i>• flood risk mitigation.</i></li> </ul> <p><i>Having regard to the DCP objectives and decision guidelines as well as the lack on any issue of concern raised by any referral responses it is concluded that</i></p>



DCP Chapter	Comment
	<p><i>the proposal represents an acceptable risk in the circumstances. As previously noted within this report:</i></p> <ul style="list-style-type: none"> <li><i>No referral authorities have raised concern.</i></li> <li><i>The proposal is not related to long term occupation of the land.</i></li> <li><i>The subject land is partly protected by an existing rural levee that extends around part of the northern and all of the western boundary of the site (extending further south).</i></li> <li><i>Given the particular location along the Murray River flood plain there would be more than sufficient time available prior to any flood event to prepare the buildings for possible inundation without additional risks for the property operators.</i></li> </ul> <p><i>As a consequence it is concluded that the proposal is not inconsistent with the DCP. The proposal will not result in any increased risk to human life or result in unacceptable and/or unplanned economic and social costs which may arise from damage to property from flooding.</i></p> <p><i>In addition condition proposed in response will include the following:</i></p> <ul style="list-style-type: none"> <li><i>that prior to issue of a Construction Certificate that a report from a suitably qualified engineer be provided, demonstrating that the development can withstand the force of flood waters without significantly affecting flood behaviour or river water quality.</i></li> </ul>
<b>Chapter 12 Notification Policy</b>	<i>In accordance with the DCP the application was notified and referred to required agencies.</i>

### 3.4 (a)(iia) Any Planning Agreements

Comment: No planning agreements apply.

### 3.5 (a)(iv) The Regulations

Comment: The regulations have been considered in the assessment of this application. It is considered that the application is consistent with the objectives of the regulations.

### 3.6 (a)(v) Coastal Zone Management Plan

Comment: Not applicable

### 3.7 (b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

Comment: The subject land is located within an existing rural locality representing a highly modified natural environment. Given its location as well as the overall



characteristics of the immediate locality the impact upon the built environment is considered to be negligible. The economic and social impacts are also considered to be relatively neutral and having little or no influence in determining the application.

It is anticipated that the proposed development will not have any likely long term or permanent negative impact on the general locality particularly taking into account the proposed preparation and implementation of a Decommissioning Plan to deal with end of life circumstances of the Solar Farm . Further to matters already considered the following additional comments are provided below:

Attributes	Satisfactory	Satisfactory if conditioned	Not Satisfactory	Not Relevant	Comment
Context & Setting	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposal is considered to be acceptable within the existing rural landscape setting.  The works will also not be so out of keeping as to represent an undesirable intrusion in the locality. There are no neighbourhood and/or character issues impacted upon.
Streetscape	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The development site is separated from the Cobb Highway by a Travelling Stock Reserve which will provide an effective screen of native vegetation. The development will not represent an unacceptable intrusion on the rural roadside as viewed from the Cobb Highway.
Traffic, access and parking	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	There will be no appreciable increase in traffic generation as a consequence of the proposed development. Access arrangements to the Cobb Highway will be to the satisfaction of MSW RMS and Council. There will be sufficient parking established on the land.
Public Domain	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	There will be adverse impact upon the public realm including as viewed from the Cobb Highway.
Utilities	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	No adverse impact. Essential Energy have raised no objections in relation to the proposed Grid Connection subject to further approval processes.
Environmental Heritage	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No adverse impact on Schedule 5 environmental heritage items.
Aboriginal Cultural Heritage	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	No known items identified on the subject land. Contingency conditions recommended that would require work to cease if any cultural heritage was uncovered during earthworks.
Other land Resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X	None identified.
Water Quality & Stormwater	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised as being of concern. Standard conditions recommended.
Soils, soil erosion	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	No adverse impact if building design is appropriate to floodplain setting.  A soil survey will be required to set a base line for future site decommissioning.
Air and microclimate	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Construction activities to be managed to among other things reduce risk of dust impacts.

