

DA 10.2023.137.1 Appendix 1

From: ROG South West Region Mailbox <rog.southwest@environment.nsw.gov.au>
Sent: Thursday, November 16, 2023 11:40 AM
To: Christopher O'Brien <cobrien@murrayriver.nsw.gov.au>
Cc: Claire Coulson <claire.coulson@environment.nsw.gov.au>
Subject: BCD Response RE: Barham Solar Farm - updated Flora and Fauna studies submitted

Hi Chris,

Thanks for passing on this additional information. We have reviewed it against our previous response, dated 22 June 2023.

We confirm that the additional information satisfies the outstanding **biodiversity** matters. The assessment now includes consideration of ancillary works, confirming some additional native vegetation clearing is required. The Test of Significance concludes that impacts to threatened species and communities are unlikely, therefore the Biodiversity Offset Scheme does not apply. Council now has sufficient biodiversity information to make a determination. Should consent be issued we recommend inclusion of vegetation and environmental protection conditions. The Construction Environmental Management Plan should be revised to reflect the revised biodiversity assessment. The use of barbed wire should be prohibited to limit potential impacts to threatened birds and bats likely to occupy nearby habitat.

The additional information does not alter our advice with regards to **flooding**. We continue to recommend that the Flood Management Plan includes an audit of the existing levee system to ensure it provides the required level of protection.

If you have any questions regarding this advice, please contact Claire Coulson, Senior Conservation Planning Officer, via rog.southwest@environment.nsw.gov.au or 02 6022 0636.

Regards

Andrew Fisher
Senior Team Leader, Planning – South West

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Contact the South West Planning Team about biodiversity and flood management planning matters by emailing rog.southwest@environment.nsw.gov.au



The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Your ref: DA10.2023.137.1 or PAN-319851

Our ref: DOC23/481319

Chris O'Brien
Senior Town Planner
Murray River Shire Council

Via Planning Portal CNR-55905

Dear Chris

Subject: Referral - Biodiversity and Conservation SEPP 'River Murray Lands' – DA2023.137 - Solar Farm - 206 Gonn Road, Barham

Thank you for your referral, via the Planning Portal dated 1 June 2023, seeking comments from the Biodiversity and Conservation Division (BCD) of the Department of Planning and Environment (the Department).

BCD has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats) and flooding.

The proposal is within the riverine environment of the River Murray established by Chapter 5 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the B&C SEPP).

We have reviewed the documents supplied and provide the following comments. Detailed advice is included in **Attachment A**.

Flooding

The proposal relies on an existing levee system to provide protection from riverine flooding. BCD recommends that the proposed Flood Management Plan includes an initial audit of the existing levee system to ensure it provides the required level of protection for the duration of construction and operation. Any necessary works or regular maintenance should then be identified in the plan.

Biodiversity

The Environmental Assessment memorandum (Hamilton Environmental Services, 20 October 2022) has a study area limited to the location of the proposed solar array. Any potential impacts, either direct or indirect, outside this area have not been assessed.

Given the proximity of the proposal to extensive habitat to the north and east, on private and public land, BCD considers the assessment approach insufficient. The application does not include sufficient information to determine the likelihood of impacts on threatened species and their habitats according to Part 7 of the *Biodiversity Conservation Act 2016*.

BCD recommends that Council require a Test of Significance (ToS) be prepared consistent with the Department's [Guidelines](#). A ToS should assesses potential impacts to biodiversity within the subject site and any additional areas likely to be affected by the proposal, either directly or indirectly. All ancillary works must be included in the assessment, including construction access, transmission connections and flood mitigation measures.

If you have any questions regarding this advice, please contact Claire Coulson, Senior Conservation Planning Officer, via rog.southwest@environment.nsw.gov.au or 02 6022 0636.

Yours sincerely



Andrew Fisher
22 June 2023

Senior Team Leader Planning South West, Biodiversity and Conservation Division
Environment and Heritage Group
Department of Planning and Environment

ATTACHMENT A – Detailed comments on DA2023.137 - Solar Farm - 206 Gonn Road, Barham

ATTACHMENT A Detailed comments on DA2023.137 - Solar Farm - 206 Gonn Road, Barham

Flooding

The proposal site is within the floodplain between Eagle and Barbers Creeks to the north of Barham. This proposal is located just outside the study area for several flood studies, namely the *Barham Flood Study 2014* and the *Barham Floodplain Risk Management Study and Plan 2017* (Barham FRMS&P).

The proposal is within the study area of the *Wakool River (Moama-Moulamein Railway to Gee Gee Bridge): Stage 2 - Rural Floodplain Management Plan 2010* (RFMP). The RFMP indicates that the proposal is likely outside of the designated floodway and is likely protected by the existing rural levee (known as the “Arc levee”) to the east and north of the site. It is unclear whether references to the “private levee” in the Construction Environmental Management Plan (CEMP) is a reference to the Arc levee. The alignments appear very similar.

The Barham FRMS&P identifies the Arc levee as providing some flood protection to Barham, although the risk of Barham being inundated from a breach of the Arc levee is considered low. However, any breaching of this levee in this vicinity is likely to result in inundation of the proposal site.

BCD recommends that the Flood Management Plan proposed in the CEMP includes a section detailing the need for a levee audit. The audit should assess whether the levee will function as intended and provide the anticipated level of flood protection for the life of the proposed development. In addition any necessary regular maintenance or inspections should be identified.

Biodiversity

The proposal includes clearing of native vegetation. The Environmental Assessment memorandum (Hamilton Environmental Services, 20 October 2022) has determined that the ‘area clearing’ and ‘Biodiversity Values Map’ thresholds for the Biodiversity Offset Scheme (BOS) have not been met.

Proponents are also required to carry out a Test of Significance (ToS) for proposals that do not exceed the thresholds. A ToS determines whether a development or activity is likely to significantly affect threatened species or ecological communities, or their habitats.

The assessment does not include a ToS on the basis that the site does not include any habitat for threatened species or entities. However, the assessment has a study area limited to the location of the proposed solar array. Any potential impacts, either direct or indirect, outside this area have not been assessed.

Given the landscape context of the proposal, particularly the proximity to extensive habitat to the north and east, BCD considers the assessment approach insufficient. BCD considers indirect impacts to adjoining and connected habitats may arise from this proposal and may impact threatened species and communities.

The access route(s) for construction and ongoing operations, and temporary construction staging areas have not been clearly identified in the documents provided. It is not clear if the potential impacts of these activities have been assessed.

A ToS should assesses potential impacts to biodiversity within the subject site AND any additional areas likely to be affected by the proposal, either directly or indirectly. All ancillary works must be included in the assessment, including access routes, temporary construction facilities, transmission connections and any flood mitigation measures.

BCD recommend that Council require a ToS be prepared, consistent with the Department’s [Guidelines](#). If a significant impact to threatened species is identified as likely then the BOS applies and a Biodiversity Development Assessment Report (BDAR) must be prepared.

If the ToS determines the BOS does not apply, any measures to avoid and minimise biodiversity impacts identified in the ToS should be translated into consent conditions, should consent be issued.

The findings of any revised biodiversity assessment should also be reflected in a revised CEMP, particularly Section 15 – Flora and Fauna Management Plan.

The proposed security fencing will be topped with barbed wire. Barbed wire is a hazard to wildlife, particularly when it adjoins areas of quality habitat. We recommend Council require a fencing plan that excludes barbed wire.