

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-94
DA Number	2021/259
LGA	Federation
Proposed Development	Solar Farm
Street Address	7 Wemyss Road Mulwala
Applicant/Owner	ITP Development
Date of DA lodgement	5 July 2021
Number of Submissions	0
Recommendation	Approve Subject to Conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure for the purpose of electricity generating works with a capital investment value of more than \$5 million. CIV Estimate \$8,667,599.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Koala Habitat Protection) 2020 • State Environmental Planning Policy 55 – Remediation of Land • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (Primary production and Rural Development) 2019 • State Environmental Planning Policy (State and Regional Development) 2011 • Murray Regional Environmental Plan No.2 – Riverine Land • Corowa Local Environment Plan 2012
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Mulwala 5MW Solar Farm Development Application Sheet List Table – 28 May 2021 • G-0100 – TITLE • G-0400 – LOCATION PLAN • G-2100 – GENERAL ARRANGEMENT PLAN • G-2200 – SITE ELEVATIONS • C-4300 – INVERTER FOOTING DETAILS • C-4301- BESS FOOTING DETAILS • C-5300 – FENCING DETAILS • C-5301 – GATE DETAILS • C-6300 – ACCESS PATH DETAILS • C-7300 – LANDSCAPE DETAILS • E-3400 – NEXTRACKER ARRAY DETAILS • E-4100 – INVERTER STATION PLAN • E-4300 – INVERT STATION DETAILS • E-5300 – TYPICAL BESS DETAILS • E-5301 – TYPICAL DC-DC SKID DETAILS • Statement of Environmental Effects – Zenith Town Planning Pty Ltd - 27 May 2021 • Mulwala Waters Solar Farm Traffic Report - Price Merrett Consulting – 24 June 2020

	<ul style="list-style-type: none"> • Biodiversity Assessment Lot 2, DP 842047, No 7 Wemyss Road, Mulwala – Zenith Town Planning Pty Ltd – 20 November 2020. • Addendum to Biodiversity Report – Red-Gum Environmental Consulting 1 March 2021 – Clearing of Vegetation for Security Fence • Water Assessment Mulwala Waters Solar Farm –ITP Renewables – January 2020 – version 2 – 7/4/2021 • Waste Assessment Mulwala Waters Solar Farm – ITP Renewables – January 2020 • Glint and Glare Assessment Mulwala Waters Solar Farm – ITP Renewables – April 2021 • Noise Assessment Mulwala Waters Solar Farm – Muller Acoustic Consulting – 22 January 2020. • Drain Proposal Plan- Drawing Number 6091 – 26 April 2021 – Price Merrett Consulting. • Decommissioning Plan Mulwala Waters Solar Farm – ITP Renewables – December 2020 • Fire Assessment Mulwala 1D Solar Farm ITP Engineering, Strategy, Analytics, Construction – May 2021 • Submission from - Transport NSW Roads & Maritime Services <ul style="list-style-type: none"> - Murray Darling Basin Authority - Environmental Protection Authority - Department of Primary Industries • Draft conditions of approval • Western JRPP notes for previous DA – withdrawn in December 2020.
Report prepared by	Susan Appleyard
Report date	7 October 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Not Applicable

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes, agreed 7 October 2021**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

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EXECUTIVE SUMMARY

Description of Proposal

The proposed Mulwala Waters Solar farm development would consist of:

- 12,100 Solar Modules
- 159 Mounting Modules
- 2 x 2.5 Megawatt Ac Inverter stations
- 6 metre long skid for the inverters
- A transformer
- Screening landscaping
- Internal Roads
- Temporary facilities and parking for construction and demolition crews
- Relocation and upgrade to access off Wemyss Road.

The Proposal will require the removal of 1 tree and will cover an area of approximately 15 Hectares.

The Capital Investment Value of \$8.667 million, means the application is defined as Regional Development in accordance with Part 4 – Regionally Significant Development, Clause 20, Schedule 7 Section 5 – Private infrastructure and community facilities over \$5 million. Consequently, the Development Application is required to be determined by the Joint Regional Planning Panel (JRPP).

Site Description & Surrounding Land Uses

The site of the proposed development is Lot 2 DP 842047, at 7 Wemyss Road, Mulwala. The total area of the site is approximately 26.32 hectares, of which the proposed electricity generating works (solar farm) would occupy approximately 15 hectares once completed.

The site has direct frontage to Wemyss Road, to the east and Tocumwal Road to the south. To the North of the site is Mulwala canal, to the South of Tocumwal Road is Murray Valley Regional Park an E1 Environmental zone national park. To the east is land zoned RU1 (Primary Production) and to the west is E3 – Environmental Management. The site is located approximately 5km from the centre of Mulwala Township. At the time of reporting the site is under crop.

The site is zoned E3 – Environmental Protection pursuant to the Corowa Local Environmental Plan 2012.

Permissibility

The proposed solar farm is properly categorised as “electricity generating works” under the LEP.

“Electricity generating works” is defined as follows:

“...means a building or place used for the purpose of making or generating electricity”.

The subject site is located within the E3 – Environmental Protection Zone (E3 Zone). Under the E3 Zone, within the LEP, “electricity generating works” are permitted with consent

Recommendation

The proposed development is considered to be generally compatible with its surrounds and provides for a diversification of land uses on the property and a part from the construction and decommissioning phases will have a passive impact on the adjoining and adjacent landowners.

As a result of this assessment, the proposed development is recommended for conditional consent.

Appendix 1 to this report contains the proposed conditions of consent.

Recommendation:

a) That having regard to the assessment of the application, DA2021/259 (JRPP Ref PPSWES-94) be granted conditional consent in the terms set out in Appendix 1 to this report.

PLANNING ASSESSMENT

Section 4.15 of the EP&A Act requires the consent authority to take into consideration the following matters where relevant to the proposed development:

- 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
 - (iv) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
 - (v) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (vi) 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.

Those matters in Section 4.15 relevant to the proposal are addressed in the following sections.

