

Department of Planning and Environment

Mr Stephen Barry

Planning Director – Independent Planning Commission

19 January 2024

Subject: Glanmire Solar Farm (SSD-21208499) – Response to Request for Comment - Recommended Conditions of Consent

Dear Mr Barry

I refer to your letter dated 17 January 2024, seeking the Department’s advice on the proposed conditions of consent for the Glanmire Solar Farm (project) for consideration of the NSW Independent Planning Commission (Commission), should it approve the project.

As requested by the Commission, the Department has considered workability, enforceability and any potential unintended consequences of the proposed conditions, and provides the following advice:

Proposed condition	Summary of the Commission’s comment	Department’s response
B5	Introduction of a new condition requiring a revised layout plan which includes new setbacks of 30m around the site	<p>The Department considers that the matter can be resolved through the inclusion of a revised general layout development plan, to be included in Appendix 1 of the consent which includes the setback distances as proposed by the IPC.</p> <p>The applicant is preparing a revised figure which is attached at the end of the letter.</p> <p>The Department also notes that the wording of the proposed condition would prohibit ancillary infrastructure within the setback, which would include fencing and internal roads as included in the definition of ancillary infrastructure.</p>
B16	Addition of “or such other terms as may be offered by the Applicant and agreed to by the Council”	<p>This introduction creates a risk that the final VPA will be inconsistent with the general terms of agreement, as summarised in Appendix 5 of the consent.</p> <p>The correspondence from Council dated 4 October 2023 accepts the proposed contribution amount from the applicant, and the Department considers that this introduction would undermine these</p>

Proposed condition	Summary of the Commission's comment	Department's response
		previous negotiations and reduce certainty for the applicant. Recommend deletion.
B17	Introduction of a new condition requiring a community communication strategy	The Department considers that Condition D1 - Environmental Management Strategy and Condition D20 - Access to information appropriately cover these matters, noting the type and scale of the development. In addition, the post-approval management plans/strategies that cover traffic, biodiversity and heritage must be published on the Applicant's website once approved.
C4	Road Upgrades – inclusion of the words “prior to issue of any construction certificate for the solar panels and any ancillary infrastructure” and deletion of “prior to commencing construction”	<p>The Department does not consider these changes are required, noting:</p> <ul style="list-style-type: none"> • The Traffic Management Plan (TMP) must be approved by the Planning Secretary prior to commencing the road upgrade works (see Condition C7); and • The Applicant must consult with Council and TfNSW during the preparation of the TMP, which includes provisions for providing details of the road upgrade works required under this condition in Condition C7(b); and <p>The condition as drafted by the DPE require that road upgrade works must be completed prior to the commencement of construction.</p>
C8	Inclusion of a condition requiring an updated landscaping plan in consultation with Council and receivers	<p>Similar to B5, the Department considers that this can be resolved through the provision of an updated landscape plan figure to be included in Appendix 4, which clearly shows the increased setbacks.</p> <p>The existing landscape plan includes screening around the entire boundary of the development and the Department has confirmed with the applicant that the inclusion of a 30m APZ along the eastern and western boundaries would not require changes</p>

Proposed condition	Summary of the Commission's comment	Department's response
		<p>to the proposed plantings in terms of their design or species.</p> <p>The applicant is preparing a revised landscape plan which is provided at the end of this letter.</p>
C9	Vegetation Buffer - Introduction of requirement for the landscape screening to minimise views from the development to various receivers within 3 years of commencing operations – new provisions (c) & (d)	<p>The Department does not consider these additions to the Vegetation Buffer condition are warranted noting:</p> <ul style="list-style-type: none"> • The unmitigated visual impact rating on residences R4, R5, R7, R21 are very low to nil, as detailed in the Department's assessment. • The Technical Supplement to the Large-Scale Solar Energy Guideline 2022 notes that no mitigation is required where impacts are low to nil. • Notwithstanding, the applicant is proposing screening along the boundary of the site, beyond the requirements of the Guideline. • If this condition is to be included, the Department recommends that the timeframe be extended to 5 rather than 3 years.
C10	Introduction of a new Visual Screening condition allowing some receivers to request additional on-site screening	<p>As above, the Department does not consider this Visual Screening condition is warranted noting:</p> <ul style="list-style-type: none"> • The unmitigated visual impact rating on residences R4, R5, R7, R21 are very low to nil, as detailed in the Department's assessment. • The Technical Supplement to the Large-Scale Solar Energy Guideline 2022 notes that no mitigation is required where impacts are low to nil. • The requirements of Condition C9 Vegetation Buffer would further reduce residual low visual impacts.

