

## COUNCIL ASSESSMENT REPORT

### WESTERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE</b>	PPSWES-214
<b>DA NUMBER</b>	DA2024/7
<b>LGA</b>	Blayney
<b>PROPOSED DEVELOPMENT</b>	Electricity Generating Facility sub-5mW AC Solar Farm
<b>ADDRESS</b>	269 Marshalls Lane, Blayney
<b>APPLICANT</b>	Elton Zhang of NGH Consulting
<b>OWNER</b>	RL and JI Stonestreet
<b>DA LODGEMENT DATE</b>	1 February 2024
<b>APPLICATION TYPE</b>	Development Application
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Private Infrastructure and community facilities with a CIV greater than \$5m
<b>CIV</b>	\$5,146,000 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	Not applicable
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>• <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>• <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>• <i>Blayney Local Environmental Plan 2012</i></li> </ul>
<b>TOTAL AND UNIQUE OBJECTIONS</b>	8 unique submissions, of which 5 were unique objections and 3 were unique in support.
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Statement of Environmental Effects</li> <li>• Site Plan</li> <li>• Drawings: 81 Module Ext Tracker, Pier Tolerances, ABB HV Switchboard, Security Fence and Gate</li> <li>• Specification sheet for inverter and solar panels</li> <li>• Preliminary Biodiversity Assessment Report</li> <li>• Traffic Impact Assessment</li> </ul>

<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (s7.24)</b>	Not applicable
<b>RECOMMENDATION</b>	Deferred Commencement Approval
<b>SCHEDULED MEETING DATE</b>	20 August 2024
<b>REPORT PREPARED BY</b>	Lillian Charlesworth, Manager RSD Assessment Department of Planning, Housing and Infrastructure (on behalf of Blayney Shire Council)
<b>DATE OF REPORT</b>	2 August 2024

## EXECUTIVE SUMMARY

The development application DA2024/7 seeks consent for a sub-5mW AC electricity generating facility (i.e. solar farm). The subject site is known as 269 Marshalls Lane, Blayney ('the site') and comprises a lot with a single road frontage to a Crown road that joins with Marshalls Lane to the east. The property has an area of approximately 115ha, although the development site has an area of 11ha. The site is currently used for sheep and cattle grazing and small-scale cropping. The development site is vacant other than a storage shed and silo (to be retained) adjoining the southern boundary.

The site is located approximately 3km north of Blayney. Uses within the broader area include grazing, cropping, mining and scattered rural residential dwellings, with freight, manufacturing and storage activities within the Blayney Industrial Estate (approximately 890m to the south).

The site is located in the RU2 Rural Landscape zone pursuant to clause 2.3 of the *Blayney Local Environmental Plan 2012* (the LEP). While electricity generating works are not permissible in the zone under the LEP, the use is permissible with consent on any land in a prescribed non-residential zone under clause 2.36(1)(b) of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the SEPP). As the RU2 Rural Landscape zone is a prescribed non-residential zone under the SEPP, the proposed development is permissible with consent.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Planning Systems)*, *State Environmental Planning Policy (Primary Production) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021*, *State Environmental Planning Policy (Resilience and Hazards) 2021* and *Blayney Local Environmental Plan (LEP) 2012*. The proposal is not consistent with clause 6.8 Essential services in the LEP.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to section 4.46 of the *Environmental Planning and Assessment Act 1979* (the Act). A referral was sent to Essential Energy who raised no concerns, although a referral to Crown lands raised an objection regarding use of the Crown road, which has now been resolved.

It should be noted that the application was not accompanied by written consent of the landowner of the Crown road (as required by clause 23(6) of the *Environmental Planning and Assessment Regulation 2021*), which forms part of the development site. Any development consent issued without owners' consent would be void. Despite this, it is considered that the letter from Crown Lands dated 3 July 2024 (**Attachment B**) in effect constitutes owner's consent given it is clear that Crown Lands:

- are aware of the proposed development and were notified by Council during the notification period
- has withdrawn its objection to the proposal
- has taken steps to facilitate development approval by approving the sale and disposal of the Crown road. A decision had been pending for many years, but was accelerated given lodgement of the solar farm development application
- met with the developer and applicant on 2 July 2024 to negotiate an acceptable solution, and
- is satisfied with the recommended deferred commencement consent subject to a condition regarding Crown road acquisition by the landowner of the development site.

The application was placed on public exhibition from 22 February to 7 March 2024, with ten (10) submissions being received. There were 3 unique submissions in support and 5 unique objections, although two objects were written by the same person and therefore there are 4 objectors. Although there were not 10 or more unique objections, following a request from Council, the Chair of the Western Regional Planning Panel (the Panel) agreed to hold a public meeting.

The application is referred to the Panel as the development is '*regionally significant development*', pursuant to section 2.19(1) and clause (5)(a) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* as the proposal is development for private infrastructure with a CIV over \$5 million. A briefing was held with the Panel on 16 April 2024.

Assessment of the application under section 4.15(1) of the Act considered that there are unlikely to be any significant adverse impacts of the development on the natural and built environments, subject to the recommended conditions.

The key assessment matters identified include:

- Crown Lands position – Crown Lands initially objected to the proposal as the Crown road is required to be acquired by the landowner in accordance with the Department's road policy. The owner of the development site is in breach of consent conditions for DA95/2017 (erection of a dwelling) that required acquisition of the Crown road. Crown Lands therefore does not want any construction, upgrade or maintenance works on the Crown road or installation of electrical infrastructure along the Crown road until it is brought into private ownership. A deferred commencement consent is therefore recommended to ensure title of the Crown road being transferred to the landowner prior to activation of the consent.
- Tree removal – as a result of the assessment, an amended site plan and a concept landscape plan indicate that existing trees within the site will all be retained as fencing, vehicle access, the power line and easements will not require tree removal. Up to 4 native trees will be removed for widening of the intersection of Marshalls Lane and the Crown road.
- Visual impact – a Glint and Glare Assessment was undertaken that concluded there will be no glint and glare impacts. The Statement of Environmental Effects (SEE) included a visual assessment of the need for screening of the solar farm from adjoining properties and concluded that no visual landscape buffer is required. Despite this, the applicant agreed at the Panel briefing on 16 April to provide a landscape buffer strip along the southern boundary and in the south-east corner of the site.
- Traffic, access and parking – the proposal is satisfactory with regard to traffic impacts, subject to conditions. The proposed heavy vehicle route through the nearby industrial

estate is appropriate. Access arrangements rely on acquisition of the Crown road, but are otherwise satisfactory subject to conditions.

- Noise - there will be some exceedances of the adopted standards at the two nearest residential dwellings, due to construction noise which will be short-term, however impacts will be minimised by the recommended conditions of consent.
- Decommissioning – it is intended that the site will be decommissioned within 40 years at the end of its useful life (subject to replacement of solar panels and evolving panel performance). It is important to ensure that all above and below ground solar farm infrastructure is removed and either recycled, reused or appropriately disposed of in order to return the site to its current agricultural potential. The conditions of consent include a provision for a Decommission Management Plan and a notation on title to ensure the landowner is responsible for site rehabilitation, should this not be undertaken by the developer.

The suitability of the site for the development is seen as satisfactory (subject to implementation of the deferred commencement condition regarding acquisition of the Crown road) and the development is considered to be in the public interest in terms of providing renewable energy and reducing reliance on fossil fuels.