Site and locality

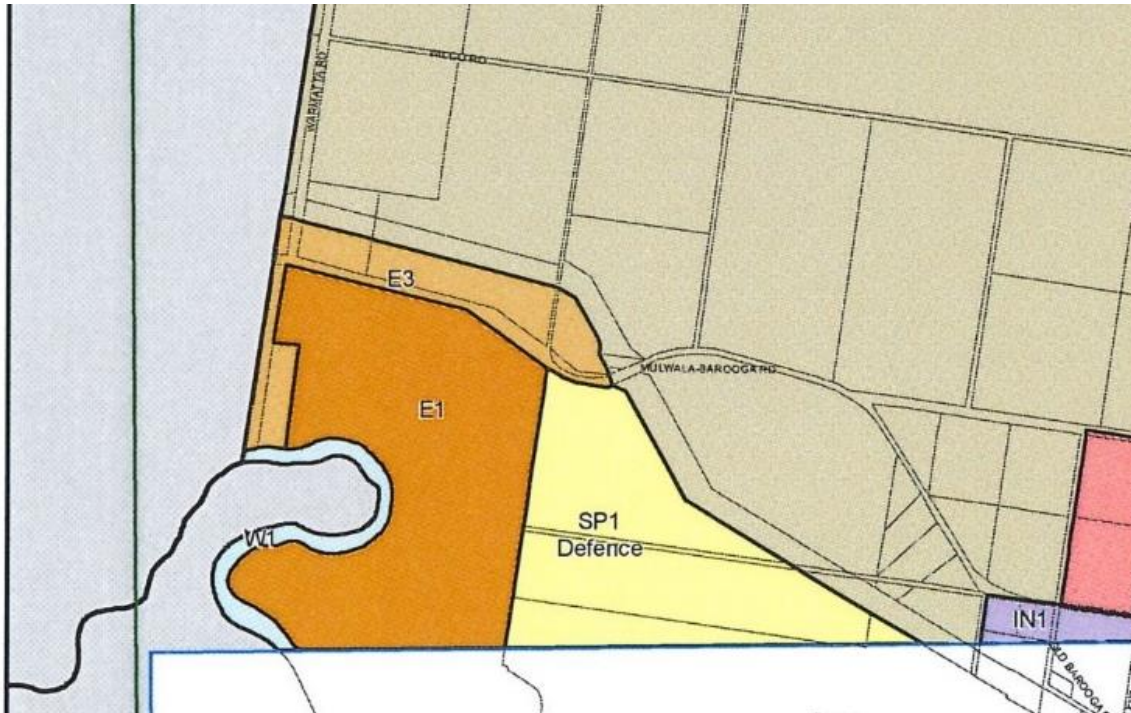
The subject site is located approximately 5 kilometres north-west of the central business district (CBD) of Mulwala, NSW.

The site is bounded to the south and east by constructed roads. Land to the East is zoned RU1 - Primary Production and has historically been used for cropping or grazing purposes. Land to the West is Zone E3 – Environmental Management and has also historically been used for cropping and grazing.

The land to the north is Zone RU1 – Primary Production and the site shares the northern boundary with the Mulwala Canal the main canal for the delivery of water throughout the Murray Irrigation area.

To the South of Tocumwal Road is the Murray Valley Regional Park the eastern most section of the park which houses a camping ground and is under the management of the NSW National Parks Service (Crown).

The site is zoned E3 – Environmental Management under Corowa Local Environmental Plan 2012 (**LEP**) as shown in the figure below. The development proposal is permitted with consent.



Regionally Significant development

State Environmental Planning Policy (State and Regional Development) 2011

The State and Regional Development SEPP identifies significant development and infrastructure and confer functions on Joint Regional Planning panels to determine development applications.

Development that is state and regionally significant is identified in *SEPP (State and Regional Development) 2011*. Electricity generating works including solar farms which have a capital investment value of more than \$30 million, or a capital investment value of more than \$10 million and are located in an environmentally sensitive area of State significance, are declared state significant development. Private infrastructure, including electricity generating stations, that have a capital investment value of over \$5 million are declared regionally significant.

In this case the proposed development has a CIV of \$8.667 million and is regionally significant. The application will be determined by the Western Regional Planning Panel.

Referrals

Organisations that the application was referred to include:

- NSW Environment Protection Authority
- Murray Darling Basin Authority
- Transport for NSW -Roads and Maritime Services
- Department of Planning, Industry and Environment
- Department of Environment, Energy and Science

Comments were received from the following agencies. Copy of the full submissions are provided as Appendix 2 to the report. Please note Transport for NSW original submission to DA2020/96 (Withdrawn) was confirmed as being applicable to this application.

Transport for NSW – Maritime and Roads Divisions – no objections. Conditions of consent by Roads Division. One of the conditions of consent related to an existing access off Tocumwal Road that was approved by Council as part of the Consent for the dwelling which exists on the site. This condition has been deleted.

Essential Energy – No objection. Conditions of consent provided.

Environmental Protection Authority – No objection or conditions.

Department of Planning, Industry and Environment – No objection.

Department of Environment, Energy and Science - No reply was received from the Biodiversity or Heritage branches therefore the submissions for DA2020/96 will be utilised as part of the assessment.

	Biodiversity Concerns DA 2020/96	Method of address for DA2021/259
1.	Ancillary Infrastructure such as the 20m 22KV easement and “Telstra line” shown on the General Arrangement Plan (Rev 1, 23 March 2020) must be included in the assessment of impacts. It is unclear whether native vegetation clearing will be required for these aspects of the proposal	The layout has been amended to limit the impact on native vegetation.
2.	The area of native vegetation to be cleared has not been provided	The vegetation to be required under the amended plan is one native paddock tree.
3.	Results for the BioNet Atlas of NSW Wildlife have been incorrectly interpreted as a single species record	The impact on native vegetation and species is no reduced to a single tree on the site.
4.	There is not enough information to justify the conclusion that the development will not have a significant impact on threatened entities.	The plans have been amended to limit the impact by way of relocation of the security fence. Reconfiguration so that only one paddock tree will be removed from the site and conditions of consent will be included on any approval to ensure any impact is minimised.
5.	The application state that site access can be gained without further disturbance to native vegetation. BCD is concerned that there are inadequate buffers between important native vegetation and existing and proposed vehicle access to avoid impacts.	The updated plans have been amended to reduce the overall impact.

The following conditions are proposed to be included in the consent to ensure the impacts on biodiversity are minimised.

1. There is to be at least a 3m buffer between the mapped boundary of native vegetation (and drip line of the trees for unmapped native vegetation) and the proposed security fencing. The buffer is not to be cleared, mowed or used for vehicle access.
2. Screening plantings and soil stabilisation will be with native species that are components of the Inland Grey Box Woodland endangered ecological community
3. Disturbance for construction, including materials laydown, will be wholly within the development footprint and inside the proposed boundary fence.
4. Weed and pest control within 20 metres of the mapped boundary of remnant vegetation (southern boundary) will use ecologically sensitive methods

Public Participation

The development application (**DA**) was publicly notified as required by the provisions of Section 2.22 of the Environmental Planning and Assessment Act 1979 the application was on public exhibition from 7 July to 4 August 2021 inclusive.

The notification included letters to the adjoining property owners/occupiers. No submissions were received during the exhibition period.

Environmental Planning & Assessment Act, 1979 and Environmental Planning & Assessment Regulation, 2000

Designated development

Schedule 3 of the EP&A Regulation indicates “Electricity generating stations” such as solar farms are considered designated development under the EP&A Act and associated regulations where the development generates more than 30 megawatts of electrical power.

The proposed development is expected to generate a maximum of 5 megawatts. Therefore, the proposal is not considered designated development.

Integrated development

The solar farm is not considered integrated development under Division 4.8 of the

EP&A Act because the solar farm does not require any additional approval / permit / licence / authorisation under the:

- Fisheries Management Act 1994;
- Heritage Act 1977;
- Mine Subsidence Act Compensation Act 1961;
- Mining Act 1992;
- National Parks and Wildlife Act 1974
- Petroleum (Onshore) Act 1991;
- Protection of the Environment Operations Act 1997;

- Roads Act 1993;
- Rural Fires Act 1997; or
- Water Management Act 2000.

Biodiversity Conservation Act 2017

The Biodiversity Conservation Act 2017 provides a basis for the Biodiversity Offset Scheme (BOS). Development that is subject to the BOS scheme includes development needing consent under Part 4 of the EP&A Act (excluding complying development), activities under Part 5 of the EP&A Act, State significant development and State significant infrastructure.