Attributes	Satisfactory	Satisfactory if conditioned	Not Satisfactory	Not Relevant	Comment
Flora and Fauna	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Appropriate landscape plantings will act as screen plantings as well as an offset for vegetation removal on site
Biodiversity	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<p>It is concluded that there will be no areas of critical habitat that are affected by the proposal. The development of the land will also be highly unlikely to impact upon any threatened species, populations or ecological communities, or their habitats.</p> <p>Loss of woodland vegetation on site can be offset with judicious landscape plantings around the perimeter.</p>
Waste	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Removal of construction waste to be conditioned.
Energy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X	BASIX not applicable
Noise & vibration	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Detail assessment has been provided within the SEE in respect of the potential for adverse impacts resulting from vibration generated by plant and equipment during the construction phase as well as noise (construction, road traffic and operational) emissions on neighbours.</p> <p>Overall, based on the results of the assessment, the risk of adverse impacts as a result of the proposed MSF is considered to be low and complies with all applicable criteria.</p> <p>In respect of the construction phase management controls are to be required to be implemented. From an ongoing operational perspective the proposed development site is considered acceptable for the proposed use.</p>
Hours of operation	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No significant issues raised. Once operational the proposal would have little impact as it will only require minimal amounts of maintenance and would otherwise be automated.
Natural hazards - Flooding - Bushfire - Other	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	<p>No significant issues raised. In respect of either flooding and bush fire considerations. It is concluded that the proposed outcome is satisfactory given that it would be highly unlikely that the works would pose any new or additional risk to the use of the land for solar farm purposes.</p> <p>The buildings should however be required to be designed and constructed so as to be capable of withstanding floodwaters while ensuring adequate provision and opportunity to secure valuable equipment. This will assist in an outcome whereby assets are not unreasonably exposed to the potential of flood damage in the event of a flood.</p>
Technological Hazards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X	No impacts identified
Safety, security and crime prevention	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised
Social impact	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised
Economic impact	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised

Attributes	Satisfactory	Satisfactory if conditioned	Not Satisfactory	Not Relevant	Comment
Site design and internal design	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised
Overlooking - overshadowing	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No issues raised
Landscaping	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Satisfactory. Screen plantings along Cobb Highway. Also additional landscaping along north eastern and western boundaries considered appropriate to further assist in native vegetation off-sets.
Construction	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	All buildings will be required to be constructed and installed on site in accordance with the BCA.
Private open space	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X	Not applicable
Cumulative Impacts	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No adverse long term cumulative impacts envisaged
Disabled access	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Structures to comply with relevant legislative requirements
Signage	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>	Control of unauthorised signage proposed
Setbacks, Building Envelopes	X	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Setback to property boundaries satisfactory.

### 3.8 (c) The suitability of the site for the development

Comment: Having regard to site context and immediate surrounds of the subject land it is considered to be suitable for the proposed development. The development is appropriately accommodated for within the Murray LEP. There are also no issues of non-compliance with relevant Murray DCP provisions that would warrant refusal of this application.

### 3.9 (d) any submissions made in accordance with this Act or the regulations

Comment: No public submissions received. Referral responses have been duly noted with no objections being raised.

### 3.10 (e) The public interest.

Comment: The public's interest has been taken into consideration in the assessment of this development application. It is considered that the proposal will not have any adverse amenity or environmental impacts. As a consequence it is concluded that there is neither a public detriment or public benefit associated with the proposal.

## **4. CONCLUDING COMMENTS & RECOMMENDATIONS**

### **4.1 Summary**

As a consequence of the above discussion, together with an assessment of the heads of consideration under Section 4.15 of the Act, as well as the planning merits of the proposal in this particular location it is felt that on balance the proposed Moama Solar Farm comprising a 28 Megawatt AC photovoltaic electricity generating system with ancillary site office, site access works and removal of native vegetation on land described as Lots 71, 112 & 114 DP751152, Cobb Highway, Moama is both appropriate and satisfactory as a result of this assessment.

Having regard to the nature of the development proposal it is considered that the proposed development is consistent with relevant planning provisions including the Murray LEP 2012 and is consequently worthy of support.

### **4.2 Recommendations**

It is recommended that:

1. The proposed a proposed Moama Solar Farm comprising a 28 Megawatt AC photovoltaic electricity generating system with ancillary site office, site access works and removal of native vegetation on land described as Lots 71, 112 & 114 DP751152, Cobb Highway, Moama be approved.
2. Development consent be granted subject to the conditions attached at Appendix 2.

**EDM Group**  
**PETER O'DWYER RPIA (Fellow)**  
**MANAGER ENVIRONMENT & PLANNING**

**6 June 2018**  
**Ref: 16012247**

# APPENDIX 1

## Statement of Expertise & Report Declaration

## **Town Planning assessment report prepared on behalf of Murray River Council**

The report has been prepared by Peter O'Dwyer RPIA (Fellow) Manager Environment and Planning  
EDM Group 99 Hume Street Wodonga.

### **Professional qualifications**

- Bachelor of Arts (Geography) - University of New England, 1979.
- Graduate Diploma in Urban and Regional Planning - University of New England, 1981.
- Graduate Diploma in Environmental Management (Catchment Management) - La Trobe University, 1999.
- Master of Environmental Management & Restoration - Charles Sturt University, 2004.
- Certificate of Qualification (No.668) as Town and Country Planner, Ordinance 4 - NSW Local Government Act.