It is recommended that DA 2024/7 for an electricity generating works (solar farm) at 269 Marshalls Lane, Blayney be APPROVED pursuant to section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* (the Act) subject to the conditions of consent attached to this report at **Attachment A**, which include a deferred commencement condition under section 4.16(3) of the Act.

## **1. THE SITE AND LOCALITY**

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### **1.1 The Site**

The site is described as Lot 500 DP1235915, at 269 Marshalls Lane, Blayney. The property area is approximately 115ha, whilst the development site within the property is approximately 11ha (**Figure 1**). The site is currently used for sheep and cattle grazing and small-scale cropping. It has a gentle slope from north to south. There is a dwelling located on the property approximately 900m to the north-west of the development site. There is existing farm infrastructure on the development site, including a storage shed and silo, that will be retained. The landowner will lease the development site to the applicant for the life of the solar farm and will continue to utilise the remainder of the site for cropping or grazing. Where possible livestock grazing would also occur within the solar farm. Vehicular access will be located at the south-east corner of the site where a Crown road connects the site to Marshalls Lane.

Site vegetation is largely limited to exotic pasture grasses (with a few sparse native grasses) and ground cover with no native canopy or shrub species. Several exotic and planted native trees are located along the Crown road and at the intersection with Marshalls Lane. An ephemeral waterway adjoins part of the eastern boundary (the solar panels will extend over part this natural drainage line) where a small farm dam will be retained that features a narrow riparian edge with some native sedges, grasses and rushes (**Figures 2 and 3**). The site is not mapped as bushfire prone or flood prone.



**Figure 1** – Locality Map: site (red), property (yellow) (Source: SEE)



**Figures 2 and 3** – the ephemeral waterway and dam (Source: BAR)

## 1.2 The Locality

The site is located approximately 3km to the north of Blayney (**Figure 1**) within a rural area (primary production and rural landscape) with uses in the surrounding area including agriculture (predominantly livestock grazing) and mining. Small rural holdings and rural residential uses are located on the outskirts of Blayney. The Blayney Industrial Estate is approximately 890m to the south and includes freight, manufacturing and storage activities. The Mid-Western Highway is located approximately 3km to the south-east and is accessed from the site via Marshall's Lane. The Blayney Railway Station is 3.5km to the south.

## 2. THE PROPOSAL AND BACKGROUND

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### 2.1 The Proposal

The proposal seeks consent for a solar farm with an export capacity below 5 megawatts (MW) on land at 269 Marshalls Lane, Blayney.

In summary the proposed development includes (**Figure 4**):

- 9,396 solar panels (ground mounted single access trackers allowing east to west tracking)
- an inverter station (includes inverter and transformer)
- HV switchboard (**Figure 5**)
- underground cabling (using open trenching excavation) to connect the solar arrays to the inverter, then to the HV switchboard and new power poles. A new power line within the Crown road, will then convey electricity above ground to the existing overhead 11kV power line at Marshalls Lane (with a new easement in favour of Essential Energy from the HV switchboard to the point of connection with the existing power line).
- a 2m high chain mesh security fence topped with 3 strands of barbed wire around the perimeter of the facility. Infra-red and closed-circuit television and lighting may be installed on posts to a height of 2.4m around the perimeter and along the internal access road to Marshalls Lane.
- temporary site facilities and a materials laydown area that would be removed and groundcover reestablished after the construction period
- a 6m wide internal access road with turning area
- 20 temporary parking spaces surrounding the laydown area
- the removal of up to 4 native trees for road widening at the Crown road/Marshalls Lane intersection.

The proposal does not seek approval for a Battery Energy Storage System (BESS) and did not originally include any landscaping. Due to the small scale of the solar farm, it will not connect to an off-site electrical substation, but rather the electricity authority allows connection directly to the distribution network (i.e. the existing Essential Energy 11kV powerline at the northern end of Marshalls Lane).

The solar farm is proposed to be constructed over a six-to-nine-month period, utilising up to 40 construction staff, with approximately 20 on site at any one time. The operational phase will not require staff permanently on-site with one off-site worker and up to 2 staff occasionally on-site for maintenance purposes. The proposal aims to target employment of local contractors and businesses.

A commercial decision is yet to be made regarding when the solar farm would be decommissioned. The applicant has signed a 30-year lease agreement with the landowner, with the option of 2 further 5-year extensions, indicating a potential 40-year project timeframe. Although solar panels have a typical lifespan of 30 years, they become less efficient with age. Therefore, the applicant is considering replacement of all panels after 20 years, allowing a further 20-year lifespan, to match the 40-year lease agreement. Development consent would not be required to replace all the panels, as this would be considered maintenance, provided that no additional panels or BESS are installed. Eventual decommissioning would involve removal of all solar farm infrastructure and reinstatement of soil profiles to return the land to agricultural use.





**Figure 4** – Site Plan (Source: Green Gold Energy)



**Figure 5** – typical HV Switchboard (Source: Green Gold Energy)

There are no specific numerical development controls that apply, and key development data is provided in **Table 1**.

**Table 1: Key Development Data**

Control	Proposal
Site area	11ha
Max height	Solar panel installed height of 2.75m at maximum rotation and the highest structure (other than power poles) being the inverter station at 3.05m above natural ground level.
Landscaping	None originally proposed, although amended plans now include a 5m landscape buffer along the southern boundary and the south-east corner of the site.
Car parking spaces	20 temporary spaces during the construction period
Setbacks	Solar panel arrays will be setback between 10.1m and 19.4m from the site boundaries.

## 2.2 Background

Pre-lodgement advice was sought from Council and that advice (issued on 10 August 2023), identified the following issues for consideration (in addition to the typical due diligence issues of traffic, water, biodiversity, noise, glint and glare, visual impact, fire hazard, waste and decommissioning):

- The Large-Scale Solar Energy Guideline and the Technical Supplement – Landscape and Visual Impact Assessment should be utilised
- The traffic management report should consider a by-pass road and the impact on general road access to local residences
- Construction and operational noise



- Aboriginal archaeology and impact on any nearby heritage items
- Socio-economic impacts
- Impact on agricultural land
- Construction and decommissioning waste
- Management of potential bushfire hazard, regardless that the site is not bushfire prone land
- Onsite wastewater disposal for the proposed temporary staff amenities building
- Use of the remainder of the site and any proposals for future expansion
- A contamination report and site history

The issues above that were not incorporated in the supporting material submitted with the application (e.g. a preliminary investigation re contamination and glint and glare analysis) have formed part of an RFI.

A chronology of the development application since lodgement is outlined in **Table 2**.

**Table 2: Chronology of the DA**

Date	Event
1 Feb 2024	DA lodged
6 Feb 2024	Building referral response received
22 Feb to 7 Mar 2024	Exhibition of the application
5 Mar 2024	Crown Lands objection received
6 Mar 2024	Essential Energy referral response received
12 Mar 2024	Engineering referral response received
12 Mar 2024	Andrew Muir, Director Planning and Environmental Services requested on behalf of Councillors that a public meeting be held prior to determination
19 Mar 2024	The Chair of the Western Regional Planning Panel agreed to hold a public meeting
19 Mar 2024	Request for information (RFI) issued
23 April 2024	Western Regional Planning Panel briefing
23 May 2024	RFI response received
11 June 2024	Crown Lands advise the Crown road was approved for disposal to the landowner (although the objection remained)
12 June 2024	Due to the objection from Crown Lands and lack of landowners' consent, an RFI was issued allowing 3 months until 9 September 2024 for resolution.
24 June 2024	Following advice from Crown Lands that transfer of land would take up to six months following the receipt of a signed contract for sale, the RFI issued on 12 June was closed and a new RFI issued suggesting the

	application be withdrawn or written advice provided by Crown Lands within 14 days providing owners consent or withdrawal of their objection and agreement to a deferred commencement consent in order to avoid a recommendation for refusal.
2 July 2024	Crown Lands met with Green Gold Energy and their consultant to negotiate a solution.
3 July 2024	Crown Lands advised that their objection is withdrawn subject to a deferred commencement condition.