Where development or an activity is, “likely to significantly affect threatened species”, a Biodiversity Development Assessment Report (BDAR) must be prepared and consent authorities are required to consider the likely impact of the proposed development on biodiversity values before granting approval.

The threshold test of whether development or an activity is “likely to significantly affect threatened species” (and therefore whether a BDAR is required) is reached if:

- The test in section 7.3 of the BC Act is met;
- The BOS Threshold is met; and
- The development is carried out in a declared area of outstanding biodiversity value.

The subject lot was assessed using the online Biodiversity Offsets Scheme Entry Tool, which determines whether any proposed clearing would be above or below the area thresholds or lies within an area mapped as having high biodiversity value.

The proposed development site is not located within a declared area of outstanding biodiversity value, and the proposal does not involve any clearing of vegetation that would exceed the BOS Threshold. The site is developed for agriculture and at present, predominately supports crop production.

A test of significance determined that the proposal is not likely to significantly affect threatened species, and that further assessment under the BAM and the preparation of a BDAR is not required. An addendum to the test was provided regarding the impact to the community to the south of the site within the road reserve. The source of impact would be from the construction of the security fence so to minimise the impact the security fence will be located 3 metre from the existing fence line.

State Environmental Planning Policies

State Environmental Planning Policy (Koala Habitat Protection) 2021

12 Development assessment process—other land

A council is not prevented from granting consent to a development application for consent to carry out development on land if—

- (a) the land does not have an approved koala plan of management applying to the land, or*
- (b) the council is satisfied that the land is not core koala habitat.*

The test of significance has not defined the site as being koala habitat and the lack of suitable vegetation on the site the consent authority can be satisfied that the land is not core koala habitat.

State Environmental Planning Policy No 55 – Remediation of Land

The Remediation of Land SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or other aspects of the environment.

Under this SEPP, a consent authority must not consent to the carrying out of any development on land unless:

- i) It has considered whether the land is contaminated, and
- ii) 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, and
- iii) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment and requiring that any remediation work meet certain standards and notification requirements. The previous use of the site was for agricultural activities such as cropping and there is no evidence to suggest that the site is or might be contaminated to a level that would impact on the proposed use.

State Environmental Planning Policy (Infrastructure) 2007

Pursuant to cl.34 (7) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), development for the purpose of a solar energy system may be carried out by any person with consent on any land. Accordingly, the proposed solar farm (which is a photovoltaic electricity generating system) is permissible subject to development consent being issued.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

The aims of this Policy are as follows—

- (a) To facilitate the orderly economic use and development of lands for primary production,
- (b) To reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,
- (c) To identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,
- (d) To simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,
- (e) To encourage sustainable agriculture, including sustainable aquaculture,
- (f) To require consideration of the effects of all proposed development in the State on oyster aquaculture,

(g) To identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.

Rural Planning Principles

The Rural Planning Principles are as follows:

- 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.

The proposed development is considered to be compatible with adjacent land uses. It is expected that the proposal would not cause land use conflict in the area.

State Environmental Planning Policy (State and Regional Development) 2011

The State and Regional Development SEPP identifies significant development and infrastructure and confer functions on Joint Regional Planning panels to determine development applications.

The application is classified as 'Regional Development' and has been assessed by Federation Council for determination by the Western Joint Regional Planning Panel in accordance with this SEPP.

Riverina Murray Regional Plan 2036

The Riverina Murray Regional Plan 2036 (the Plan), published in 2017, recognises the potential for the growth of the renewable energy industry within the Federation Council Local Government Area and the surrounding region.

The Plan outlines Strategic Directions for the Riverina Murray region in NSW. Strategic Direction 11: Promote the diversification of energy supplies through renewable energy generation. The Plan encourages the following actions be taken to achieve this goal:

- 11.1** Encourage renewable energy projects by identifying locations with renewable energy potential and ready access to connect with the electricity network.

11.2 Promote best practice community engagement and maximise community benefits from all utility-scale renewable energy projects.

11.3 Promote appropriate smaller-scale renewable energy projects using bioenergy, solar, wind, small-scale hydro, geothermal or other innovative storage technologies.

The proposed development is considered to contribute to achieving the outcomes of Strategic Direction Number 11 of the Plan, as it will enable identify and encourage renewable energy development in the region.

Corowa Local Environment Plan 2012

The land use table on the Corowa Local Environment Plan 2012 outlines the objectives of the zoning and the permitted and prohibited uses in the zone. Electricity generating development such as solar farms are permitted with consent in Environmental Management zone. It is considered that the objectives of the RU1 Primary production zone are met by the proposed development

Zone E3 Environmental Management

1 Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To ensure development is compatible with the flood hazard and riparian corridor of the Murray River.

2 Permitted without consent

Extensive agriculture; Home-based child care; Home occupations

3 Permitted with consent

Agriculture; Animal boarding or training establishments; Bed and breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Dwelling houses; Dual occupancies (attached); Eco-tourist facilities; **Electricity generating works**; Emergency services facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Helipads; Home businesses; Home industries; Home occupations (sex services); Information and education facilities; Jetties; Kiosks; Moorings; Oyster aquaculture; Pond-based aquaculture; Recreation areas; Recreation facilities (outdoor); Research stations; Roads; Tank-based aquaculture; Veterinary hospitals; Waste or resource transfer stations; Water recreation structures; Water recycling facilities; Water storage facilities; Water treatment facilities

4 Prohibited

Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Viticulture; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Corowa Development Control Plan 2013

The requirements of the Corowa Development Control Plan have been satisfactorily addressed in the Statement of Environmental Effects prepare by Zenith Town Planning dated 1 May 2020 - Table 4.5

Federation Developer Levy Plan

In accordance with the Council's Section 7.12 developer contribution plan the consent has been conditioned to levy a contribution of 1% of the capital investment.

Section 4.15 assessment

In determining a DA, a consent authority is to take into consideration matters referred to in section 4.15(1) of the EPA Act (previous s 79C) as are of relevance to the development the subject of the application. The relevant matters for this application are detailed below:

a) 4.15 Evaluation— any environmental planning instrument; 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, any development control plan, any planning agreement entered into under Section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and the Regulations;

Section 4.15(1)(b) – the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality:

It is considered that the likely impacts of the development including design, height, car parking, traffic, and drainage have been satisfactorily addressed.

c) Section 4.15 (1)(c) - the suitability of the site for development;

In terms of assessing the various aspects of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW.

Davies v Penrith City Council [2013] NSWLEC 1141

In this case, Moore, SC revised the *criteria for assessing impact on neighbouring properties within this Planning Principle*.

The following questions are relevant to the assessment of impacts on neighbouring properties:

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

Comment: The site is constrained to the north by Mulwala Canal and to the south and east by roads and the Murray Valley Regional Park. These proposed is a passive development which will have its main impact during construction and decommissioning phases. The cropping of the site over the 20 year life span of the project would be equivalent to the construction and decommissioning impact.

The site has been zoned E3 due to its limited holding size and its proximity to the Murray Valley Regional Park. Therefore the amenity on the nearest receptor(s) a neighbouring dwelling, the canal structure and the park is considered to equivalent or lesser than the existing use.

