



New South Wales Government
Independent Planning Commission

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Glanmire Solar Farm

SSD 21208499

Statement of Reasons for Decision

Dr Sheridan Coakes (Chair)
Mr Chris Wilson
Mr Richard Pearson

30 January 2024

Executive Summary

Elgin Energy Pty Ltd (the Applicant) has sought consent for the development of a new 60-megawatt (MW) solar farm and a 60 MW / 120 MW-hour battery, known as the Glanmire Solar Farm (SSD-21208499) (the Project). The site (Site) is located approximately 7 kilometres (km) east of Bathurst, adjacent to the Great Western Highway.

The Project represents an investment of \$152 million and is stated to generate approximately 150 construction and 3 operational jobs.

The NSW Independent Planning Commission (Commission) is the consent authority for the Project because more than 50 public objections were made to the former Department of Planning and Environment (Department).

Commissioners Sheridan Coakes (Chair), Richard Pearson, and Chris Wilson were appointed to constitute the Commission Panel in determining the application. As part of its determination process, the Commission met with representatives of the Applicant, the Department, and Bathurst Regional Council (Council). The Commission also undertook a site inspection and locality tour, with community representatives from the Glanmire Action Group and Bathurst Community Climate Action Network present at the site inspection.

The Commission conducted a Public Meeting on 30 November 2023 that was live streamed. The Commission also received written submissions on the Project.

Key issues which are the subject of findings in this Statement of Reasons for Decision relate to land use compatibility (including impacts on agricultural land), visual impacts (including landscaping and visual mitigation measures), traffic and transport, socioeconomic impacts, decommissioning and rehabilitation, water, and insurance. After careful consideration and having requested and received additional information from both the Applicant and the Department, the Commission has determined that consent should be granted to the State significant development application, subject to conditions.

The Commission finds that the Site is suitable for renewable energy development, given its topography, solar resources, avoidance of major environmental constraints, access to the regional road network, and its proximity to existing and planned electricity transmission networks.

The Commission has imposed conditions which seek to prevent, minimise and/or offset adverse impacts of the Project and to ensure appropriate ongoing monitoring and management of any residual impacts. The Applicant will also be required to prepare and implement a number of comprehensive management plans and strategies and will be required to report on mitigation and monitoring outcomes as well as demonstrate compliance with specific performance criteria on an ongoing basis.

The conditions as imposed by the Commission include several changes to the recommended conditions to both strengthen the environmental management of the development, including increased setbacks and the requirement for the complete rehabilitation of the Site. Other conditions have either been amended or incorporated to respond to concerns raised by the community. The imposed conditions include, but are not limited to, requirements for the Applicant to:

- prepare a revised General Layout of Development Plan prior to the issue of any construction certificate, which must: incorporate a minimum setback of 30 metres (m) from the western and eastern boundaries of the Site; retain the existing proposed setbacks at the northern and southern boundaries of the Site; only include land owned by the Applicant, or land with which the Applicant has the written consent of the landowner to use the land as a setback; and includes opportunities for additional vegetation screening as a consequence of the increased setbacks.
- prepare a Community Communication Strategy to facilitate communication between the Applicant, Council and the community during the design, construction, operation and decommissioning stages of the Project;
- update the Landscape Plan prior to the issue of any construction certificate to reflect the increased setbacks and include opportunities for additional vegetative screening to further reduce visual impacts and integrate the Site into the broader landscape;

- further minimise visual impacts through the establishment of landscape screening on the land of four neighbouring residential receivers within 5 years of the commencement of planting of on-site landscape screening (should the landowners request it);
- maintain the agricultural land capability of the Site, including establishing the ground cover of the Site, and maximising current and future opportunities for dual land use (i.e. the capability to graze and/or crop) as far as practicable;
- identify appropriate, feasible and reasonable respite and repose periods in consultation with the landowners of affected receivers for construction works conducted within 700m of dwellings on these properties;
- prepare a Soil and Water Management Plan, which must be prepared by suitably qualified and experienced persons, and fully reflect current and expected hydrological conditions;
- prepare an Accommodation and Employment Strategy for the Project, in consultation with Council and informed by consultation with local accommodation and employment service providers, and including consideration of potential conflicts with key tourism, cultural and entertainment-related events in the LGA (such as motorsports); and
- prepare a Decommissioning and Rehabilitation Plan, early in the operation of the Project, central to which is the restoration of the Site's land capability to its pre-existing productive capacity. The plan will need to be updated halfway through the operational life of the Project and within 2 years prior to decommissioning, to reflect, but not be limited to, advances in recycling and waste management practices. The plan will need to be implemented on cessation of operations.