### **Professional experience**

- 2005 - Partner – EDM Group. Consultant Town Planners, Surveyors & Engineers
- 2004 - 2005 Manager Environment & Development Services – Indigo Shire Council
- 2002 - 2004 Manager IWS Development Services – Indigo Shire Council
- 1995 - 2002 Shire Planner Indigo Shire Council / Manager IWS Planning Services – Indigo Way Services
- 1995 - 1995 Senior Environmental Planning Officer (Town Planner / Specialist) - NSW Dept. Urban Affairs & Planning
- 1991 - 1994 Senior Strategic Planner - Albury City Council
- 1989 - 1991 Senior Planner (2 year secondment) – Albury Wodonga Region Planning Committee
- 1985 - 1989 Strategic Planner - Albury City Council
- 1984 - 1985 Strategic Planner - Randwick Municipal Council
- 1981 - 1983 Strategic Planner - Lake Macquarie City Council

### **Relevant areas of expertise**

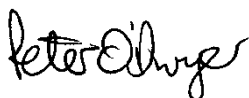
- Statutory and strategic planning
- Advice and assessment of land use and development proposals to planning authorities, government agencies, residents and developers.
- Preparation and presentation of submissions before VCAT, NSW Land & Environment Court, Independent Panels and various government appointed panels and advisory committees.

### **Facts, matters and assumptions relied upon**

- Scope of Work supplied by Murray River Council
- Murray Local Environmental Plan 2010
- Murray Development Control Plan 2010
- Environmental Planning & Assessment Act 1979
- Documents supplied by Murray River Council (see Appendix 2)

### **Declaration**

I have made all the inquiries that I believe are desirable and appropriate and I declare that no matters of significance, which I regard as relevant, have to my knowledge been withheld from Council within this Assessment Report.



**Peter O'Dwyer RPIA (Fellow)**  
**EDM Group**



# APPENDIX 2

## Documents Considered



**GENERAL**

1. Development Application Form lodged 3 April 2018
2. Administration memos and emails

**CORRESPONDENCE**

3. Council email correspondence
4. Email correspondence from applicant.
5. Referral Authority correspondence.
6. Applicant responses to referral agency submissions

**REPORTS**

7. Planning Report & Statement of Environmental Effects (Geolyse – February 2018)

**PLANS**

8. Proposed Development Plans prepared by Geolyse

**OTHER**

9. Property Reports (Lots 71, 112 & 114 DP751152) – NSW Planning & Environment

# APPENDIX 3

## Proposed Conditions

## **Conditions of Development Consent**

### **Prescribed conditions of development consent in accordance with Division 8A of the Environmental Planning and Assessment Regulation 2000 that must be fulfilled**

Clause 98: Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*

Clause 98A: Erection of signs

Clause 98B: Notification of *Home Building Act 1989* requirements

Clause 98C: Conditions relating to entertainment venues

Clause 98D: Condition relating to maximum capacity signage

Clause 98E: Condition relating to shoring and adequacy of adjoining property

Please refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at <http://www.legislation.nsw.gov.au>.

#### **A. General Conditions that must be fulfilled**

##### **(A1) Development Application - approved plans**

The development including a 28 Megawatt AC photovoltaic electricity generating system with ancillary site office, site access works and removal of native vegetation on land described as Lots 71, 112 & 114 DP 751152, Cobb Highway, Moama NSW 2710 must be carried out generally in accordance with lodged plans and the particulars and statements submitted with the Development Application and subject to the following conditions.

##### **(A2) Prior to works – general**

Prior to commencing any building works, the following provisions of the *Environmental Planning and Assessment Act 1979* must be complied with:

- (a) A Construction Certificate must be obtained in accordance with Section 6.7
- (b) A Principal Certifying Authority must be appointed and Council must be notified of the appointment in accordance with Section 6.6(1)
- (c) Council must be notified at least two (2) days in advance of the intention to commence building works in accordance with Section 6.6(2)(a).

Where relevant, provide a copy of the insurance certificate to the Principal Certifying Authority as required by the *Home Building Act 1989*.

**(A3) Compliance – Building Code of Australia**

All aspects of the building design must comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which:
  - (i) Complies with the performance requirements, or
  - (ii) Is shown to be at least equivalent to the deemed to satisfy provision,

or

- (c) A combination of (a) and (b)

**(A4) Native vegetation (on site)**

Other than removal of nominated vegetation as identified within Appendix B of the Statement of Environmental Effects being the Biodiversity Assessment prepared by EMM dated 20 February 2018, there must be no removal or disturbance of indigenous native vegetation, including canopy trees, understorey and ground cover vegetation, without the prior written consent of the Council.

**(A5) Native vegetation (roadside)**

Clearing of roadside vegetation to facilitate site access must be kept to a minimum, with the final plan indicating trees to be removed, to be approved by Council prior to construction commencing.