- *How reasonable is the proposal causing the impact?*

Comment: The proposal is considered to cause minimal impacts on adjacent lands. The assessment of flood impacts indicates that flood risk is able to be adequately managed. On this basis the proposal is considered to be reasonable.

- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

Comment: The proposal would not act to reduce the development potential of adjacent lands.

- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

Comment: The proposal is not considered to cause any significant impacts.

- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?*

Comment: The proposal is in accordance with the relevant planning controls.

The subject site is considered suitable for the proposed development for the following reasons:

1. The site is constrained by the surrounding infrastructure and zoning the passive solar farm use will have no adverse impact on the surrounding landuses.
2. The proposed development is compatible with existing land uses in the locality
3. The proposed development would not cause land use conflict
4. Access to the subject site is available from Wemyss Road.
5. Upon decommissioning of the solar farm (should this occur), the land can be restored to its previous form.

d) Section 4.15 (1) (d) – any submissions made in accordance with the Act or the Regulations;

No submissions received.

e) Section 4.15 (1) (e) – the public interest.

The proposal has been designed in line with the adopted standards of the DCP and as such, development consent of this proposal will not undermine the public interest.

The Development will have a positive economic impact compared to the current minimal size for cropping. The development will have little to no environmental impact with an energy return period of a maximum of 4 years, resulting in a net benefit of at minimum 16 years of energy, ensuring that the development meet the environmentally sustainability targets of the State and Federal Governments.

Recommendation

It is recommended that DA 2021/259 be approved subject to the draft conditions contained in

Appendix 1.

Appendix 1.

Recommended conditions of consent

1. APPROVED DEVELOPMENT

The development must be carried out in accordance with the attached approved plans and the particulars and statements submitted with the Development Application as outlined below and subject to the following conditions.

- Mulwala 5MW Solar Farm Development Application Sheet List Table – 28 May 2021
 - G-0100 – TITLE
 - G-0400 – LOCATION PLAN
 - G-2100 – GENERAL ARRANGEMENT PLAN
 - G-2200 – SITE ELEVATIONS
 - C-4300 – INVERTER FOOTING DETAILS
 - C-4301 - BESS FOOTING DETAILS
 - C-5300 – FENCING DETAILS
 - C-5301 – GATE DETAILS
 - C-6300 – ACCESS PATH DETAILS
 - C-7300 – LANDSCAPE DETAILS
 - E-3400 – NEXTRACKER ARRAY DETAILS
 - E-4100 – INVERTER STATION PLAN
 - E-4300 – INVERT STATION DETAILS
 - E-5300 – TYPICAL BESS DETAILS
 - E-5301 – TYPICAL DC-DC SKID DETAILS
- Statement of Environmental Effects – Zenith Town Planning Pty Ltd - 27 May 2021
- Mulwala Waters Solar Farm Traffic Report - Price Merrett Consulting – 24 June 2020
- Biodiversity Assessment Lot 2, DP 842047, No 7 Wemyss Road, Mulwala – Zenith Town Planning Pty Ltd – 20 November 2020.
- Addendum to Biodiversity Report – Red-Gum Environmental Consulting 1 March 2021 – Clearing of Vegetation for Security Fence
- Water Assessment Mulwala Waters Solar Farm –ITP Renewables – January 2020 – version 2 – 7/4/2021
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- Glint and Glare Assessment Mulwala Waters Solar Farm – ITP Renewables – April 2021
- Noise Assessment Mulwala Waters Solar Farm – Muller Acoustic Consulting – 22 January 2020.
- Drain Proposal Plan- Drawing Number 6091 – 26 April 2021 – Price Merrett Consulting.
- Decommissioning Plan Mulwala Waters Solar Farm – ITP Renewables – December 2020
- Fire Assessment Mulwala 1D Solar Farm ITP Engineering, Strategy, Analytics, Construction – May 2021

2. CONSENT EXPIRY

This consent shall expire if the development hereby permitted is not commenced within five years of the date of consent.

3. STORMWATER MANAGEMENT PLAN

- (a) Prior to the commencement of construction the applicant shall provide to Council for endorsement a Stormwater Management Plan that details:
 - (i) A design for the collection, conveyance, storage and discharge of stormwater across the site.
- (b) Once endorsed the Stormwater Management Plan becomes part of the consent.

4. SOIL AND WATER MANAGEMENT PLAN

- (a) Prior to the commencement of construction the applicant shall provide to Council for endorsement a Soil and Water Management Plan that as a minimum addresses:
 - (i) Details of earthworks.
 - (ii) At all times, in all locations, the area of ground disturbance will be limited to that which is the smallest possible footprint that is practicably possible.
 - (iii) Erosion and sediment controls will be suitably maintained, including regular monitoring to ensure the measures and controls in place are effective.
 - (iv) Immediate stabilisation of worked sections complemented by progressive rehabilitation.
 - (v) Erosion and sediment control measures only to be removed once the area is successfully rehabilitated.
- (b) Once endorsed the Soil and Water Management Plan becomes part of the consent.

5. CONSTRUCTION MANAGEMENT PLAN

- (a) Prior to the commencement of construction the applicant shall provide to Council for endorsement a Construction Management Plan that as a minimum addresses:
 - (i) Document the environmental procedures and controls that would be implemented throughout construction, including detail on how neighbours would be kept informed about the construction program and how any complaint would be received, resolved and reported.
 - (ii) Describe the role, responsibility, authority and accountability of all key personnel involved in construction and detail all monitoring that would be undertaken.
 - (iii) Comprise various sub-plans detailing the specific mitigation measures that would be implemented to avoid and manage potential environmental impacts relating to traffic management, biodiversity notably to the Grey Box wood land located in the adjoin road reserve, Aboriginal heritage, soil and water protection, dust, noise and vibration, waste management and bushfire prevention.
- (b) Once endorsed the Construction Environmental Management Plan becomes part of the consent.

6. OPERATIONS MANAGEMENT PLAN

- (a) Prior to commissioning the solar farm the applicant shall provide to Council for endorsement an Operations Management Plan that as a minimum addresses:

- (i) Details of procedures, reporting, and the allocation of responsibilities designed to minimise environmental impacts.
- (ii) Various sub-plans detailing the specific mitigation measures that would be implemented to avoid and manage potential environmental impacts and minimise risks. These would include plans covering land management (specifically relating to fuel loads, noxious weeds, and protection of the grey box woodland and overhanging vegetation to the south of the site) and emergency preparedness.
- (b) Once endorsed the Operations Management Plan becomes part of the consent.

7. LANDSCAPE PLAN

- (a) Prior to the commencement of construction the applicant shall provide to Council for endorsement an overall Landscape Plan for the site that addresses:
 - (i) Landscaping around along the southern, western and eastern boundary of the site designed so that in time will provide a visual screen to the development from adjoining and public land. The species are to be endemic to the bioregion.
 - (ii) A healthy, self-sustaining, noxious weed free groundcover to be established over the solar farm that does not create a fuel hazard.
 - (iii) A maintenance regime.
- (b) Once endorsed the Landscape Plan becomes part of the consent.
- (c) The landscaping proposed in the Landscape Plan is to be implemented prior to the commissioning of the solar farm.