After consideration of the material and having taken into account the views of the community, the Commission has determined that development consent should be granted to the Application, subject to conditions as amended. The Commission finds that the Project is consistent with applicable strategic planning, energy frameworks, and relevant statutory considerations.

The Commission is satisfied that the Project is in accordance with the Objects of the EP&A Act and is in the public interest.

The Commission's reasons for approval of the Project are set out in this Statement of Reasons for Decision.

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Defined Terms

ABBREVIATION	DEFINITION
Agriculture Commissioner's Report	NSW Agriculture Commissioner's <i>Renewable energy generation and agriculture in NSW's rural landscape and economy – growth sectors on a complementary path</i> , dated November 2022
Applicant	Elgin Energy Pty Ltd
Applicant's RFI response	The Applicant's response to the Commission's request for information, dated 12 December 2023
Application	Glanmire Solar Farm (SSD-21208499)
APZ	Asset protection zone
AR para	Paragraph of the Department's Assessment Report
Bathurst LGA	Bathurst Local Government Area
BESS	Battery energy storage system
BC Act	Biodiversity Conservation Act 2016
BCD	Biodiversity Conservation Division
BLEP 2014	<i>Bathurst Local Environmental Plan 2014</i>
CCPF	NSW Climate Change Policy Framework
Commission	Independent Planning Commission of NSW
Council	Bathurst Regional Council
Department	Department of Planning and Environment
Department's AR	Department's Assessment Report, dated 10 November 2023
Department's RFI response	The Department's response to the Commission's request for information, dated 12 December 2023
DPI	NSW Department of Primary Industries
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
Guideline FAQ	Solar Energy Guideline Frequently Asked Questions
HHA	The Applicant's Hydraulic and Hydrological Analysis, dated September 2022
ICA	Insurance Council of Australia
ICNG	Interim Construction Noise Guideline 2009
ISP	2022 Integrated System Plan (Australian Energy Market Operator)
kV	kilovolt
LGA	Local Government Area
LSC	Land and soil capability
Mandatory Considerations	Relevant mandatory considerations, as provided in s 4.15(1) of the EP&A Act
Material	The material set out in section 3.1 of this Statement of Reasons
MW	Megawatt
Net Zero Plan	Net Zero Plan Stage 1: 2020-2030 (NSW Government)
NPfl	NSW Noise Policy for Industry
Planning Systems SEPP	<i>State Environmental Planning Policy (Planning Systems) 2021</i>
Project	Development of a new 60 MW solar farm and 60 MW / 120 MW-hour battery, approximately 7 kilometres east of Bathurst, known as the Glanmire Solar Farm
RAPs	Registered Aboriginal Parties
Resources SEPP	State Environmental Planning Policy (Resources and Energy) 2021
RtS	Response to Submissions
Site	The Glanmire Solar Farm, as illustrated in Figure 1
Solar Energy Guideline	The Department's <i>Large-Scale Solar Energy Guideline</i> , dated August 2022
Soil Assessment	The Applicant's Soil and Agricultural Impact Assessment, dated September 2022
SSD	State Significant Development
TfNSW	Transport for New South Wales
The Roadmap	NSW Electricity Infrastructure Roadmap (NSW Government)
Transport and Infrastructure SEPP	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>
VPA	Voluntary Planning Agreement