**(A6) General Terms of Approval – NSW Roads & Maritime Services**

The applicant must at all times comply with the General Terms of Approval, issued by NSW Roads and Maritime Services. The General Terms of Approval form part of this development consent and are at all times to be read in conjunction with the conditions attached herein.

1. A shared driveway must be created for access to the development site consisting of Lots 71, 112 & 114 DP 751152. The shared driveway must be constructed as one driveway within the road reserve. Splitting of the driveway must occur within the subject property. Legal measures must be implemented to provide for and maintain continued legal shared access prior to operation of the development (i.e. creation of right of carriageway).
2. A Traffic Management Plan must be prepared in consultation with the relevant road authorities (Council and Roads and Maritime Services) to outline measures to manage traffic related issues associated with the development, particularly during the construction and decommission processes. The appointed transport contractor must be involved in the preparation of this plan. The plan must address all light and heavy traffic generation to the development site and detail the potential impacts associated with the development, the mitigation measures to be

implemented, and the procedures to monitor and ensure compliance. This plan must address, but not necessarily be limited to the following;

- i) Require that all vehicular access to the site be via the approved access route.
  - ii) Details of traffic routes to be used by heavy and light vehicles, and any associated impacts and any road-specific mitigation measures.
  - iii) Details of measures to be employed to ensure safety of road users and minimise potential conflict with project generated traffic,
  - iv) Proposed hours for construction activities, as night time construction presents additional traffic related issues to be considered.
  - v) The management and coordination of the movement of vehicles for construction and worker related access to the site and to limit disruption to other motorists, emergency vehicles, school bus timetables and school zone operating times,
  - vi) loads, weights and lengths of haulage and construction related vehicles and the number of movements of such vehicles,
  - vii) procedures for informing the public where any road access will be restricted or impaired as a result of the project,
  - viii) any proposed precautionary measures such as signage to warn road users such as motorists about the construction activities for the project,
  - ix) a Driver Code of Conduct to address such items as; appropriate driver behaviour including adherence to all traffic regulations and speed limits, safe overtaking and maintaining appropriate distances between vehicles, etc and appropriate penalties for infringements of the Code,
  - x) details of procedures for receiving and addressing complaints from the community concerning traffic issues associated with truck movements to and from the site,
3. Prior to the commencement of construction on-site, the Proponent must undertake all works to upgrade any road, its associated road reserve and any public infrastructure in that road reserve, to a standard suitable to meet any reasonable requirements that may be specified by the relevant roads authority. The design and specifications, and construction, of these works must be completed and certified by an appropriately qualified person to a standard to accommodate the traffic generated by the project. On Classified Roads the geometric road design and pavement design must be to the satisfaction of the Roads and Maritime Services.
  4. As a minimum the shared access driveway to the Cobb Highway must be located, constructed and maintained to the satisfaction of Roads and Maritime Services to comply with the following criteria:
    - i) the required Sight Distance criteria for a reaction time of 2.5 seconds in accordance with the Austroads Publications as amended by the

supplements adopted by Roads and Maritime Services for the posted speed limit. Compliance with this requirement must be certified by an appropriately qualified person prior to construction of the driveway.

- ii) a Basic Right Turn (BAR) and Basic Left Turn (BAL) intersection treatment on the Cobb Highway in accordance with the Austroads Guide to Road Design as amended by the supplements adopted by Roads and Maritime Services for the posted speed limit on the Cobb Highway. The intersection must be constructed to the standards required for an approved road train route.
  - iii) Intersect with the Cobb Highway to the south of the existing driveway from the Cobb Highway to Lots 60 and 61 DP 751159 located on the western side of the Cobb Highway.
  - iv) a “Rural Property Access” type treatment in accordance with the Austroads Publications as amended by the supplements adopted by Roads and Maritime Services and be constructed perpendicular (or at an angle of not less than 70 degrees) to the carriageway.
  - v) a minimum width to provide for 2 way movement of the largest vehicle likely to access the subject site and be sealed for at least 20 metres from the carriageway of the Cobb Highway. The intersection must be designed and constructed so that vehicles turning between the Highway and the driveway are not required to cross to the opposing travel lane in order to perform a turn manoeuvre. The intersection must be line marked in accordance with Australian standards.
  - vi) no reduction in the capacity of the existing roadside drainage network and prevent water from proceeding onto, or ponding within, the carriageway of the Cobb Highway. If a culvert is to be installed and is to be located within the required clear zone of the Cobb Highway for the posted speed limit it must be constructed with a traversable type headwall.
5. A management plan to provide measures to suppress dust generation from the development site and the transportation route must be prepared and implemented to the satisfaction of Council and Roads and Maritime Services.
6. No external lighting of any infrastructure associated with the project is permitted at night that may cause distraction to road users other than low intensity security lighting.
7. Glint and glare from the solar panels must not cause a nuisance, distraction or hazard to the travelling public on the Cobb Highway. In the event of glint or glare from the solar farm being evident, the proponent shall immediately implement glare mitigation measures such as construction of a barrier (e.g. fence) or other approved device to remove any nuisance, distraction and/or hazard caused as a result of glare from the solar panels.