## 2.3 Site History

The following **Table 3** shows the available relevant approval history for the site.

**Table 3: Recent approval history**

DATE	DA NO.	PURPOSE
1 Nov 2017	95/2017	Erection of a dwelling

The above development application was referred to the Department of Industry's Crown Lands and Water Division, and the response noted that both the northern and southern property boundary of the subject lot directly adjoin Crown roads. Either Crown road was deemed permissible for access, and it was noted that should a consent determination require road work within the Crown road to take place, and only one party uses the access, the benefitting party must apply to close and purchase the Crown Land. As condition no.7 below of DA95/2017 required work within the Crown road, condition no.24 below was also added regarding the requirement from the Department of Industry.

7. An all-weather 2WD vehicular access is to be constructed at the existing entrance into the Crown road in accordance with *WBC Guidelines for Engineering Works*.  
Such access shall include:
  - (a) a gate or stock grid set back a minimum distance of fifteen (15) metres from the edge of the Crown public road.
  - (b) a minimum 4.0 metre wide gravel footway crossing, extending from the edge of the gravel road on Marshalls Lane to the entrance gate or stock grid.
  - (c) a 150 mm thick 3.0 metre wide concrete dish drain or 450 mm minimum diameter reinforced concrete pipe culvert with headwalls, aligned with the table drain in the public road.

*Note: Any new vehicular access points are to be located such that all RMS stopping sight distances are achieved.*

24. The Department of Industry requires that where only one property uses a Crown road for access, the benefitting party shall apply to close and purchase the relevant part of the Crown road. This action shall be finalised and evidence of the purchase provided to Council, prior to the issue of the Final Occupation Certificate by Council.

*Note 1: Council is not in a position to have the road transferred to Council as a public road. Note 2: Further information may be obtained from Sara Williams at the Wagga Wagga office of the Department of Industry, Crown Lands and Water Division. Ph: 02 6937 2703.*

A Part Final Occupation Certificate was issued by Council on 1 January 2017. It highlighted outstanding matters, including the closure and purchase of the Crown road under condition 24, and nominated that outstanding matters must be finalised within 12 months. The Part Final Occupation Certificate was not complied with, as it wasn't until 25 July 2023, that the landowner lodged a Crown road purchase application with Crown Lands. A site inspection undertaken by Council staff has confirmed that condition 7 has not been satisfied and therefore this condition has been included in **Appendix A**.

### **3. STATUTORY CONSIDERATIONS**

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When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
  - (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 Planning 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),*
- (b) *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.*

These matters are further considered below.

It is noted that the proposal is not considered to be:

- Integrated Development (s4.46)

- Designated Development (s4.10)
- Requiring concurrence (s4.13) (although it does require consultation with Essential Energy)
- Crown DA (s4.33)

### 3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments and the matters for consideration under the Regulation are considered below.

#### (a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

A summary of the key matters for consideration arising from the relevant EPIs are outlined in Table 4.

**Table 4: Summary of Key Matters in the Relevant Environmental Planning Instruments**

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	Section 2.19(1) declares the proposal regionally significant development pursuant to clause 5(a) of Schedule 6 as it comprises private infrastructure (electricity generating works) with a CIV of more than \$5m.	Yes
State Environmental Planning Policy (Primary Production) 2021	Chapter 2: Primary production and rural development	Yes
SEPP (Resilience & Hazards) 2021	<u>Chapter 4: Remediation of Land</u>  Section 4.6 Contamination and remediation are to be considered in determining development applications.	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	<u>Chapter 2: Infrastructure, Part 2.3 Development controls</u>  Section 2.36 Development permitted with consent.  Section 2.42 applies to a regionally significant development application for electricity generating works in a regional city – not applicable as the site is not located in the Renewables Zone of a regional city.  Section 2.48(2) (Determination of development applications—other development) – as the development is in proximity to existing electricity infrastructure and may influence the electricity network, Essential Energy has been consulted and has raised no objections.	Yes

	<p>Section 2.98 Development adjacent to rail corridors – not applicable.</p> <p>Section 2.119 Development with frontage to classified road - not applicable as the development does not have frontage to a classified road.</p> <p>Section 2.122 Traffic generating development – referral to TfNSW is not required.</p>	
Proposed Instruments	There are no applicable draft instruments.	N/A
Blayney Local Environmental Plan 2012	<p>Clause 2.3 Permissibility and zone objectives</p> <p>Clause 5.10 Heritage conservation</p> <p>Clause 6.8 Essential services</p>	<p>No/Yes</p> <p>Yes</p> <p>Yes, subject to deferred commencement condition</p>

### ***State Environmental Planning Policy (Planning Systems) 2021***

The proposal is regionally significant development pursuant to section 2.19(1) as it satisfies the criteria in clause 5(b) of schedule 6 in SEPP (Planning Systems) 2021 as the proposal is development for private infrastructure with a CIV of more than \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application.

### ***State Environmental Planning Policy (Primary Production) 2021***

#### Chapter 2: Primary Production and Rural Development

The proposal is not for the purposes of primary production and electricity generating works are not specifically mentioned in the policy. However, the proposal is consistent with the broad aims of the policy, particularly regarding the use of land for primary production, reducing land use conflict and sterilisation of rural land and the protection of native vegetation and biodiversity.

The proposal has an estimated life span of 40 years, after which it is proposed to decommission the solar farm by removing all infrastructure relating to the approved development from the site. At that time, the land would again be suitable for primary production purposes. It is unlikely that the development as proposed will result in any land use conflicts or sterilise the land for future primary production purposes.

The development area on the site has been previously cleared and used for cropping and grazing purposes. Given the historical use of the property, there will be insignificant impacts on native vegetation and biodiversity.

#### Clause 2.8 State Significant Agricultural Land

In section 2.8 of the SEPP, it is established that land is deemed State significant agricultural land if it is listed in Schedule 1. However, Schedule 1 has yet to be finalised and does not identify



any lands, therefore the proposal is consistent with the SEPP. Furthermore, the site is not identified on the draft State Significant Agricultural Land map exhibited by the Department of Primary Industries.

The proposal is considered to be consistent with the aims of *SEPP (Primary Production) 2021*.

### ***State Environmental Planning Policy (Resilience and Hazards) 2021***

#### **Chapter 4: Remediation of Land**

Under the SEPP a preliminary investigation is required if development would involve a change of use on any land specified under clause 4.6(4), including where development for a purpose referred to in Table 1 of the Managing Land Contamination - Planning Guidelines (1998) is being, or is known to have been carried out. As Table 1 in the Guideline includes the previous use of the site for agricultural/horticultural activities and the proposal involves a change of use to electricity generating works, a preliminary investigation was undertaken.