1. Introduction

1. On 10 November 2023, the-then NSW Department of Planning and Environment (**Department**) referred the State significant development (**SSD**) application SSD-21208499 (**Application**) from Elgin Energy (**Applicant**) to the NSW Independent Planning Commission (**Commission**) for determination.
2. The Application seeks approval under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) for the Glanmire Solar Farm (the **Project**) located in the Bathurst Regional Council (**Council**) Local Government Area (**LGA**).
3. The Application constitutes SSD under section 4.36 of the EP&A Act and under section 20 of Schedule 1 of *State Environmental Planning Policy (Planning Systems) 2021* (**Planning Systems SEPP**) as it is development for the purpose of electricity generating works with a capital investment value of more than \$30 million (approximately \$152 million).
4. In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the Planning Systems SEPP, the Commission is the consent authority as more than 50 unique public submissions have been made by way of objection.
5. Professor Neal Menzies, as Acting Chair of the Commission, determined that Sheridan Coakes (Chair), Chris Wilson, and Richard Pearson would constitute the Commission for the purpose of exercising its functions with respect to the Application.
6. The Department provided its Assessment Report (**AR**) and recommended conditions of consent to the Commission on 10 November 2023 for assessment. The Department concluded that the Project would result in benefits to the State of NSW and the community and is therefore in the public interest and approvable.

2. The Application

2.1 Site and Locality

7. The 'Site' is defined as being within the Project boundary illustrated in Figures 1 and 2 below.
8. Paragraph (**para**) 6 of the Department's AR states that the Site is comprised largely of cleared cropping and grazing land zoned RU1 (Primary Production), with less than 1 ha of native vegetation mapped in the development footprint. The surrounding land is also zoned RU1 and used predominantly for agricultural purposes.
9. Access to the Site would be via the Great Western Highway and Brewongle Lane, which border the Site to the north and east, respectively.

Figure 1 – The Project Site (Source: Department's AR, page 2)