8. A landscaped buffer (at least 5 metres in width planted with a variety of species endemic to the area and growing to a mature height ranging from 2 metres to at least 5 metres) must be established and maintained within the subject property along the frontage of the site to the Cobb Highway to a standard to minimise distraction of the travelling public.
9. Following construction of the works within the road reserve of the Cobb Highway including the shared driveway any redundant driveway must be removed and any damage or disturbance to the road reserve of Cobb Highway must be restored to match surrounding landform in accordance with Council requirements.
10. The Cobb Highway is part of the State Road network. For works on the State Road network the developer is required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime Services before finalising the design or undertaking any construction work within the carriageway. The Works Authorisation Deed documentation must be submitted for each specific change to the state road network for assessment and approval by Roads and Maritime Services prior to commencement of any works within the road reserve. The applicant can contact the Land Use Manager, South West Region on Ph. 02 6923 6611 for further detail.
11. Any works within the road reserve of the Cobb Highway requires approval under Section 138 of the *Roads Act 1993* from the road authority (Council) and concurrence from Roads and Maritime Services prior to commencement of any such works. The developer is responsible for all public utility adjustment/relocation works, necessitated by the development and as required by the various public utility authorities and/or their agents.
12. All works associated with the project shall be at no cost to the Roads and Maritime Services.

**(A7) Toilet Facilities**

Toilet facilities must be provided, at or in the vicinity of the work site, on which the site office building is being erected.

**(A8) Signs**

Any signage, unless exempt development, must not be erected, fixed, painted or displayed without prior Council consent to a final plan of signage to be submitted when making application for a Construction Certificate.

All signs must be designed to complement development on-site and be maintained at all times in good order and condition.

**(A9) Ongoing Site Management**

The site must be monitored and maintained to a satisfactory condition by maintenance staff, for the management of grass and weeds growth including maintenance of ground cover, and any indications of erosion. Prior to the commencement of the annual Bushfire Danger Period, a joint inspection must be conducted in conjunction with Murray River Council representatives and the local Rural Fire Service, to ensure that vegetation mitigation measures have been conducted to a satisfactory standard.

**(A10) Essential Energy Conditions**

1. All proposed security fencing, vegetation planting and any other activities must, at all times, remain outside of the electricity easement (DP 1150715) along the Cobb Highway frontage. The easement boundary must be surveyed and pegged by a registered surveyor so as to ensure all activities are clear of the easement.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the titles of the subject land should be complied with.
3. Satisfactory arrangements must be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions.
4. In respect of any electricity infrastructure located within the properties and/or within close proximity to the properties, all activities associated with the development must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

**(A11) CASA Condition**

The resultant level of after image glare from the solar panels must not exceed "low potential for after-image" along the final approach path to the Aeroplane Landing Area to the south of the subject land. The final approach path is defined as 2 miles from 50 feet above the landing threshold using a standard 3-degree glide path.

**(A12) Engineering Guidelines for Subdivisions and Development Standards**

The developer must comply with Council's Engineering Guidelines for Subdivisions and Development Standards in conjunction with the advice from Council's Engineering Department.

**(A13) Conditions**

All conditions of consent must be fulfilled to the standard of Council and at the expense of the developer.



## **B. Prior to the Issue of a Construction Certificate**

### **(B1) Construction Environmental Management Plan**

1. A Construction Environmental Management Plan (CEMP) must be prepared and lodged with Council prior to issue of a Construction Certificate. The plan must include a range of management controls as outlined in the approved SEE and other conditions listed in this consent. The plan must include, but not limited to:

- a) Aboriginal Heritage Management
- b) Native Vegetation Management
- c) Construction Traffic Management
- d) Bush Fire Management
- e) Waste Management
- f) Erosion and Sediment Control
- g) Noise Management
- h) Dust Management
- i) Soil and Water Management
- j) Integrated Site Restoration
- k) Operation Hours
- l) Security Management
- m) Requirements and conditions of Essential Energy to connect to the state power grid
- n) Access arrangements across the Travelling Stock Reserve.

2. Consultation with nearby landowners must occur prior to construction commencing to advise of the construction schedule and the CEMP. The CEMP must include management of interactions between construction vehicles and farm machinery movements on roads, particularly during harvest time (November – December).