The Preliminary Investigation consisted of an assessment that included a review of the site history and environmental setting, a search of contaminated land databases (including the EPA contaminated land register, Contaminated land – Records of Notice, Former Gasworks and EPA notices), a site inspection and soil sampling from 13 boreholes. The investigation found that:

- previous uses included sheep and cattle grazing as well as small-scale cropping,
- fill was identified in the south-east corner of the site,
- the site is mapped as having medium potential of containing naturally occurring asbestos,
- three (3) former licensed activities (now revoked or surrendered) under the *Protection of the Environment Operations Act 1997* were located within the site, including:
  - Luhrmann Environmental Management Pty Ltd,
  - Robert Orchard, and
  - Sydney Weed and Pest Management Pty Ltd
- a historic tannery that was licensed by the EPA is mapped as occurring 20m to the south of the site, and
- the topographic map indicates the potential former presence of a gasworks approximately 650m south-east of the site.

The soil sampling indicated a low risk of contamination from each of the potential sources of contamination and potential chemicals of concern. The report concluded that the disturbance of soils during construction is not likely to present a risk to human health or the environment under a commercial/industrial use and recommends a condition be applied regarding an unexpected finds procedure.

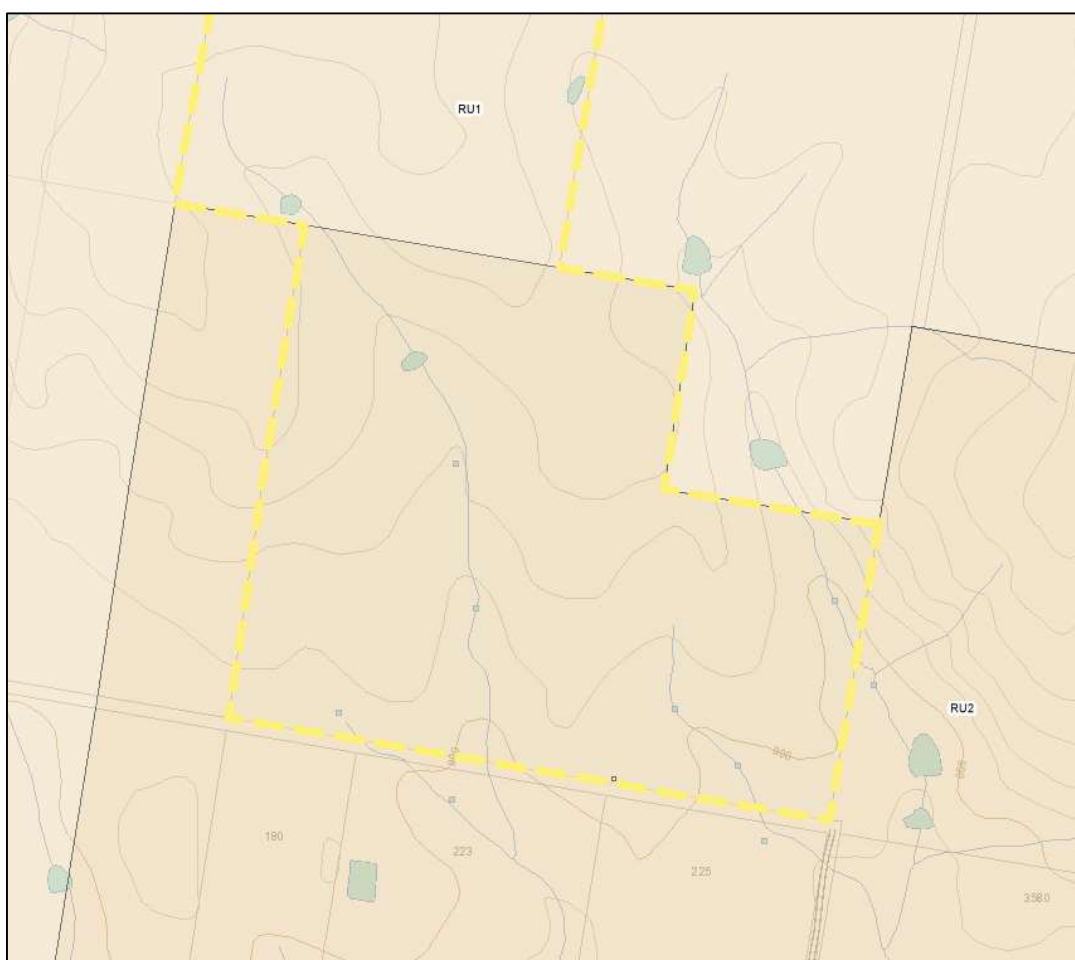
Section 4.6 of the SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out. On the basis of the available information, the subject site in its current state is considered to be suitable for the proposed development, which is not a sensitive land use, does not require significant excavation and will not involve staff permanently on site, except during the construction phase.

The proposal is considered to be consistent with *SEPP (Resilience and Hazards) 2021* subject to conditions regarding unexpected finds and naturally occurring asbestos.

## **Blayney Local Environmental Plan 2012**

### Clause 2.3 Permissibility and zone objectives

The development site is wholly located within the RU2 Rural Landscape zone pursuant to clause 2.3 of the *Blayney Local Environmental Plan 2012* (the LEP) (**Figure 6**) (although the property has a split zoning with the northern half of the property zoned RU1 Primary Production). The proposal for electricity generating works is not permissible in the zone under the LEP, although is permissible with consent on any land in a prescribed non-residential zone under clause 2.36(1)(b) of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the SEPP). As the RU2 Rural Landscape zone is a prescribed non-residential zone under clause 2.35 of the SEPP, electricity generating works are therefore permissible with consent within the zone.



**Figure 6 – RU2 Rural Landscape zone** (Source: NSW Planning Portal Spatial Viewer)

The zone objectives (pursuant to the Land Use Table in clause 2.3) include the following. To:

- Encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- Maintain the rural landscape character of the land.
- Provide for a range of compatible land uses, including extensive agriculture.
- Encourage development that will not have an adverse impact on the environmental and scenic qualities of the existing landscape.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal will provide renewable energy and enhance the natural resource base.
- The development of the solar farm will have minimal impact on the surrounding land uses during the operational phase and can coexist with existing agricultural practices.
- The plans have been amended to include a 5m wide vegetation screen with a double row of native planting up to 4m in height at maturity. This will be located along the entire southern boundary and part of the eastern boundary to maintain the rural landscape character and scenic qualities when viewed from nearby dwellings.

#### Clause 5.10 Heritage conservation

The site is not identified as, or located near, any items of environmental heritage significance listed in the LEP. A search of the Aboriginal Heritage Information Management System (AHIMS) found no Aboriginal sites or places on or within proximity of the site (the nearest site being 3km away). Aboriginal objects are unlikely to occur, given the site comprises disturbed land having been utilised for agricultural purposes. Procedure in the event of any unexpected find is included in the recommended conditions.

#### Clause 6.8 Essential services

This clause requires that:

*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 development are available or that adequate arrangements have been made to make them available when required:*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

A 20,000 litre water tank will provide water for bushfire protection and non-potable water uses. The site has access to electricity. During both construction and operation effluent waste will be managed by way of hired transportable WC facilities to be managed by an external contractor. There will be negligible change to stormwater drainage. A new access point from the Crown road and an internal access road is proposed. Council's Development Engineer has considered the access arrangements and has no objection subject to suitable conditions.