8. TRAFFIC MANAGEMENT PLAN

- (a) Prior to the commencement of construction the applicant shall provide to Council for endorsement a Traffic Management Plan that as a minimum addresses:
 - (i) Temporary traffic controls, including signage.
 - (ii) Notifying the local community about project-related traffic.
 - (iii) Scheduling of haulage vehicle movements to minimise convoy lengths or platoons.
 - (iv) All vehicles are to be loaded and unloaded on-site and enter and leave the site in a forward direction.
 - (v) A driver's code of conduct that addresses travelling speeds; procedures to ensure that drivers adhere to the designated transport routes; and procedures to ensure that drivers implement safe driving practices.
 - (vi) Ensuring there is sufficient parking on-site for all vehicles and no parking occurs on the public road network.
 - (vii) A condition assessment report is to be provided for Wemyss Road from the intersection of Tocumwal Road to 20 metres north of the Entrance to the solar farm site prior to works

commencing, prior to the decommissioning phase and at the completion of the construction and decommissioning phases of the development.

- (b) Once endorsed the Traffic Management Plan becomes part of the consent.

9. EMERGENCY RESPONSE PLAN

Prior to the commencement of operations an Emergency Response Plan will be prepared in consultation with RFS and/or Fire & Rescue NSW. This plan will identify the procedures that would be implemented if there is a fire on site or in the vicinity of the site.

10. DECOMMISSIONING MANAGEMENT PLAN

- (a) At least 12 months prior to the solar farm ceasing to operate, the applicant shall provide to Council for endorsement a Decommissioning Management Plan that includes but is not limited to:
 - (i) Disconnecting the solar farm from the Essential Energy (or its successor) network.
 - (ii) All infrastructure to be removed including modules, piles, racking system, underground cables (where possible) and the site control room and facilities.
 - (iii) All removed infrastructure to be recycled off-site where possible.
 - (iv) Once all infrastructure is removed, the ground is then to be worked, stabilised and returned to agricultural use.
- (b) Once endorsed the Decommissioning Management Plan becomes part of the consent.

11. NOISE AND VIBRATION

- (a) Limiting noise generating construction activities to standard construction hours except where an acceptable acoustic solution can be identified to minimise adverse amenity impacts on the nearest sensitive receivers.
- (b) Consultation with the nearest sensitive receivers throughout the construction process to inform them on the duration and timing of potentially noisy activities.
- (c) All mobile plant and equipment to use broad-band reversing alarms.
- (d) Where there is a choice in the type of machines that performs the same function, the machine that generates the least noise is to be selected.
- (e) Operate plant in a quiet and efficient manner.
- (f) Reduce throttle setting and/or turn off equipment when not in use.
- (g) Regularly inspect and maintain equipment to ensure it is in good working order (including mufflers on vehicles and machinery).

- (h) Equipment and plant would be operated and maintained in accordance with the manufacturer's instructions including replacement of engine covers, repair of defective silencing equipment, tightening rattling components, and repair of leakages in compressed air lines.
- (i) As part of a general induction, all new employees and contractors to be informed of noise management measures, construction hours, the location of sensitive receptors and the protocol for handling any complaint.
- (j) In the event that a complaint being received the source is to be immediately investigated and measures implemented to avoid recurrence. Any complaint received is to be documented.
- (k) In the event that a complaint cannot be resolved, noise monitoring is to be undertaken with either attended or un-attended loggers. Precisely how the monitoring would be performed, where, for how long, and with what sort of equipment, is to be determined on a case by case basis. The justification for the monitoring regime undertaken is to be documented and the results made available to Council upon request.

12. ABORIGINAL CULTURAL HERITAGE

- (a) In the event that Aboriginal cultural heritage sites are discovered, work is to immediately cease and archaeological advice sought.
- (b) In the event that known or suspected human remains (generally in skeletal form) are encountered during construction, the following procedure is to be followed immediately:
 - (i) All work in the immediate vicinity is to cease and the find immediately reported to the Site Manager or other nominated senior staff member.
 - (ii) The Site Manager or other nominated senior staff member will promptly notify the police and the state coroner (as required for all human remains discoveries).
 - (iii) The Site Manager or other nominated senior staff member will contact the NSW Office of Environment and Heritage for advice on identification of the human remains.
 - (iv) If it is determined that the human remains are Aboriginal ancestral remains, the Local Aboriginal Land Council is to be contacted by the Site Manager or other nominated senior staff member and consultative arrangements to be made to discuss ongoing care of the remains.
 - (v) If it is determined that the human remains are not Aboriginal ancestral remains, further investigation by the Site Manager or other nominated senior staff member is to be conducted to determine if the remains represent a historical grave or if police involvement is required.

13. BIODIVERSITY

- (a) No tree other than the one identified on land to be occupied by solar panels are to be removed.
- (b) Direct biodiversity impacts are to be avoided through implementation of the following measures:
 - (i) Location of the project in a largely cleared area.
- (c) Direct biodiversity impacts to be minimised through implementation of the following measures:

- (i) Implementing a three-stage clearing protocol whereby hollow-bearing trees are:
 - disturbed/tapped by machinery 24 hours prior to felling to allow fauna to self- relocate;
 - felling the trees the following day; and
 - leaving felled trees in situ for at least 24 hours prior to allow any fauna present to self relocate.

14. BUSH FIRE PREVENTION

- (a) Prior to construction commencing contact is to be made with the Local Brigade of the RFS and details about the construction schedule, contact numbers and site access arrangements are to be shared.
- (b) The fuel load over the site prior to and during construction is to be monitored and reduction measures implemented as required.
- (c) No burning of vegetation or any waste material is to take place on the construction site.
- (d) Fire extinguishers are to be available in all vehicles.
- (e) During bushfire season all vehicle and plant movements beyond formed roads and trafficable hard stand areas are to be restricted to diesel, not petrol vehicles.
- (f) During the bushfire season the fire danger status is to be monitored daily (through the RFS website <http://www.rfs.nsw.gov.au>) and communicated to personnel as required (i.e. on high bush fire risk days).
- (g) Total Fire Ban rules will be adhered to in that the operator will not:
 - (i) (in any grass, crop or stubble land) drive or use any motorised machine unless the machine is constructed so that any heated areas will not come into contact with combustible matter; or
 - (ii) Carry out Hot Works (e.g. welding operations or use an angle grinder or any other implement that is likely to generate sparks), unless the necessary exemption from the NSW RFS Commissioner has been obtained and work complies with all requirements specified in the exemption.
- (i) Any fuel or flammable liquid be stored on-site will be in a designated area and will be sign posted.
- (j) A register will be maintained that confirms the quantities and location of any flammable material stored on-site.

15. AIR QUALITY

- (a) Limit the area of soil disturbance at any one time.
- (b) Maintain all disturbed areas, stockpiles and handling areas in a manner that minimises dust emissions (including windblown, traffic-generated or equipment generated emissions).
- (c) Where required, undertake strategic watering to achieve dust suppression.
- (d) Where required, minimise vehicle movement and speed.
- (e) Avoid dust generating activities during windy and dry conditions.

- (f) Ensure all construction plant and equipment are operated and maintained to manufacturer's specifications in order to minimise exhaust emissions.
- (g) If necessary, temporary cessation of works resulting in dust raising during excessively dry and windy conditions.