### **(B2) Soil and Water Management**

Prior to any earthworks being undertaken an Erosion and Sediment Control Plan (ESCP) must be prepared to the satisfaction of Murray River Council and must be submitted to and approved by The Principal Certifying Authority. The plan must include measures to:

- a) Prevent the entry of sediment into any drainage line or waterway.
- b) Prevent site vehicles tracking sediment and other pollutants from the site area.
- c) Protect retained vegetation by a suitable barrier.
- d) Divert in an approved manner upslope water around cleared and/or disturbed areas.
- e) Prevent debris escaping off-site by use of on-site sediment barriers.
- f) Provide for stockpiles and building material that don't create nuisance or pollution.
- g) Prevent dust nuisance.

- h) Ensure maintenance of all erosion control measures at operational capacity until the site is effectively rehabilitated.

All erosion and sediment control measure are to be maintained in good working order for the whole duration of the works and subsequently until the site has been stabilised and the risk of erosion and sediment movement from the site is minimal. Exposed soil is to be reseeded with appropriate species.

**(B3) Landscape Plan required**

Prior to issue of a Construction Certificate, a landscaping plan must be submitted to Council for approval. Once Council has approved the plan it will form a part of this Development Consent. The plan must indicate the following minimum information:

- a) Site boundaries and locations of all buildings and existing features;
- b) Landscape screen plantings along the entire eastern and partial northern boundaries of the solar farm to provide screening from the Cobb Highway and neighbours.
- c) Additional off-set plantings of species associated with the Black Box Lignum woodland community present in the area to be planted along the north eastern and western boundaries so as to off-set loss of woodland vegetation on site.
- d) The locations and names of all off-set tree and shrub species and their mature heights;
- e) The locations of all grassed and paved areas, and
- f) The locations and types of all fencing and their heights.

**(B4) Soil Survey**

Prior to the issue of the Construction Certificate, a full soil survey must be prepared to assist in determining construction limitations and land management operations, and to provide a baseline to measure soil characteristics post closure of the Moama Solar Farm.

**(B5) 7.12 Levy Development Contributions**

Section 7.12 (formally Section 94A) Levy Development Contributions must be paid to Council prior to the release of the Construction Certificate. Section 7.12 charges are 1% of the submitted estimated cost of the development which equates to **\$319,215.09**.

The subject Section 7.12 Levy Development Contributions are imposed under the (former) Murray Shire Council Section 94A Levy Development Contributions Plan 2011, of which is available for inspection at Murray River Council's office, 21-25 Conargo Street, Mathoura NSW 2710 and website at [www.murrayriver.nsw.gov.au](http://www.murrayriver.nsw.gov.au).

## C. During Construction or Works

### (C1) **Aboriginal cultural heritage**

If any Aboriginal sites/relics/remains are discovered on site the proponent must;

- (i) not further harm the Aboriginal object
- (ii) immediately cease work at the particular location
- (iii) secure the area so as to avoid further harm to the Aboriginal object
- (iv) notify OEH as soon as practical by telephoning 131 555, providing any details of the Aboriginal object and location
- (v) not recommence works at the particular location unless authorised in writing by the OEH.

In the event that skeletal remains are unexpectedly encountered during the activity, all work must stop immediately, the area must be secured to prevent unauthorised access, and NSW Police and NSW OEH must be contacted.

All reasonable precautions must be taken to prevent damage to Aboriginal objects.

For more information please refer to the NSW Department of Environment, Climate Change and Water (NSW OEH) document entitled: *Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, available:

<http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>.

### (C2) **Biodiversity**

The works associated with the approved development must not disturb the root systems of any retained native trees present on site.

### (C3) **Site management**

The construction site must be maintained in an environmentally sound manner during building works. Designated waste containment areas must be provided on site, and maintained so as to prevent any windblown litter escaping from the site.

### (C4) **Public Access to Site**

Public access to the construction site must be prevented, when building work is not in progress or the site is unoccupied.

These prevention measures must be in accordance with the SafeWorkNSW publication titled, 'Site Security and Public Access onto Housing Construction Sites' and installed prior to the commencement of any demolition, excavation or building works and must be maintained throughout construction. The use of barbed wire and/or electric fencing is not to form part of the protective fencing to construction sites.

**(C5) Soil & Stormwater management**

Appropriate erosion and sedimentation control measures must be installed prior to construction commencing and must be maintained on site for the duration of construction works.

**(C6) Hours of Operation - Construction**

Building work involving the use of electric or pneumatic tools or other noisy operations must be carried out only between 7:00am and 6:00pm Monday to Saturday, with no work to be undertaken on Sundays and public holidays.

**(C7) Construction - landscape general**

All landscape works must be constructed in accordance with the stamped approved plan. Landscaping must be maintained:

- In accordance with the approved plan, and
- In a healthy state, and
- In perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it must be replaced with vegetation of the same species and the same maturity, as the vegetation that died or was removed.