Access is proposed along a Crown road on the southern boundary of the site that connects to Marshalls Lane approximately 240m to the east. Crown roads are owned by the NSW government and managed by Crown Lands. The proposal is currently inconsistent with clause 6.8(e) of the LEP regarding suitable vehicular access as the Crown road cannot be utilised for the proposed development until it is transferred to private ownership. This is addressed via a deferred commencement condition to bring the Crown road into private ownership. This is considered further in the Executive Summary as well as under 2.3 Site History above and at (e) Provisions of Regulations and 4(a) Agency Referrals – Crown Lands, below. Council's Design & Development Engineer has raised no concerns regarding vehicular access, subject to conditions.

The proposal is considered to be either consistent with the provisions of the LEP or capable of consistency with the LEP subject to a deferred commencement condition.

**(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments**

There are no proposed instruments which have been the subject of public consultation under the Act, that are relevant to the proposal.

**(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

There are no provisions within Blayney Development Control Plan (DCP) 2018 that are applicable to Electricity Generating Facilities.

The following contributions plan is relevant pursuant to section 7.18 of the Act (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Blayney Shire Local Infrastructure Contributions Plan 2022*

The contributions plan authorises the imposition of conditions under section 7.11 of the Act only for residential development and heavy haulage development, neither of which are applicable. For development with a cost of more than \$200,000, the plan enables a levy of 1% of the cost of development under s7.12 of the Act. This contributions plan has been considered in the recommended consent conditions.

**(d) Section 4.15(1)(a)(iia) – Planning agreements under section 7.4 of the Act**

There have been no planning agreements entered into.

**(e) Section 4.15(1)(a)(iv) - Provisions of Regulations**

Matters under Part 4, Division 1 of the EP&A Regulation 2021 are not relevant as the site is vacant with no existing buildings to be reused or demolished. Compliance with clause 23(6) of the Regulations is discussed in the Executive Summary above.

**(f) Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. Potential impacts related to the proposal that have not been considered above in response to SEPPs and LEP controls are assessed below.

**TREE REMOVAL**

The SEE does not indicate any proposed tree removal, although under the heading “construction wastes” it lists vegetation clearing. This approach may be due to the Preliminary Biodiversity Assessment Report (BAR) which indicates that the *Rural Boundary Clearing Code* (RBCC) allows 25m of boundary clearing without consent and the *Local Land Services Amendment Act 2016* (LLSA) allows 15m of fence line clearing without consent (**Figure 7**). Although the land is within a Boundary Clearing Zone, the RBCC does not apply as the site is not bushfire prone. With regard to the LLSA, clearing of vegetation for rural infrastructure (including fencing) is allowable without consent under the LLSA Act. Rural infrastructure is defined as “a building, structure or work that is used for the purposes of, or in connection with, an activity that is being carried out in a regulated rural area of the State,” but only if the activity does not require development consent under the *Environmental Planning and Assessment Act 1979*. As the proposed fencing is a work in connection with an activity (electricity generating facility) that requires development consent,

clearing for fencing associated with the solar farm is not rural infrastructure allowable without approval under the LLSA.

The site and adjoining land are not identified on the Biodiversity Values Map, although a BAR was prepared by The Environmental Factor that included a field survey. The field survey included viewing vegetation around the entire site perimeter and the Crown road. The survey identified six (6) trees within the south-eastern area of the development site (**Figure 8**) comprising two (2) exotic trees and four (4) planted, non-locally native trees. The native trees are Narrow-leaved Black Peppermint, which is a threatened flora species, although the BAR indicates that this is a commonly planted paddock, roadside and tree-line species. There is a native habitat tree (a remnant Apple Box tree with tree hollows) located midway along the southern boundary that may be used as habitat for a threatened fauna species (a Scarlet Robin was identified within the subject land during the field survey).

This assessment has identified the potential for the following tree removal:

1. Trees in the SE corner of the site that may require removal as per **Figure 7**. Also, a group of trees along the Crown road (indicated by a black arrow at **Figure 8**) that were not identified or considered during the field survey.

Comment: - In an RFI response dated 30 April 2024, the applicant has indicated that all trees in the south-east corner of the site will be retained, with trees T1 to T4 being incorporated into the landscape buffer. As now shown on the Landscape Concept Plan (**Figure 9**), the four trees in the south-east corner, the habitat tree and the trees immediately to the east along the Crown road will not be impacted by roadworks, the security fence, electricity line or easement.



**Figure 7** – vegetation clearing for fencing, road widening and electrical easement (Source: BAR)



2. Four (4) native trees at the intersection of Marshall's Lane and the Crown road (shown on **Figure 8**) that may be removed for upgrade works to the intersection.

Comment: - In the RFI response dated 30 April 2024, the applicant has confirmed that 4 native trees may be removed for widening of the intersection, although future detailed design would investigate the opportunity for retention.

3. Trees in the north-east corner of the site (**Figure 10**) may require removal for construction of security fencing.

Comment: - In the RFI response dated 30 April 2024, the applicant has indicated that these trees seem to be planted on the boundary line and therefore the existing fence deviates around the trees, rather than being positioned on the actual property boundary. Therefore, the proposed security fence will be located away from this corner, as now indicated on the amended site plan (**Figure 11**). It's noted that the Landscape Concept Plan is not consistent with the amended site plan and shows the security fence following the existing fence line. A condition is therefore included that the Concept Landscape Plan be amended prior to issue of the construction certificate to match the position of the security fence shown on the amended site plan.



**Figure 8** – trees within and adjoining the development site – red indicates weeds, blue indicates exotic species, yellow indicates natives, the white arrow shows the location of a native habitat tree, and the black arrow indicates trees that were omitted from the survey. (Source: BAR)



## GLINT AND GLARE

A glint and glare report was required as local roads are clearly visible from the northern part of the site. A glint and glare assessment report will normally consider whether the development is likely to generate glint and glare impacts on:

- roads and rail lines within 1km – the only receptor identified is Marshalls Lane,
- dwellings and public receptors within 3km that have a line of sight to the solar array. There is one public receptor i.e. the Church Hill Lookout (within 3km to the south),
- airports within 5km - although there are no airports within 5km (the nearest airport being at Orange, 16.2km to the north-west of the site), there are two helicopter landing sites with no air traffic control towers within 5km to the south of the site.

The assessment was based on a worst-case scenario that did not account for cloud cover, intervening buildings or vegetation. It took into account site specific geographic factors as well as the technical specifications of the solar panels (which include an anti-reflective coating), panel installation (e.g. height and orientation) and panel operation (e.g. tracking, backtracking and resting angle). The report found that there was no potential for yellow glare (which has potential for a temporary after-image) at any of the sensitive receptors. No mitigation measures are therefore necessary.