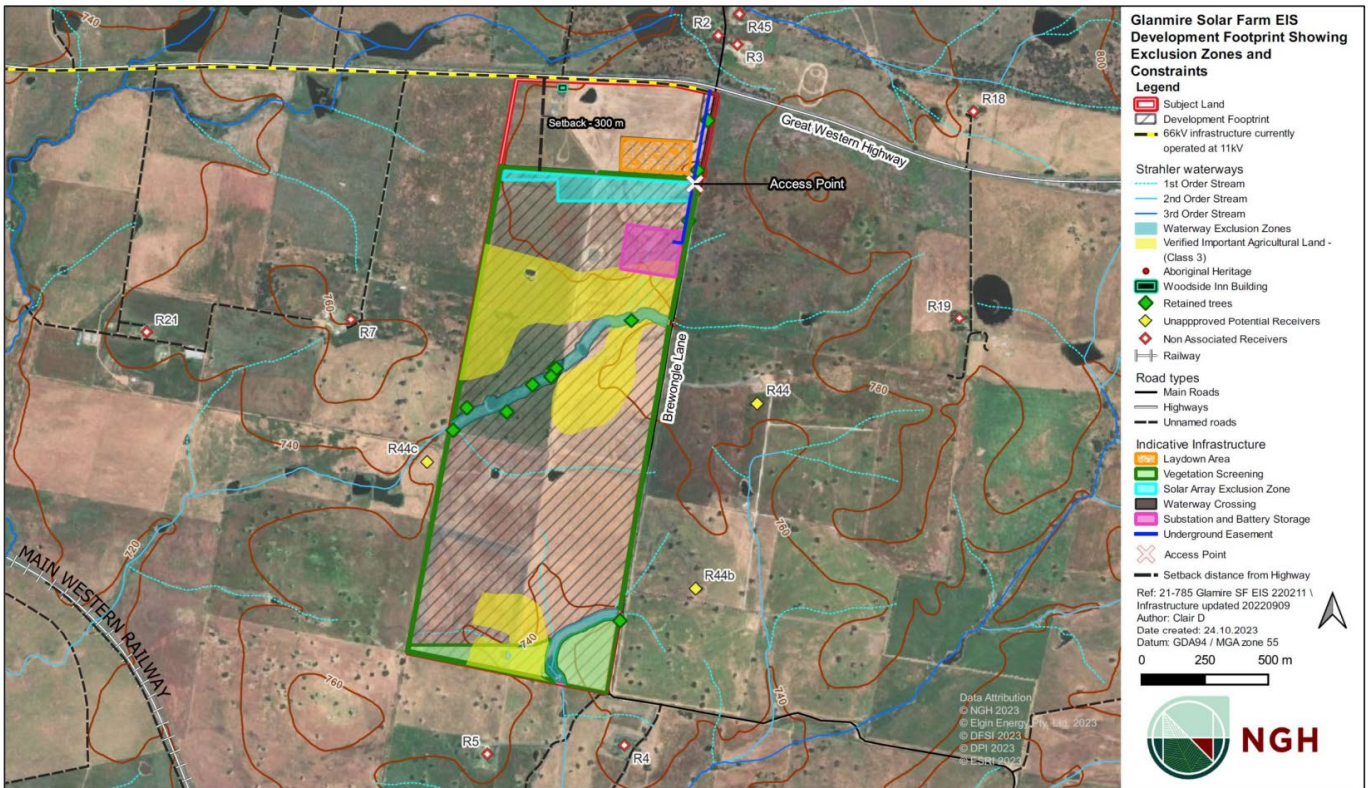
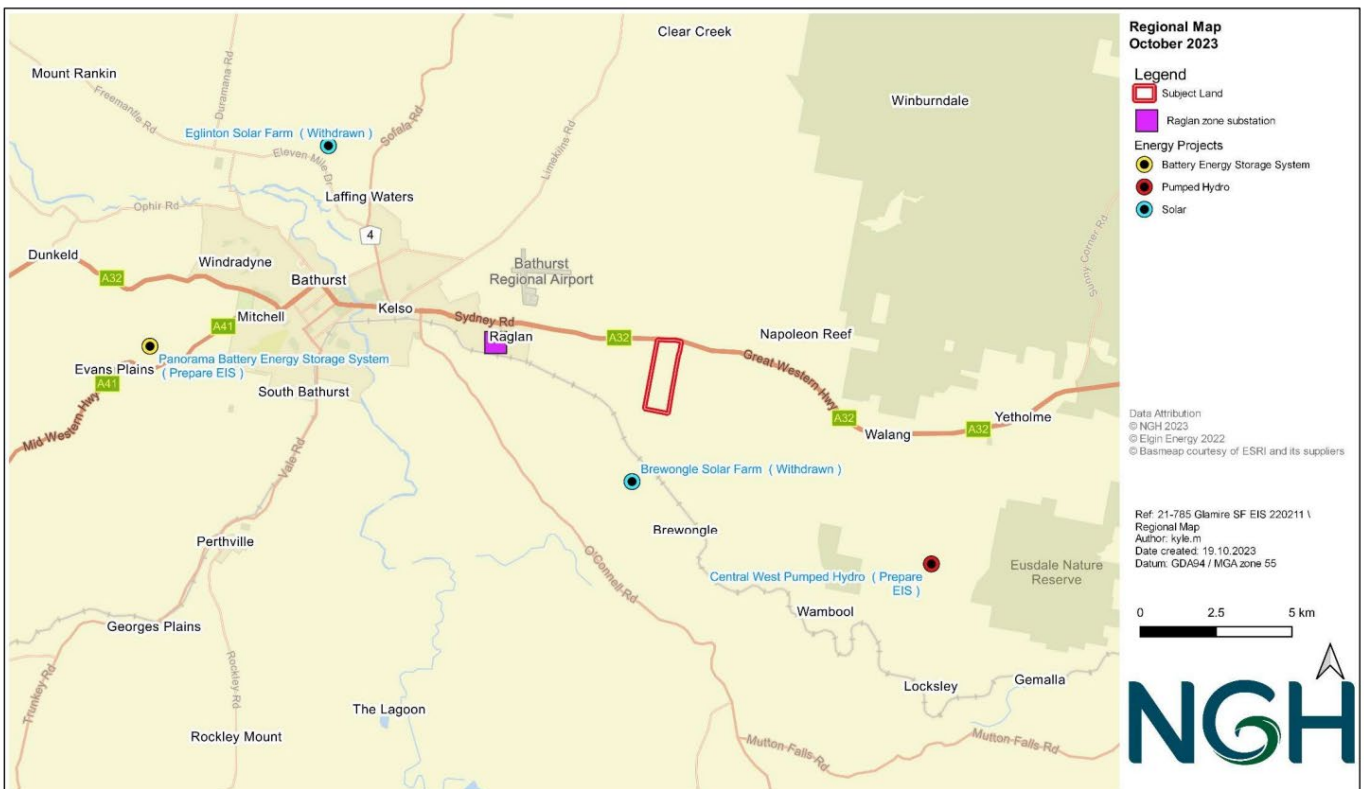