16. WASTE MANAGEMENT

- (a) The work site is to be kept free of rubbish and cleaned up at the end of each working day.
- (b) All waste that cannot be recycled is to be disposed at a legally operating waste facility.
- (c) No waste is to be burnt or buried on-site.
- (d) All opportunities for recycling are to be implemented.
- (e) All waste is to be classified in accordance with the EPA's Waste Classification Guidelines and stored and handled in accordance with its classification.

17. FUEL AND CHEMICAL MANAGEMENT

- (a) Storage, handling and use of any potentially hazardous materials will be in accordance with the WorkCover NSW *Storage and Handling of Dangerous Goods – Code of Practice* (2005).
- (b) Activities with the potential for spills (e.g. refueling) is not to be undertaken adjacent any existing drainage line or dam and a suitable spill response and containment kit will be available on site whenever and wherever this type of higher risk activity is undertaken.

18. INCIDENT MANAGEMENT

Procedures to be established for recording and reporting any incident that causes or has the potential to cause material harm to the environment.

19. COMMUNITY CONSULTATION

- (a) Neighbours are to be kept informed of any activity on the site as necessary.
- (b) A procedure to be established for receiving, investigating and reporting any complaint received.

20. UPGRADING

Prior to carrying out any upgrades, the applicant is to provide revised layout plans of the development to Council.

21. DEVELOPER LEVY

Prior to completion of construction the developer levy to the value of 1% of the Capital Investment Value for the Development is to be paid in accordance with Federation Council's

Developer Levy Plan. Please note that council may request a quantity Surveyors report to ensure the capital value of the works undertaken.

TRANSPORT FOR NSW CONDITIONS

22. VEHICULAR ACCESS TO TOCUMWAL ROAD IS DENIED

Vehicular access to Tocumwal Road (MR550) is denied. All access to the subject site shall be via Wemyss Road in accordance with Council requirements.

23. DUST SUPPRESSION

A management plan to provide measures to suppress dust generation from the development site and the transportation route shall be prepared and implemented to the satisfaction of Council and Transport for NSW.

24. EXTERNAL LIGHTING

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.

25. GLINT AND GLARE FROM THE SOLAR PANELS

Glint and glare from the solar panels shall not cause a nuisance, disturbance or hazard to the travelling public on the public road network. In the event of glint or glare from the solar plant being evident from a public road, 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.

26. WORKS AT NO COST TO TRANSPORT NSW

Works for the proposed development shall be at no cost to Transport for New South Wales.

27. DEPARTMENT OF ENVIRONMENT, ENERGY AND SCIENCE

- (a) There is to be at least a 3m buffer between the mapped boundary of native vegetation (or drip line of the trees for unmapped native vegetation) and the proposed security fencing. The buffer is not to be cleared, mowed or used for vehicle access.
- (b) Screening plantings and soil stabilisation will be with native species that are components of the Inland Grey Box Woodland endangered ecological community
- (c) Disturbance for construction, including materials laydown, will be wholly within the development footprint and inside the proposed boundary fence.
- (d) Weed and pest control within 20 metres of the mapped boundary of remnant vegetation (southern boundary) will use ecologically sensitive methods

28. ESSENTIAL ENERGY

- (a) If the proposed development changes, there may be potential safety risks. Essential Energy is to be consulted for further comment for any amendment.
- (b) Any existing encumbrances/easements on favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- (c) Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar energy farm system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreement(s) and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer to Essential Energy's Network Connections team for requirements via email: networkconnections@essentialenergy.com.au
- (d) Essential Energy has existing overhead powerlines (and easement) located in the property and in the vicinity of the proposed access road
 - (i) Minimum safety clearance requirements are to be maintained at all times for the proposed access road, as such proposed access road will pass under Essential Energy's existing overhead powerlines located on the property. Refer to Essential Energy's policy CEOM7106.25 *Minimum Clearance Requirements for NSW* and refer to the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
 - (ii) The proposed access road must comply with clearances for trafficable land, ground clearances must be maintained.
 - (iii) The proposed access road must remain at least 1.0 metre away from any electricity infrastructure (power pole) at all times, to prevent accidental damage.
- (e) Any landscaping proposed in the vicinity of the existing overhead powerlines (and easement) must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
- (f) Works near Electricity infrastructure 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.
- (g) Prior to carrying out any works, a 'Dial Before You Dig' enquiry should be undertaken in accordance with the requirements of Part 5E (*Protection of Underground Electricity Power Lines*) of the Electricity Supply Act 1995.
- (h) It is the responsibility of the person(s) completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (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 and Code of Practice – Work near Underground Assets.

REASONS FOR CONDITIONS

The above conditions have been imposed:

- (a) to ensure compliance with the provisions of the applicable environmental planning instruments;
- (b) having regard to Council's duties of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 which authorises the imposing of the consent conditions; and
- (c) to protect the amenity, safety and environmental quality

Appendix 2.

Agency Submissions

Dear Sir/Madam,

We refer to the above matter and to your correspondence via the NSW Planning Portal seeking comment from Essential Energy in relation to the proposed development.

Strictly based on the documents submitted, Essential Energy has no comments to make as to potential safety risks arising from the proposed development.

Essential Energy makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar energy farm system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreement/s and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer Essential Energy's Network Connections team for requirements via email networkconnections@essentialenergy.com.au.
4. Essential Energy has existing overhead powerlines (and easement) located on the property and in the vicinity of the proposed access road:
 - a. Minimum safety clearance requirements are to be maintained at all times for the proposed access road, as such proposed access road will pass under Essential Energy's existing overhead powerlines located on the property. Refer Essential Energy's policy *CEOM7106.25 Minimum Clearance Requirements for NSW* and refer the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
 - b. The proposed access road must comply with clearances for trafficable land, ground clearances must be maintained.
 - c. The proposed access road must remain at least 1.0 metre away from any electricity infrastructure (power pole) at all times, to prevent accidental damage.
5. Any landscaping proposed in the vicinity of the existing overhead powerlines (and easement) must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
6. In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location 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.

7. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
8. 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. SafeWork NSW (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* and *Code of Practice – Work near Underground Assets*.

Should you require any clarification, please do not hesitate to contact us.

Regards

Fiona Duncan
Conveyancing Officer
Legal & Conveyancing
Governance & Corporate Services



T: 02 6589 8773 (Ext 88773) | conveyancingteam@essentialenergy.com.au

MDBA REF: D21/28810
YOUR REF: DA 2021/259 (CNR-24841, A-29318)

19 July 2021

Susan Appleyard
Federation Council
c/- [NSW Government Planning Portal](#)

Dear Susan

Subject: Development Application – DA 2021/259 (CNR-24841, A-29318)

We refer to the above proposal for a 5MW solar farm at 2//DP842047, 7 Wemyss Rd Mulwala NSW 2647.

In considering this proposal, it is the role of the Murray-Darling Basin Authority (MDBA) to ensure the water quality of the River Murray is maintained or improved, contributing to the protection of the riverine and floodplain environment. Additionally, we ensure there is no impact on the flow carrying capacity of the River Murray.