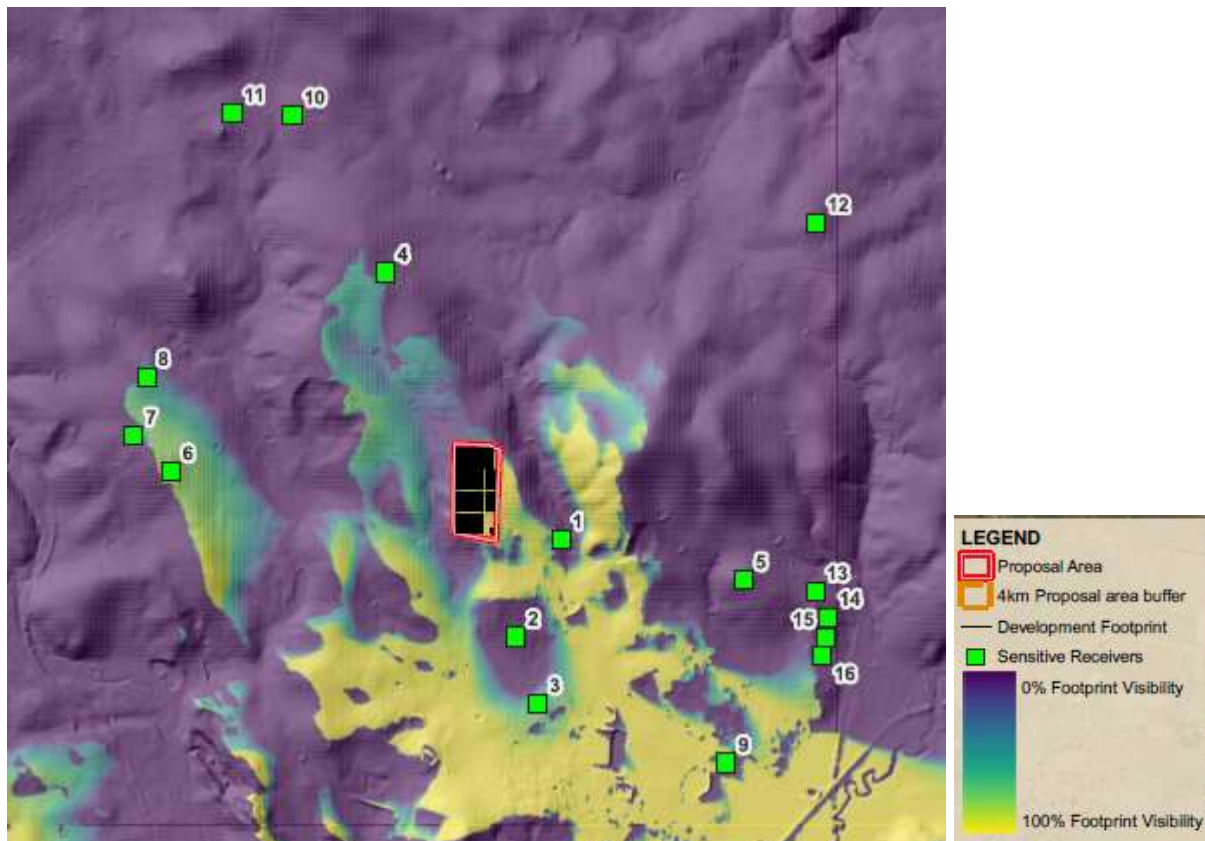
## VISUAL IMPACT

A Visual Impact Assessment (VIA) undertaken by NGH considered all 16 sensitive receptors (dwellings) within a 2km radius. The resulting viewshed analysis at **Figure 12** shows the expected visibility of the solar farm from the receptors, based on topography (with dwelling no.1 being located closest to the solar farm at approximately 320m to the east, and number 16 being the furthest away). Existing vegetation and structures that may filter or block views are then also considered. Dwellings to the north and east were then confirmed by a NGH site inspection not to have a field of view to the proposed solar farm due to the undulating landform. The VIA concluded that due to either topography, existing vegetation or distance there would be no adverse visual impact on any surrounding dwellings and therefore no landscape buffer was deemed to be required.

The following comments are made in relation to the applicant's visual assessment and absence of landscape screening:

- The proposed solar farm relies on existing vegetation on other landowners' properties to provide an adequate visual buffer, rather than ameliorating impacts within the development site. Neighbouring landowners are therefore potentially burdened with the cost of screening the development site should any existing vegetation screening on their properties die or need to be removed for their own development purposes.
- The VIA has not considered the potential visual impact on any new residential receptors within the potential 40-year lifespan of the project. In particular, one public submission commented that it's proposed to construct a new dwelling at 223 Marshalls Lane (located south of the site).
- The development proposes a chain mesh security fence up to 2.4m high, topped with 3 strands of barbed wire and potentially CCTV and lighting around the perimeter of the facility. This would create a somewhat harsh, industrial appearance inconsistent with the objective of the Rural Landscape zone to "encourage development that will not have an adverse impact on the environmental and scenic qualities of the existing landscape."





**Figure 12** – Viewshed analysis (Source: SEE)

Given the viewshed analysis, the distance of certain dwellings from the site and as the solar farm will not have frontage to a public road along any of its boundaries, full perimeter landscaping is not considered necessary. Although, the topography and closer proximity of dwellings to the south and south-east of the site indicate that a partial landscape buffer should provide screening from these directions. An RFI was issued on 19 March requesting a landscape plan showing a 5m wide landscape buffer (consisting of locally native, drought resistant species planted in a double row with trees that reach a minimum of 3m in height and understorey plantings of various heights) along the entire southern boundary (consistent with the DCP) and along part of the eastern boundary from the south-east corner of the site to the dam. A landscape buffer is now shown on the site plan and landscape plan, in addition to the inclusion of a stock proof fence, as requested by the Panel at the briefing held on 23 April 2024. Conditions have been recommended to ensure ongoing maintenance of the landscape buffer.

## TRAFFIC AND ACCESS

Construction traffic would generate up to an additional 40 staff vehicle movements per day (generated by up to 20 staff) and up to 10 heavy vehicle movements per day (i.e. 5 deliveries per day). Operational traffic would generate a maximum of 4 vehicle movements per day. This additional traffic is within the existing capacity of the local road network. Workers are expected to primarily be located in Blayney and infrastructure will be delivered from either Port Botany or Port of Melbourne along the Mid-Western Highway (approximately 3km to the south-east of the site).

The proposed traffic route is shown at **Figure 13** and involves leaving the Highway at Marshall Lane, then entering Lawson Street and re-entering Marshall Lane before accessing the site via the Crown road. This assessment considered whether it may be a better option for construction traffic to avoid using Lawson Street in order to avoid potential traffic conflict in transiting through the industrial estate, rather than continuing along that section of Marshalls Lane (where there are no dwellings) that would be avoided by taking the proposed route. Council's Design and

Development Engineer has provided the following advice in support of the proposed heavy-vehicle route via Lawson Street:

- Lawson Street is an approved B-Double route,
- The section of Marshalls Lane between Lowe Street and Lawson Street is approximately 7m wide (whereas Lawson Street is 12m wide) and the pavement strength is also questionable,
- the right turn at the top of Marshalls Lane is only just navigable by a B-Double, and pavement damage could result from vehicles making the turn,
- traffic count data for Lawson Street does not indicate particularly high traffic volumes and it is unlikely that peak traffic flows generated by the development would have a significant impact on traffic flows in the industrial estate,
- there are significant heavy movements entering and exiting the quarry at the end of Marshalls Lane. Given the nature of the intersection, it would be more likely that conflicts would occur here, than at the intersection of Lawson Street and Marshalls Lane.



**Figure 13** – Proposed traffic route (Source: TIA)

Marshalls Lane is approximately 12m wide and sealed from the Highway to approximately 295m north of Lawson Street where it then continues as a 4m wide, unsealed road for approximately 1.1km (servicing 3 dwellings) until it terminates at the Crown road that extends west to the development site. A turnaround facility exists between the sealed and unsealed sections (**Figure 14**). The narrow section of Marshalls Lane operates as a two-way single lane road. The SEE indicates that the sight lines would allow vehicles leaving the site or adjacent dwellings to see northbound vehicles on Marshalls Lane before exiting the driveways. Marshalls Lane is subject to the TfNSW Restricted Vehicle Access Map and is not an approved route for 26m long B-Double vehicles (that would be needed to transport larger plant) without the assessment and approval of Council. Any consent should therefore be subject to a condition requiring heavy vehicle deliveries to be coordinated throughout the day to avoid congestion at this “chokepoint” and avoid heavy vehicles meeting at the site entrance, as the site access is designed to accommodate one way vehicle movement for B-Double vehicles.