Figure 2 – Regional context (Source: Department's AR, page 4)



2.2 The Project

10. The Applicant is seeking approval to develop a 60-megawatt (**MW**) solar farm and an associated 60 MW / 120 MW-hour battery energy storage system (**BESS**), located approximately 10 kilometres east of Bathurst (AR para 1).
11. The Project would comprise approximately 128,000 solar panels mounted on a single axis tracking system (limited to a maximum height of 3.5m), supported by approximately 35 inverters, transformers and associated control equipment (AR Table 1). The Project would include an on-site substation and connection to the existing 66 kilovolt (**kV**) transmission line operated by Essential Energy via an underground powerline (AR para 2). Further detail on the refurbishment of the transmission line (required under separate approval) is provided at section 3.3.5 of this Statement of Reasons.
12. The Project is stated to provide approximately 150 construction jobs and support 3 operational jobs.
13. Further detail about the main aspects of the Project is provided at Table 1 in the Department's AR.

3. The Commission's Consideration

3.1 Material Considered by the Commission

14. In this determination, the Commission has considered the following material (**Material**):
 - the Planning Secretary's Environmental Assessment Requirements (**SEARs**) issued by the Department, dated 23 September 2021;
 - the following information provided by the Applicant:
 - the Environmental Impact Statement (**EIS**), dated 26 October 2022 and its accompanying appendices;
 - the Amendment Report, dated 4 September 2023 and its accompanying appendices;
 - the Response to Submissions Report (**RtS**), dated 4 September 2023 and its accompanying appendices
 - all public submissions on the EIS made to the Department during public exhibition;
 - all Government Agency advice to the Department;
 - the Department's AR, dated 10 November 2023;
 - the Department's recommended conditions of consent, dated 10 November 2023;
 - comments and presentation material at meetings with the Department, Applicant, Council, and the Public Meeting as referenced in Table 2 below;
 - the Department's response to the Commission's request for information, dated 12 December 2023 (**Department's RFI response**);
 - the Applicant's response to questions on notice, dated 29 November 2023;
 - the Applicant's response to the Commission's request for information, dated 12 December 2023 (**Applicant's RFI response**);
 - all written comments made to the Commission and material presented at the Public Meeting;
 - all written comments received by the Commission up until 5pm, Friday 8 December 2023;

- all written comments on the Additional Material received by the Commission between Thursday 14 December 2023 and 5pm AEDT Wednesday 20 December 2023; and
- the Department's comment (dated 19 January 2024) on the feasibility, workability, and any potential unintended consequences of the proposed conditions.

3.2 Strategic Context

15. The Commission has considered the strategic planning policies and guidelines relevant to the Site and the Project. The Commission finds that the Project is consistent with both the Federal and NSW Government's strategic planning frameworks as it would deliver up to 60 MW of renewable energy and assist in the transition to a lower emissions energy sector. In addition, the Project would generate benefits to the local community, including provision of up to 150 construction and 3 operational jobs, powering approximately 23,000 homes, and flow-on benefits to the local economy through expenditure and the procurement of goods and services. Finally, Council has agreed to the general terms for a Voluntary Planning Agreement (outlined in Table 2 of this Statement of Reasons) which would deliver broader community benefits for the life of the Project.

