

Memo to Western Regional Planning Panel- Request for Additional Information

- PPSWES-26 – Carrathool – DA2020/017
- Proposal: Electricity Generating Works - Construction of 2 x 5MW Solar farm, ancillary facilities and a two Lot Subdivision.

Background:

Further information was requested by the Western Regional Planning Panel on Friday 9th April 2021. The Panels requests for additional information follow in **BOLD**.

1. Councils position and assessment of the clause 4.6 request.

The applicant has not submitted a Clause 4.6 variation request. This is based on the reasoning that “power generation using solar photovoltaic panels is essentially a primary production use that meets the objectives of zone RU1 and that requires a rural location. The solar panels simply harvest sunlight (solar radiation) and convert that resource to electricity in the same way that farming harvests sunlight and water to grow crops. There is no secondary industry or manufacturing involved in the generation of power by sunlight.”

The Panel has access to the full report prepared by Zenith Planning outlining their position on the need for a Clause 4.6 variation as opposed to a justification under Clause 4.2(3).

“This justification for the use of clause 4.2(3) of *Carrathool LEP 2012* was provided in the case of development application PPSWES-23 (DA2020/029) for a solar farm and subdivision at Lot 110 DP 1187931 Mid Western Highway, Hay NSW. Consent was granted for that development by the Western Regional Planning Panel on 10 June 2020. The consent was issued on the basis of sub-clause (3) of clause 4.2 *Rural subdivision* and did not rely upon the use of clause 4.6 *Exceptions to development standards* of *Hay LEP 2011*.

The intent of clause 4.2(3) is to achieve the same results as clause 4.6, that is, to provide flexibility in applying certain development standards and to achieve better development outcomes by allowing that flexibility.”

Zenith Planning states “For these reasons it is considered that a request to vary the minimum lot size using clause 4.6 *Exceptions to development standards* is not necessary as subdivision to create a lot less than the minimum lot size for the purposes of primary production is permitted by clause 4.2(3).”

Carrathool Shire Council, Melting Pot Planning and OzEnvironmental concur with the position adopted by Zenith Planning and recommend the Planning Panel now grants consent.

- ### 2. The report states that the previously recommended conditions should apply but they relate to a scheme that has since been amended - references in conditions need to change for example the description of the development in condition 3.

Amended Conditions of Consent have now been provided.

Carrathool Shire Council, Melting Pot Planning and OzEnvironmental recommend the Planning Panel now grants consent.

3. What is Council's position on the draft VPA – does the Council support it, has it been reported to Council and has it been placed on exhibition?

A VPA was offered by ITP Pty Ltd (the proponent). This is in addition to the levying and payment of Contributions to Council.

Council's General Manager, ITP Pty Ltd (the proponent) and Warwick Giblin of OzEnvironmental collaboratively negotiated the terms of the VPA. Warwick Giblin is well versed and experienced in the negotiation and drafting of VPAs as he has been involved in VPA preparation for some 20 major developments.

The terms are acceptable to all parties.

The draft VPA will be advertised after the Planning Panel grants consent. There is no requirement at law that the draft VPA needs to be placed on exhibition prior to the granting of consent. In fact, for SSDs, all that is included in the consent document are the general terms of the applicant's VPA **offer**.

Carrathool Shire Council, Melting Pot Planning and OzEnvironmental recommend the Planning Panel now grants consent.

4. In regards decommissioning, what is council's assessment of the applicant's decommissioning report? Panel have indicated that further assessment is required by council and that the conditions relating to decommissioning on page 63 and 64 of the original report don't go far enough and the statement in the supplementary report that *Decommissioning methods and processes are made with the tools and technology of today which may be different when actual decommissioning occurs in 2056* is not enough.

Council is satisfied with the amended Decommissioning Report prepared on December 8th 2020 and conditions have been amended to reflect this Report.

Carrathool Shire Council, Melting Pot Planning and OzEnvironmental recommend the Planning Panel now grants consent.