**Figure 14** – Turnaround facility where the sealed and unsealed sections of Marshall's Road meet (Source: TIA).

The TIA recommends that a waiting area be established at the northern end of the sealed section of Marshall's Road to enable vehicles heading north to wait for any vehicles travelling south. The waiting area would utilise the existing sealed section of road and be created via traffic/parking signage. The waiting area and other mitigation measures indicated in the TIA would be conditioned as part of a Traffic and Pedestrian Management Plan.

The TIA does not indicate a need for any road widening, although road widening at the intersection of Marshall's Lane and the Crown road is indicated in the BAR and required by Council's Development Engineer. Road improvement works at the intersection of the Crown road and Marshall's Lane required under condition 7 of DA95/2017 have not been implemented following issue of the Part Final Occupation Certificate. Therefore condition 7 is included in **Appendix A**.

Council's Development Engineer has raised no objections with regard to traffic, access or parking, subject to conditions. As discussed elsewhere in this report, site access arrangements via the Crown road are subject to a deferred commencement condition agreed by Crown Lands and the applicant.

## NOISE AND VIBRATION

In terms of vibration, the SEE indicates that vibration impacts during construction (resulting from use of a piling rig) will be negligible as there are no residences within the 2m to 25m safe working distance for cosmetic damage to buildings or 4m to 100m safe working distance for human comfort. As the nearest residential dwelling is located at approximately 320m away, vibration is unlikely to have a significant impact on surrounding dwellings and their occupants.

The applicant's noise assessment considered the potential impact on residential receivers within 1km from the site. Four (4) residential properties are located within this distance (including the site owner's dwelling) and one industry (a dry cleaning and laundry business). Industrial uses are not considered sensitive to noise impacts and a higher acceptable noise threshold applies, that will not be exceeded. The assessment concluded that:

- (a) operational noise levels (from the solar trackers and the power station containing inverter, transformer and switchgear) will fall below intrusive noise levels, and
- (b) construction noise impacts would impact sensitive receivers within 755m of the site during construction hours.

There are two non-associated dwellings within 755m (**Figure 15**), with the closest dwelling at 320m to the east expected to experience moderately intrusive noise levels, particularly during pile driving. The next closest dwelling is approximately 480m to the south.

Construction noise impacts are considered to be significant, although:

- only two residential receptors will be impacted by noise exceedances,
- the noisiest activities will only occur during a limited time within the construction period, and will move around the development site, and
- construction will only occur during the day.

Therefore, the proposal development is considered acceptable subject to a Construction Noise and Vibration Management Plan that ensures noise management levels within the relevant guideline are not exceeded except to the satisfaction of Council. This will ensure that all reasonable and feasible noise mitigation measures are implemented.



**Figure 15** – Two dwellings within a clearly audible distance (Source: SEE)

## DUST

Dust will occur during the construction and decommissioning phases resulting from earthworks, excavation and vehicle movements. Temporary air quality impacts can be effectively managed using a consent condition requiring identification and implementation of mitigation measures within an approved Construction Management Plan.

## BUSHFIRE

The site is not mapped as being bushfire prone, although a 10m wide asset protection zone (APZ) is proposed around the entire solar array (as per pre-lodgement advice from Council). The site plan confirms that the solar arrays are a minimum of 10m from all boundaries. As the closest distance of the solar panels from the southern boundary is 16.75m, this means that as the 5m wide landscape buffer will be planted immediately inside the property boundary, there will be a minimum APZ clearance of 11.75m from the landscape buffer. A 20,000 Litre water storage tank is also proposed to act as a static water supply for emergency services.

## DECOMMISSIONING

Decommissioning of the solar farm and subsequent rehabilitation of the land will be subject to a Decommission Management Plan to be submitted to Council for approval prior to decommissioning. It's estimated that up to 80% of site waste is currently recyclable and this is likely to increase as technologies advance. The SEE comments that "all above ground infrastructure would be removed to a depth of 1m with some exceptions", although the applicant has since clarified that all solar farm infrastructure will be removed and this is reinforced in the attached conditions.

It is important to ensure that the solar farm is appropriately decommissioned and the land returned to its pre-existing state, either at the end of its useful life or earlier, should the solar farm permanently cease operations before that time. A condition of consent is required to address future uncertainty, should the developer/operator no longer be in business in 40 years time when decommissioning is anticipated, or fail to meet this obligation within a specified time period. Therefore, a condition of consent is proposed that a notation be placed on the land title to ensure that the landowner is held responsible for ensuring that the solar farm is adequately decommissioned. Verbal advice has been obtained from the Land Titles Office confirming that this is possible.

## 4. REFERRALS AND SUBMISSIONS

### a. Agency Referrals and Concurrence

The development application has been referred to Essential Energy as required by *SEPP (Transport and Infrastructure) 2021* and outlined below in **Table 6**. An outstanding issue arising from the referral requirements is acquisition of the Crown road, which is discussed under headings "2.3 Site History" above and "Crown Lands" below.

**Table 6: Concurrence and Referrals to agencies**

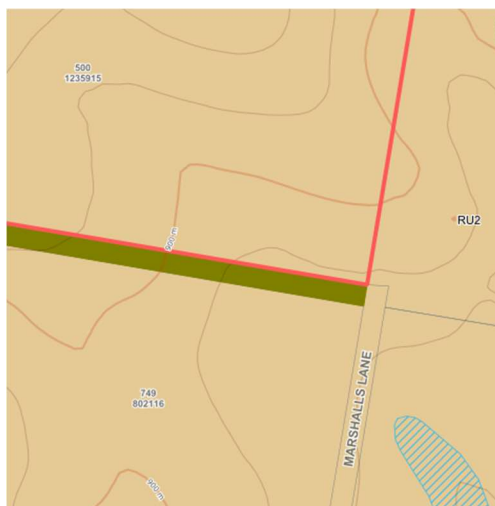
Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements</b> (s4.13 of EP&A Act)			N/A
<b>Referral/Consultation Agencies</b>			
Essential Energy	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> . Development near electrical infrastructure	No objections raised by Essential Energy, only general comments regarding safety. These comments are included as advice in the recommended conditions.	Yes
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> . Development that is deemed to be traffic generating development in Schedule 3.	The proposal is not deemed "traffic generating development" and was not referred to TfNSW.	N/A

Crown Lands	Section 1.15 of the <i>Crown Lands Management Act 2016</i> . Dealings with Crown land generally subject to Act.	Crown land must not be occupied, used, sold, leased, licensed, dedicated, reserved or dealt with in any other way unless it is authorised by the Act. This legislation applies as the site is accessed via a Crown road. Refer to “2.3 Site History” above and “Crown Lands” below for further information.	Yes, subject to a deferred commencement consent
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
		The applicant has not nominated the proposal as integrated development.	N/A

## CROWN LANDS

As discussed above under heading 2.3 Site History, the site is accessed via a Crown road (**Figure 16**). On 5 March 2024, Crown Lands initially objected to the development application on the following grounds:

- (a) Consent for DA95/2017 for the erection of a dwelling house on the subject property required that an application be made to the Department of Planning, Housing and Infrastructure - Crown Lands to close and purchase the Crown road providing access to the site, although this has not been complied with, and
- (b) Crown land must not be occupied or used without authorisation under section 1.15 of the *Crown Lands Management Act 2016*. This authorisation is required as the solar farm application proposes to install electrical infrastructure on the Crown road i.e. power poles and an overhead electrical power line. The application also proposes to create an easement in favour of Essential Energy from the solar farm to the point of connection with Essential Energy infrastructure on Marshalls Lane. The applicant is unable to dedicate the electricity line easement to Essential Energy, as the land is in Crown ownership.