3.2.1 Energy context

Australia's Long-Term Emissions Reduction Plan 2021

16. The Australian Government's *Long Term Emissions Reduction Plan 2021* sets out how Australia will achieve net zero emissions by 2050. According to this plan, solar, wind and other renewable technologies are projected to provide over half of Australia's total electricity generation by 2030. The plan states that "an increased share of renewables will be the foundation for a near zero emission grid by 2050" (page 45). Further, it states that "energy storage technologies are essential for Australia to shift to lower emission electricity systems" and "the challenge is to ensure our electricity system remains secure, reliable and affordable as the share of variable renewables grows" (pages 45 and 52).

Annual Climate Change Statement 2022

17. The Australian Government's *Annual Climate Change Statement 2022 (ACCS)* makes commitments about achieving net zero by 2050. According to the ACCS, "ensuring access to secure, reliable and affordable renewable energy is critical to meeting net zero targets" (page 6). The Australian Government has committed to a "national renewable energy target of 82% by 2030", noting that this target will "help the Government to achieve the legislated emissions reduction target of 43% by 2030 and set Australia on the path to net zero by 2050" (page 32).

Australian Energy Market Operator's 2022 Integrated System Plan

18. The Australian Energy Market Operator's *2022 Integrated System Plan (ISP)* is a comprehensive road map for the National Electricity Market. According to the ISP, it provides a "robust whole of system plan" for "supplying affordable and reliable electricity to homes and businesses in the eastern and south-eastern states, while supporting Australia's net zero ambitions" (page 3). The ISP states that significant investment in the National Electricity Market is needed to meet electricity demand, and without coal, a nine-fold increase in utility scale renewable energy capacity is required. The ISP states that "the transformation of the [National Electricity Market] will deliver low-cost renewable electricity with reliability and security, help meet regional and national climate targets, and contribute significantly to regional jobs and economic growth" (page 8).

NSW Climate Change Policy Framework

19. The *NSW Climate Change Policy Framework 2016 (CCPF)* aims to "maximise the economic, social and environmental wellbeing of NSW in the context of a changing climate and current and emerging international and national policy settings and actions to address climate change" (page 1). The CCPF describes the NSW Government's objective to achieve net zero emissions by 2050 and for NSW to be more resilient to the changing climate (page 2).

Net Zero Plan Stage 1: 2020-2030

20. In March 2020, the NSW Government released its *Net Zero Plan Stage 1: 2020-2030 (Net Zero Plan)*, which was then updated in September 2021 with the *Net Zero Plan Stage 1: 2020-2030 Implementation Plan*. The Net Zero Plan states that based on the new initiatives it sets out, "emissions in New South Wales are expected to reduce by 35.8 mega-tonnes by 2030", which means that "the State's annual emissions are forecast to reduce by 35% on 2005 levels" (page 13).

NSW Electricity Infrastructure Roadmap

3.2.2 NSW Solar Energy Guideline

21. The Large-Scale Solar Energy Guideline was originally released by the NSW Government in December 2018 to provide the community, industry and regulators with guidance on the planning framework for assessing large-scale solar projects and identifying the key planning considerations relevant to solar energy development in NSW (AR para 18). The Guideline was revised in August 2022 (Solar Energy Guideline). The Department states that "while the revised guideline does not strictly apply to this project, as SEARs had been issued prior to August 2022 and the EIS was lodged prior to the end of January 2023, the project is broadly consistent with the principles in the revised guideline" (AR para 19). The Commission agrees with the Department, with the exception of the Project's consistency with the Solar Energy Guideline's recommendations for setbacks and buffers (refer section 5.1.3 of this Statement of Reasons). The Commission has considered the assessment issues covered by the Solar Energy Guideline in section 5 of this Statement of Reasons.

3.2.3 Regional and local plans

22. In determining the Application, the Commission has also considered the following regional and local plans and strategies:
- *Central West Orana Regional Plan 2041;*

- *Vision Bathurst 2040: Bathurst Region Local Strategic Planning Statement;*
- *Bathurst Region Economic Development Strategy 2018-2022;* and
- *Bathurst Regional Council Renewable Energy Action Plan 2020*

23. The Commission agrees with the Department that the Project is in accordance with the above regional and local plans and strategies, all of which identify renewable energy generation as a future growth opportunity for the region (AR para 65 to 67).