Proposed condition	Summary of the Commission's comment	Department's response
		<ul style="list-style-type: none"> The addition of this Condition adds to the post-approval burden for all stakeholders without need.
C11	Promotion of possible agri-solar uses e.g cropping within the development footprint and buffer zones	<p>The site is currently used for grazing and occasionally cropping. The applicant has proposed implementing agri-solar through possible rotational grazing across the site, however the possibility of retaining any cropping activities has not been discussed with the landowner and is not proposed. Additionally, cropping activities in the buffer zones may reduce their effectiveness as mitigation for bushfire and heat-island effect purposes. Recommend deletion of the words “and crop” and the words “and buffer zones”</p>
C12	Inclusion of the words “ensure that glare risk to receiver R7 is limited to a yearly total of 100 minutes”	<p>The condition C12(a) which limits the angle of solar panel backtracking is intended to limit the impacts of glare to the amounts identified in the assessment. There is no practical way to monitor the amount of glare experienced by a particular receiver without extensive daily monitoring including of meteorological conditions such as cloud cover to determine actual impacts. Additionally, these glare impacts will be removed entirely once the vegetation screening is in place. Recommend deletion of this condition.</p>
C31	Inclusion of the words “minimum 20 metres around the substation and transformer”	<p>This was not suggested by either NSW RFS or FRNSW in any of their advice on the project, nor is it required under the provisions of Planning for Bushfire Protection 2019. Recommend these words be deleted.</p>
C32	Emergency Plan - Inclusion of “Prior to commencing construction of the solar farm and commissioning of the	<p>It is standard practice for the Emergency Plan to be prepared prior to the construction of the project rather than prior to the commissioning as it a broader document covering all the different stages of construction. The commissioning of the BESS</p>

Proposed condition	Summary of the Commission’s comment	Department’s response
	BESS” and deletion of “prior to commencing construction”	cannot occur before the rest of the solar farm has been constructed. Recommend reverting to original wording as this has the same effect.
C34	Inclusion of “in consultation with Council for use of Council facilities”	<p>This condition is unclear whether it is referring to all facilities within the LGA, or specific council sites.</p> <p>Any licenced facility would need to accept the waste from the project prior to delivery, so this condition is unnecessary – recommend deletion.</p>
C35	Require the Accommodation and Employment Strategy to be provided to the Planning Secretary a minimum of 6 months prior to commencement of construction	The Planning Secretary has no approval role in the Accommodation and Employment Strategy and requiring it to be provided 6 months prior to the commencement of construction could possibly lead to project delays – recommend deletion.
C36	Introduction of a requirement to prepare a decommissioning and rehabilitation plan for the development	<p>With the implementation of objective-based conditions and monitoring requirements, as noted in Table 3 and in accordance with the Large-Scale Solar Guideline, the Department considers that the solar farm would be suitably decommissioned at the end of the project life, or within 18 months if operations cease unexpectedly, and that the site be appropriately rehabilitated.</p> <p>Further, If an applicant or landholder fails to meet the decommissioning and rehabilitation obligations prescribed by the development consent, the Department can use its enforcement powers under the EP&A Act to address any breaches of the consent conditions.</p> <p>With the above in mind, if the Commission is intent on keeping this Decommissioning and Rehabilitation Plan, the Department requests the Commission removes 'to the satisfaction of the Secretary'. This would add to the post approval burden on the Department for a plan that the Department does not consider is necessary.</p>

Proposed condition	Summary of the Commission’s comment	Department’s response
C37	Inclusion of “All infrastructure including above and below ground to be decommissioned and removed with exception of the substation and any infrastructure essential for its ongoing use”	<p>It is typical for applicants to remove infrastructure to a particular depth, e.g. 1 m in order to leave in low laying infrastructure which may be particularly difficult to remove and will not impact the long-term use of the site. The applicant currently has an agreement with the landowner to remove infrastructure to a depth of 1 m.</p> <p>The only remaining infrastructure below 1 m is likely to be some minor cabling, with the majority of cabling undertaken at a depth of 700 mm but some areas requiring slightly deeper. It is unlikely these will have any impact on the ongoing agricultural use of the site, particularly noting that cropping on the site has largely been for feed crops only.</p> <p>Additionally, the way this condition has been worded prevents the retainment of any project infrastructure, such as fences along the boundary, river crossings, internal tracks, which may be beneficial for the landowner and the continued use of the site.</p> <p>Recommend the original condition here is retained.</p>
D1	Introduction of a requirement to provide respite periods during construction for certain residences	<p>Construction noise exceedances at these receivers is only predicted to be when works are conducted within 700m of the dwellings – these works are expected to be completed over two to three days.</p> <p>The Interim Construction Noise Guideline (ICNG) provides guidance on managing impacts to receivers who are noise-affected. It outlines that 75 DB(A) is the highly noise affected threshold at which consent authorities may require respite periods.</p> <p>Given the exceedances are below this threshold, and only for a short duration, it is proposed to delete this requirement.</p> <p>If this requirement is to maintained, it should be included in with the other noise conditions in C21.</p>