**(C8) Vehicles during construction**

Vehicles must be clean and free of debris prior to leaving the site during construction. Deposited material may be ordered to be removed at the applicant/operator's expense.

**(C9) Council property**

Any damage or deterioration to any portion of the footpath and/or kerb and guttering or other Council property including road reserves, during construction must be reinstated to its original condition at the owner's expense to the satisfaction of Council.

**(C10) No pollution of waterways**

The proponent must take all necessary precautions and implement measures to prevent pollution of waterways during the proposed works.

**(C11) Minimise dust and noise**

During construction the proponent must undertake measures to minimise dust and noise and ensure that the impact on neighbouring properties is minimised.

**(C12) Works completion**

1. Council must be notified of the completion of the works.
2. On completion of the works, the site must be rehabilitated and stabilised. Surplus construction materials and temporary structures (other than silt fences and other erosion and sediment control devices) installed during the course of the works must be removed.

## **D. Prior to Occupation Certificate or use of the development**

### **(D1) Operations Environmental Management Plan**

1. Prior to the commencement of the solar energy system an Operations Environmental Management Plan (OEMP) must be prepared and submitted for approval by Council. The approved plan must be implemented for the lifetime of the development on the subject site. The Plan must include a range of measures as outlined in the approved SEE which include, but are not limited to:
  - a) General maintenance and operation of the site e.g. inspection times, contact details of the site manager/maintenance staff;
  - b) Addressing complaints relating to the operation of the premise;
  - c) Access arrangements to the site;
  - d) Emergency, safety and security;
  - e) Weed management and biosecurity;
  - f) Monitoring and mitigation measures for future rehabilitation remedial actions
  - g) Bushfire management, including annual inspection of the site prior to the Bushfire Danger Period;
  - h) Reviews, amendments and updates to the plan;
  - i) Management of water runoff and risk of erosion; and
  - j) Future site decommissioning
2. The OEMP must include details of the proposed management practices to occur at the development site in relation to managing weeds at the site involving appropriate invasive weed management techniques. This must include use of appropriate chemical sprays to reduce the transfer of weed seeds to neighbouring properties by water and wind. The OEMP must include measures to manage herbicide resistance. The weed management section of the OEMP shall be prepared by a suitably qualified professional.
3. The OEMP must include a minimum of twice yearly inspections by an agronomy specialist in order to provide weed management actions, to be completed by the onsite maintenance staff.
4. The OEMP must require the maintenance of a suitable groundcover at the development site, for the lifetime of the solar farm, to be renewed as required under the advice of the agronomy specialist. The groundcover must be a suitable native or non-invasive groundcover to minimise the potential for weed invasion to native vegetation on the roadside of Cobb Highway, and to neighbouring properties.
5. The OEMP must include specific controls to maintain a suitable fire break around the development site, manage fuel load onsite, and manage the risk of bushfire during high fire danger periods and total fire ban days.

**(D2) Rehabilitation and Decommissioning/Closure Plan**

As part of the OEMP, a Rehabilitation and Decommissioning/Closure Plan must be prepared and submitted for approval by Council. The plan must include rehabilitation objectives and strategies, including:

- a) description of the design criteria of the final landuse and landform;
- b) indicators to guide the return of the land back to agricultural production;
- c) expected timeline for the rehabilitation program;
- d) management controls regarding decommissioning and removal of all solar arrays,
- e) above and below ground infrastructure and any structures or infrastructure relating to the solar energy works, upon cease of solar energy works;
- f) a commitment to remove all solar farm infrastructure located to a minimum depth of 800mm below the land surface.

All works shall follow the same management principles outlined in the Construction Management Plan.

**(D3) Consultation**

Consultation with adjoining and adjacent landowners of the development site, must occur prior to the completion of the Operations Environmental Management Plan (OEMP).

**(D4) Occupation Certificate**

The applicant must not allow or permit the building (or part of the building, in the case of alteration or additions) to be occupied or used, until:

- a) All conditions of this consent have been completed in full;
- b) An application for an Occupation Certificate has been completed and returned to the Principal Certifying Authority; and
- c) The Principal Certifying Authority has issued an Occupation Certificate.