**Figure 16** – Crown Road (shown green) (Source: Council's mapping system)

Therefore, to comply with the requirements of the *Crown Lands Management Act 2016* and to remedy the objection from Crown Lands, the owner of the development site is required to purchase the Crown road. This has now been agreed between Crown Lands, the applicant and the landowner and the Crown Lands objection has been withdrawn subject to a deferred commencement condition (**Attachment B**).

It is therefore recommended that a deferred commencement consent be issued, as:

- This is a requirement of Crown Lands and the basis for the withdrawal of their objection.
- Authorisation from Crown Lands under section 1.15 of the *Crown Lands Management Act 2016* is required to obtain suitable access and satisfy clause 6.8(2) Essential services – suitable vehicular access, under the LEP.
- It's considered that the applicant will be able to satisfy the deferred commencement condition as Crown Lands has indicated at **Attachment B** that the Crown road has now been approved for disposal.
- Crown Lands has advised that following signing of the contract for sale, the transfer of land will take up to six (6) months to complete. It is therefore estimated that the land transfer may not be finalised until the end of 2024, and this represents an unnecessary delay to determination of the development application.

#### **b. Council Officer Referrals**

The development application was referred to Council's building and engineering staff as outlined **Table 7**.

**Table 7: Consideration of Council Referrals**

<b>Officer</b>	<b>Comments</b>	<b>Resolved</b>
Engineering	No objections subject to conditions. In particular, a condition requiring road widening at the intersection of Marshalls Lane and the private access road.	Yes
Building	No objections subject to conditions	Yes

The Council referral officers raised no issues and the required conditions have been included in the recommended consent conditions.

#### **c. Community Consultation**

The proposal was notified in accordance with the Blayney Shire Community Participation Plan from 22 February until 7 March 2024 (i.e. 14 days).

The notification included the following:

- letters sent to adjoining and adjacent properties
- Council's website
- advertised on 22 and 29 February 2024 in the Blayney Chronicle
- hard copy on display in Council's foyer

At the conclusion of the notification period, ten (10) submissions were received by council, although three (3) people sent in multiple submissions (i.e. 2 persons submitted duplicate submissions and a third person submitted two unique objections). Therefore, there were 3 unique



submissions in support and 5 unique objections (with two written by the same person). The following issues were raised in submissions:

- **Disadvantages of solar energy** - solar farms are environmentally unfriendly and solar energy is more expensive and less reliable.

Comment: the proposal is consistent with the Australian Government's *Long-Term Emissions Reduction Plan 2021* that aims to achieve net-zero emissions by 2050, in part by seeking to drive down the cost of low emissions energy technologies such as solar.

- **Loss of farmland**

Comment: there remains an opportunity for livestock grazing to continue during the operation of the solar farm. The site is not identified as State significant agricultural land, nor is it Biophysical Strategic Agricultural Land. The site will be rehabilitated and returned to agricultural use following decommissioning.

- **Decommissioning** - concern regarding toxic waste and rehabilitation to pre-existing condition

Comment: a Decommission Management Plan will be conditioned that includes returning the site to its former agricultural capacity (a baseline soil report will be required prior to construction) and adequate clean-up and disposal of any hazardous waste, although a BESS is not proposed.

- **Visual impacts** – seek perimeter planting (particularly on the south and south-west boundary) with a minimum height above the panels, in double rows with an irrigation system. A new dwelling to be constructed at 223 Marshalls Lane will not be screened.

Comment: based on viewshed mapping in the SEE, public submissions and the distance of surrounding dwellings from the site, an RFI was issued requesting a Landscape Plan that shows a 5m wide landscape buffer with a double row of planting along the entire southern boundary and along the southern part of eastern boundary. No. 223 Marshalls Lane lies to the south of the development site and would therefore be screened by the added landscape buffer. A condition requiring the maintenance of landscaping during the life of the solar farm and replacement of plants, when necessary, has been included at **Attachment A**.

- **Loss of property value**

- **Potential impact on a nearby organic apple orchard** due to dust, microclimate temperature increases as well as spread of weeds and contamination via stormwater runoff.

Comment: dust mitigation as well as sediment and erosion controls would form part of a Construction Management Plan to be approved by Council. A condition is proposed that all noxious weeds be removed prior to issue of an occupation certificate and the Biodiversity Assessment Report includes weed mitigation measures (including an ongoing weed control program) that will be conditioned. According to the SEE, a Photovoltaic Heat Island Effect can alter the temperate within and adjacent to solar panels, although studies to date indicate that any increase in temperate is likely to be marginal, focussed within the development site and have negligible impact on adjacent plant growth, livestock or property, particularly outside a suggested buffer distance of 30m. The closest distance of the solar array from the southern boundary is 16.75m and therefore the nearest part of the adjacent planted orchard is unlikely to be located within 30m from the nearest proposed solar array.

- **Noise and dust** during construction and potential dust impacts on a child with asthma.

Comment: a draft condition will require noise and dust mitigation measures as part of a Construction Management Plan to be approved by Council.

- The **road condition** of Marshalls Lane is not suited to heavy vehicle construction traffic and machinery (it should be sealed)

Comment: it is typical for solar farms to be located in areas accessed by unsealed roads. A condition will require a Traffic Management Plan to be approved by Council. Council's Development Engineer has indicated that there are no established triggers for rural roads to be sealed and has raised no objection, subject to a condition requiring a dilapidation report.

- **Site unsuitability** – the development should have been sited 250m to 300m away in the south-west corner of the property to lessen impacts on adjoining properties.

Comment: conditions of consent can mitigate short term impacts during the construction phase and landscaping requirements will address long term visual impacts.

It's considered that issues raised in submissions related to the construction or operation of the solar farm can be adequately addressed via suitable conditions of consent.

## 5. CONCLUSION

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This development application has been considered in accordance with the requirements of the Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, consideration of submissions and the key issues identified in this report, it is considered that the application can be supported subject to the recommended conditions, including a deferred commencement condition.

The key issue of site access has been resolved to the satisfaction of Crown Lands subject to a deferred commencement condition and therefore a deferred commencement consent is considered appropriate. It is considered that the key issues as outlined in this report have been resolved satisfactorily through the recommended conditions at **Attachment A**.

## 6. RECOMMENDATION

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That the Development Application DA No 2024/7 for an Electricity Generating Facility sub-5mW AC Solar Farm at 269 Marshalls Lane, Blayney be APPROVED pursuant to section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* as a deferred commencement consent under section 4.16(3), subject to the recommended conditions of consent attached to this report at **Attachment A**.

## 7. ATTACHMENTS

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The following attachments are provided:

- **Attachment A:** Conditions of consent
- **Attachment B:** Crown Lands correspondence