Based on the information provided, the MDBA has completed its assessment and concludes the proposal is unlikely to have a detrimental impact on the flow, control, use, or quality of the River Murray.


Should you have any further queries, please direct them to RiverMurrayHealth@mdba.gov.au.


Yours sincerely,



Dr Asitha Katupitiya
Director
River Murray Water Quality

Office locations
Adelaide, Albury-Wodonga, Canberra, Goondiwindi, Griffith, Mildura, Murray Bridge, Toowoomba

 mdba.gov.au

 1800 230 067

 engagement@mdba.gov.au

Subject: Concurrence and Referral (CNR-24841) Mulwala Waters Solar Farm 7 Wemyss Road
Mulwala 2647

Dear Susan

I refer to Concurrence and Referral (CNR-24841) in relation to Development Application 2021/259 for solar farm (electricity generating works) at 7 Wemyss Road Mulwala 2647. It is understood the application has been referred to the Department in accordance with Clause 13 of the *Murray Regional Environmental Plan No. 2 – Riverine Land* (MREP No. 2).

The Department has reviewed the proposed development and associated documentation and does not have any specific comments to make. However, Council is advised to refer the development application to the Department of Planning, Industry and Environment – Environment, Energy and Science via the NSW Planning Portal for advice on the biodiversity and aboriginal heritage impacts of the proposal.

Council should also ensure all relevant legislation and policies are appropriately considered in the assessment and determination of this application including Section 4.15 of the *Environmental Planning and Assessment Act 1979*, the Planning Principles identified in Part 2 of the *Murray Regional Environmental Plan No. 2 – Riverine Land*.

Should you require any further information regarding the contents of this email, please do not hesitate to contact me via the contact details below.

Kind regards,

Paul Amoateng

Planning Officer, Western Region

Local and Regional Planning | Department of Planning, Industry and Environment

Please note the application was referred to DPIE - Environment, Energy and Science divisions via email as the referrals via the portal failed. No submissions were received for the amended application so the responses from the agencies for the withdrawn DA 2020/96 were used as part of the assessment of impacts.



DOC21/583898-14

The General Manager
Federation Council
PO Box 77
COROWA NSW 2646

Via CNR Planning Portal

Attention: Susan Appleyard

ELECTRONIC
20 July 2021

Re Development Application 2021/259 – Mulwala Waters Solar Farm

Dear Mr Butler,

Thank you for Federation Council's request for NSW Environment Protection Authority's (EPA) input for the proposed Mulwala Waters Solar Farm located at 7 Wymess Road, Mulwala, Lot 2 DP842047 – DA2021/259 (The Proposal).

The proposal was referred to the NSW EPA under the Murray Regional Environmental Plan No. 2 and consists of:

- The establishment of a 5MW solar farm consisting of 12,100 solar panels covering 13.27 hectares of Lot 2 – DP842047, located on Wymess Road, Mulwala.

The NSW EPA has responsibilities for pollution control and environmental management for scheduled activities under the *Protection of the Environment Operations Act 1997* (the POEO Act). Under Schedule 1 of the POEO Act 1997, electricity works that generate electricity through the use of solar and wind are not scheduled. This means that the EPA is not the appropriate regulatory authority for solar farms in NSW.

Please note the proponent should be aware that under Section 120 of the POEO Act, it is an offence in New South Wales to pollute waters. Should the development application be approved, the proponent must take all necessary precautions and implement all practical measures that can be taken to prevent, control, abate or mitigate water pollution and protect human health and the environment from harm during the construction phase.

In view of these factors, the EPA has no further comment to provide on the proposal.



Planning,
Industry &
Environment

Our ref: DOC20-578578

Senders ref: DA 2020/96

Chris Nevins
Federation Council
COROWA NSW 2646

Via Concurrence & Referral Portal CNR-9527

6 August 2020

Dear Chris

**Subject: DA 2020/96 – Referral, Murray REP2 Riverine Land Development
Yarrum Park, 7 Wemyss Road, Mulwala – Mulwala Waters Solar Farm**

The following information about the above development application lodged on the NSW Planning Portal on 15 July 2020 is provided by the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (the Department). BCD has statutory responsibilities relating to biodiversity (including threatened species, populations, ecological communities, or their habitats) and flooding.

We have reviewed the supplied Development Application and Biodiversity Assessment and provide the following comments in relation to biodiversity.

It appears that the proponent has located the solar array within the proposal site to avoid most biodiversity impacts. However, the biodiversity assessment lacks site-specific detail and justification for conclusions about the significance of impacts to biodiversity values. In summary:

1. Ancillary infrastructure shown on the General Arrangement Plan must be included in the assessment of impacts.
2. The area of native vegetation to be cleared has not been provided.
3. Results from the BioNet Atlas of NSW Wildlife have been incorrectly interpreted.
4. There is not enough information to justify the conclusion that the development will not have a significant impact on threatened entities.
5. BCD is concerned that there are inadequate buffers between Inland Grey Box woodland endangered ecological community (listed under the NSW *Biodiversity Conservation Act 2016*) and existing and proposed vehicle access to avoid impacts.

If the development is approved, we recommend that Council include conditions of consent to ensure that remnant vegetation on and adjacent the site is neither directly or indirectly impacted during construction and operation of the solar farm. Additional details are provided in **Attachment A**.

If you have any questions about this advice, please contact Miranda Kerr, Senior Biodiversity Conservation Officer, via rog.southwest@environment.nsw.gov.au or 02 6022 0607.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Fisher'.

Andrew Fisher
Senior Team Leader Planning
South West Branch
Biodiversity and Conservation Division
Department of Planning, Industry and Environment

ATTACHMENT A

Detailed comment on DA 2020/96 Mulwala Waters Solar Farm (CNR-9527)

ATTACHMENT A Detailed comment on DA 2020/96 Mulwala Waters Solar Farm (CNR-9527)

The Biodiversity Assessment for Mulwala Waters Solar Farm (Zenith Town Planning, Rev A, May 2020) lacks site-specific detail and justification for conclusions about the significance of impacts to biodiversity values.