**E. Reasons for Conditions**

**(E1) In addition to the requirements of NSW RMS as provided at condition A6 the remaining above conditions have been imposed for the following reasons:**

- (a) To ensure compliance with the terms of the *Environmental Planning and Assessment Act 1979*
- (b) Having regard to Council's duties of consideration under Section 4.15 of the Act
- (c) To ensure an appropriate level of provision of amenities and services occurs within the Murray River Council LGA and to occupants of sites
- (d) To improve the amenity, safety and environmental quality of the locality

- (e) Having regard to environmental quality, the circumstances of the case and the public interest
- (f) Having regard to the *Murray Development Control Plan 2012*
- (g) To satisfy the requirements of NSW Roads & Maritime Services.
- (g) To ensure that habitats are restored as quickly as possible, public safety is not compromised and aesthetic values are not degraded
- (h) To ensure minimal risk of water pollution from oil or petroleum products and to minimise disturbance to the streambed substrate
- (i) To protect public interest, the environment and existing amenity of the locality
- (j) To minimise health risk to neighbouring residents and workers.
- (k) To comply with the requirements set by SafeWorkNSW.

## **F. Advisory and Ancillary Matters**

### **(F1) Compliance**

It is the responsibility of the applicant to check, understand and seek assistance where needed so as to ensure full compliance with the conditions of this Development Consent. Please contact the Murray River Council on 1300 087 004 if there is any difficulty in understanding or complying with any of the above conditions.

### **(F2) Essential Energy – Advice to Applicant**

1. The existing 22,000 volt overhead powerlines located to the north of the subject properties (and which also service the properties) does not have the benefit of a registered easement. However, it is afforded protection under s53 of the Electricity Supply Act 1995. At the time of review, the information provided does not specify the distances that the proposed security fencing, vegetation planting and any other activities will be away from these overhead powerlines. If the proposed activities are to be constructed in proximity to the existing overhead powerlines, then compliance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure is required. Refer attached link:

[www.resourcesandenergy.nsw.gov.au/\\_data/assets/pdf\\_file/0004/466816/ISSC-20-Electricity-Easements.pdf](http://www.resourcesandenergy.nsw.gov.au/_data/assets/pdf_file/0004/466816/ISSC-20-Electricity-Easements.pdf).

If the proposed activities are more than 10 metres away from the closest overhead conductors, that would show compliance. However, if the activities are to be less than 10 metres away from the closest overhead conductors, then compliance with ISSC 20 will be required. To ensure and demonstrate compliance, the Applicant, at its own expense, will need to engage the services of a Level 3 Accredited Service Provider to complete the required design and/or calculations (of possible blowout of the powerlines plus an additional 3 metres safety buffer). Essential Energy will then review and advise accordingly.



2. The proposed site access from Cobb Highway is at the southwest corner of Lot 114 in DP751152. The proponent should ensure that all requirements of ISSC 20 Section 7.2.10 are met for the design and construction of the access.

3. Satisfactory arrangements must be made with Essential Energy with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required Connections Agreements and any other requirements with Essential Energy for the solar energy system, which may include the payment of fees and contributions. Refer Essential Energy's Network Connections team for requirements via email [networkconnections@essentialenergy.com.au](mailto:networkconnections@essentialenergy.com.au) or via weblink <https://www.essentialenergy.com.au/our-network/connecting-to-the-network>.

3. Prior to carrying out any works, a "Dial Before You Dig" enquiry must be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

4. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWorkNSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines.

5. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

**(F3) NSW Department of Industry – Lands and Water - Advice to Applicant**

The applicant is advised that any arrangements for access will require:

- a) formal approval by Murray Local Land Services in accordance with the provisions of Section 75 of the Local Land Services Act 2013; and
- b) lodgement with the NSW Department of Industry of an Application for a Licence for purposes of road construction.

**(F4) NSW Department of Primary Industries (Agriculture) - Advice to Applicant**

The attention of the proponent is drawn to DPI Primefact 1063 "Infrastructure Proposals on Rural Land". This is available at:

[https://www.dpi.nsw.gov.au/data/assets/pdf\\_file/0020/359030/infrastructure-proposals-on-rural-land.pdf](https://www.dpi.nsw.gov.au/data/assets/pdf_file/0020/359030/infrastructure-proposals-on-rural-land.pdf)

(F5) The land subject to this consent may have restrictive covenants applying to it. It is the responsibility of the owner and builder to ensure that covenants are adhered to. Council does not enforce or regulate covenants and therefore accepts no responsibility for checking the compliance of building design with such covenants.



(F6) It is noted that it is the responsibility of the Applicant to ensure that the development is consistent with the NSW Department of Environment, Climate Change and Water (NSW OEH) document entitled: *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*, available: <http://www.environment.nsw.gov.au/resources/cultureheritage/ddcop/10798ddcop.pdf>.

(F7) Underground assets may exist in the area that is subject to the application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary.

Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

(F8) The development must be in accordance with the relevant provisions and Regulations of the *Biodiversity Conservation Act 2016*, the *Fisheries Management Act 1994*, the *National Parks and Wildlife Act 1974*, the *Protection of the Environment Operations Act 1997*, and all other applicable legislation.

(F9) The proponent should be aware that under Section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.