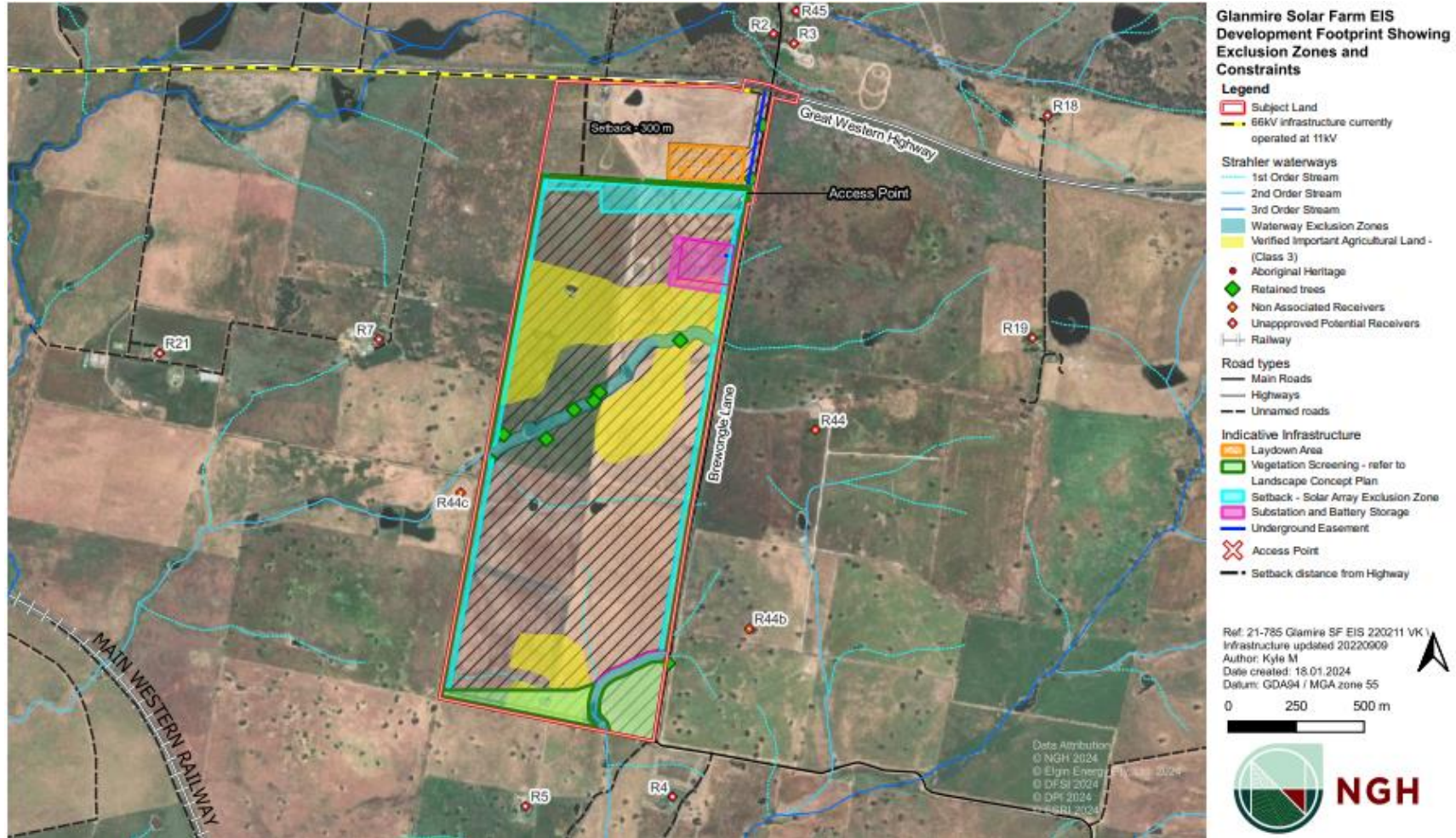
Proposed condition	Summary of the Commission’s comment	Department’s response
D7	Introduction of a requirement to notify Council before commencing a particular stage of development	Council doesn’t have a regulatory role with this development. The Department publishes post-approval matters on the NSW Planning Portal. Recommend deletion.
Other suggested amendments to conditions		
Appendix 7	Applicant is preparing a revised heritage figure to take into account the additional setbacks.	
Definitions	Note the following changes to agency names: <ul style="list-style-type: none"> - NSW DCCEEW - NSW Department of Climate Change, Energy, the Environment and Water - Heritage NSW - Heritage NSW Group within NSW DCCEEW - BCS - Biodiversity Conservation and Science Group within NSW DCCEEW - EPA - Environment Protection Authority 	

The Department has no comment on the Commission’s other proposed changes to the Department’s recommended conditions of consent.

Yours sincerely,



Clay Preshaw
 Executive Director
 Energy, Resources and Industry Assessments



3.0 Concept Plan