1. Ancillary infrastructure such as the 20 m 22 KV easement and 'Telstra line' shown on the General Arrangement Plan (Rev 1, 23 March 2020) must be included in the assessment of impacts. It is unclear whether native vegetation clearing will be required for these aspects of the proposal.
2. The area of native vegetation to be cleared has not been provided.
 - o In parts of NSW where site-scale vegetation mapping is not available, the Biodiversity Offset Scheme Entry Threshold Tool (BOSET) requires the assessor to manually determine if the area clearing threshold has been triggered. The area digitised for the Biodiversity Values Map and Threshold Report provided at Appendix C should be limited to native vegetation that will be cleared, rather than delineating the whole disturbance footprint.
 - o Individual native trees in paddocks may provide habitat for threatened species or be part of a threatened ecological community and should be included in the calculation of native vegetation to be cleared. We calculate that 0.06 ha of native vegetation will be cleared.
3. Results from the BioNet Atlas of NSW Wildlife have been incorrectly interpreted as a single species record (page 6).
 - o The reported Dusky Woodswallow is one of seven records for five bird species in the same location. The stated accuracy of 1000 m indicates that the coordinates of the point are a general location for bird records in the area, rather than precise survey results. The additional threatened species are all listed as Vulnerable under the NSW *Biodiversity Conservation Act 2016* (BC Act): Little Eagle, Diamond Firetail, Speckled Warbler and Brown Treecreeper.
 - o If Council require the proponent to revise the biodiversity assessment, it should include an assessment of the habitat requirements for each of these species, along with likelihood of impacts due to the proposal. If threatened species or their habitat will be impacted, the biodiversity assessment should provide a test of significance.
4. There is not enough information to justify the conclusion that the development will not have a significant impact on threatened entities.
 - o There does not appear to have been an on-site survey to support the conclusion on page 12 that habitat for threatened species does not occur on the proposal site.
 - o The biodiversity assessment should provide details about the five trees that are proposed for removal (page 6). The species of tree, trunk diameter and presence of fauna habitat, such as hollows, are needed to determine the likelihood of threatened species being present and as a basis for assessing significance of impacts.
 - o The presence of Sloane's froglet on the proposal site is discounted due to proximity to the adjacent Murray Valley Regional Park. Sloane's froglet inhabits low-lying grassland and woodland and disturbed areas, rather than the forested wetland provided in the adjacent reserve. Its preferred habitat includes marshy areas around farm dams and drainage depressions that may occur on periodically flooded parts of the proposal site. More information about Sloane's froglet habitat requirements can be found on the DPIE Threatened Species Website at www.environment.nsw.gov.au/threatenedspeciesapp/profile.aspx?id=20088. The Albury Conservation Company provides information about Sloane's froglet habitat that is relevant to Federation Local Government Area www.alburyconservationco.org.au/wp-content/uploads/2013/07/Sloanes-Froglet-brochure.pdf.

5. The application states that site access can be gained without further disturbance to native vegetation. BCD is concerned that there are inadequate buffers between important native vegetation and existing and proposed vehicle access to avoid impacts.
- The site contains and adjoins remnant vegetation that is part of the Inland Grey Box woodland endangered ecological community listed on the BC Act (PCT 76), some of which also conforms to the analogous Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*-listed community. Endangered ecological communities include ground cover species present without a tree canopy.
 - The proposed internal track appears to be close to the boundary of the vegetation patch on the northern boundary development footprint.
 - The existing access via Wemyss Road does not appear to be wide enough for the expected vehicle traffic.

Recommended conditions of development consent

BCD support the mitigation measures provided on page 14, which could be included as conditions of development consent with additional details.

If the development is approved, we recommend that Council include the following conditions of consent to ensure that remnant vegetation on and adjacent the site is neither directly or indirectly impacted during construction and operation of the solar farm:

- *No-go zones be established and clearly marked to prevent disturbance to remnant native vegetation on the proposal site.*
- *No native vegetation is to be cleared, trimmed or lopped, including ground cover.*
- *There is to be a buffer of at least 5 m between the mapped boundary of native vegetation (or dripline of trees for unmapped native vegetation) and the proposed security fencing. The buffer is not to be cleared, mowed or used for vehicle access.*
- *Screening plantings and soil stabilisation will be with native species that are components of the Inland Grey Box Woodland endangered ecological community.*
- *Disturbance for construction, including materials laydown, will be wholly within the development footprint and inside the proposed boundary fence.*
- *Weed and pest control within 20 m of the mapped boundary of remnant vegetation will use ecologically sensitive methods.*

23 September 2020

The General Manager

Federation Council

PO Box 77

COROWA NSW 2646

Attention: Susan Appleyard

DA 2020/96 – PROPOSED SOLAR FARM, LOT 2 DP842047, 7 WEMYSS ROAD, MULWALA

I refer to your correspondence regarding the subject Application which was referred to Transport for NSW (TfNSW), formerly Roads and Maritime Services, for assessment and comment.

From the information provided it is understood that the proposal is for the establishment and operation of a 5 MW solar photovoltaic (PV) plant and associated infrastructure on the subject site. The development will comprise of series of photovoltaic (PV) modules mounted on single axis trackers with a maximum height not exceeding 3m above ground level. The application is supported by a Statement of Environmental Effects (SEE) prepared by Zenith Town Planning.

The subject site has frontage to Tocumwal Road and Wemyss Road. Tocumwal Road (MR550) is a Classified “Regional” Road and has a posted speed limit of 100km/h for the frontage of the site. The current policy of TfNSW is to minimise the number of conflict points along Classified Roads to promote road safety and efficiency on the main road network. Access to the development from Wymess Road as proposed in the submitted documentation is consistent with clause 101 of SEPP (Infrastructure).

Due to the small scale of the proposed solar farm being 5 MW and the traffic generation volumes and worker numbers involved in the construction of the project are low therefore the potential impacts on the road network impacts are minimal. The intersection of Wemyss Road with the Tocumwal Road is currently sealed however Council may consider the need for works to minimise the impact of the development on Wemyss Road.

It is understood that the construction of the proposed Solar farm may coincide with the construction of a previously approved solar farm also located along Wymess Road. To address cumulative traffic generation from both developments being constructed concurrently Council may consider the requirement for preparation of a Traffic Management Plan for the construction period.

The development site is adjacent to the public road network. It is recommended that the establishment of plantings be used to screen the development from view from the public roads. Whilst the landscaping is establishing it may be necessary to implement short term measures such as screening fences to address glint and glare should this become an issue. This is proposed to shield the facility from the most frequent and direct views from Tocumwal Road to minimise distraction of the motorist.

Transport for NSW emphasises the need to minimise the impact of development on the existing public road network and maintain the level of safety, efficiency and maintenance along the road network. As the proposed development has frontage to Tocumwal Road within a 100 km/h speed zone the following conditions are appropriate for road safety and network efficiency reasons.

Transport for NSW has assessed the Development Application based on the documentation provided and would raise no objection to the development proposal and grant concurrence in accordance with section 138 of the Roads Act subject to the Consent Authority ensuring that the development is undertaken in accordance with the information submitted as amended by the inclusion of the following as conditions of consent (if approved):-

1. Vehicular access directly to Tocumwal Road (MR550) is denied. All access to the subject site shall be via Wemyss Road. This access shall be constructed in accordance with Council requirements.
2. Any existing driveways or gates from the subject site to Tocumwal Road shall be removed and any damage or disturbance to the road reserve shall be restored to match surrounding landform in accordance with Council requirements.
3. As Wemyss Road is mostly unsealed a management plan to provide measures to suppress dust generation from the development site and the transportation route shall be prepared and implemented to the satisfaction of Council.
4. 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.
5. Glint and glare from the solar panels shall not cause a nuisance, disturbance or hazard to the travelling public on the public road network. In the event of glint or glare from the solar plant being evident from a public road, 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.
6. Works for the proposed development shall be at no cost to Transport for New South Wales.

Please be advised that under the provisions of the Environmental Planning & Assessment Act it is the responsibility of the Consent Authority to assess the environmental implications, and notify potentially affected persons, of any development including conditions.

Any enquiries regarding this correspondence may be referred to the Manager, Land Use, Transport for NSW (South West Region),
Please forward a copy of the Notice of Determination for this Development Application to the Land Use -Transport for NSW at the same time as advising the applicant.

Yours faithfully

Per:
Jonathan Tasker
Acting Director South West