3.2.4 Other energy projects

24. According to the Department, there are five State significant renewable energy projects within 50km of the Site. Nearby renewable energy projects are summarised in Table 2 of the Department's AR and their locations are illustrated in Figure 3 of the Department's AR.

25. The Commission has considered the potential cumulative impacts of these projects, including loss of agricultural land (section 5.1), workforce accommodation (section 5.4) and traffic and transport (section 5.3) in this Statement of Reasons.

3.3 Statutory Context

3.3.1 State significant development

26. The Project is SSD under section 4.36 of the EP&A Act and section 20 of Schedule 1 of the Planning Systems SEPP as it is development for the purpose of electricity generating works with a capital investment value of more than \$30 million (approximately \$152 million). In accordance with section 4.5(a) of the EP&A Act and section 2.7 of the Planning Systems SEPP, the Commission is the consent authority because more than 50 unique public submissions objecting to the Project were made to the Department.

3.3.2 Amended Application

27. In accordance with clause 37 of the *Environmental Planning and Assessment Regulation 2021*, a development application can be amended at any time before the application is determined. The Applicant amended the Application to extend the onsite storage duration of the BESS from one to two hours (AR para 53).

3.3.3 Permissibility

28. The Site is located on land zoned RU1 – Primary Production, under the *Bathurst Local Environmental Plan 2014 (BLEP 2014)*. A solar farm is permissible with consent under the BLEP 2014 on land zoned RU1 (AR para 26 and 27). Electricity generating works are also permissible with consent on any land in a prescribed rural, industrial or special use zone, including RU1 zones, under clause 34 of the *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)*.

3.3.4 Integrated and other NSW approvals

29. Under section 4.41 of the EP&A Act, several other approvals are integrated into the SSD approval process, and therefore are not required to be separately obtained for the Project (AR para 28). The Commission Panel has considered the Department's recommended conditions of consent relating to integrated and other approvals as part of its deliberation process.

3.3.5 Deferred commencement

30. The existing 66 kV infrastructure currently operates at 11 kV and would need to be refurbished by Essential Energy for a distance of approximately 7 km so the Project can connect to the electricity grid and export energy and would be subject to separate assessment under Part 5 of the EP&A Act. The refurbishment would require replacement of approximately 47 poles and soil disturbance and vegetation clearing works (AR para 3).
31. The Commission is satisfied with the Department's qualitative assessment of the refurbishment of the transmission line in relation to biodiversity impacts and that the proposed assessment pathway for these works is a valid determination pathway (AR Table 8). The Commission has imposed conditions A1 to A2 which defer commencement of the development consent for the Project until development for the refurbishment and augmentation of the existing transmission line has been determined.

3.4 Mandatory Considerations

32. In determining this Application, the Commission is required by section 4.15(1) of the EP&A Act to take into consideration such of the listed matters as are of relevance to the development the subject of the Application (**Mandatory Considerations**). The mandatory considerations are not an exhaustive statement of the matters the Commission is permitted to consider in determining the Application. To the extent that any of the Material does not fall within the mandatory considerations, the Commission has considered that Material where it is permitted to do so, having regard to the subject matter, scope and purpose of the EP&A Act.

Table 1 – Mandatory Considerations

Mandatory Considerations	Commission's Comments
Relevant EPIs	<p>Appendix I of the Department's AR identifies relevant environmental planning instruments (EPIs) for consideration. The key EPIs (in their present, consolidated form) include:</p> <ul style="list-style-type: none"> • Planning Systems SEPP; • Infrastructure SEPP; • State Environmental Planning Policy (Resources and Energy) 2021 (SEPP Resources and Energy); • State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP); • State Environmental Planning Policy (Resilience and Hazards) 2021 (Hazards SEPP); • State Environmental Planning Policy (Primary Production) 2021 (Primary Production SEPP); • State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP); and • BLEP 2014.

The *SEPP 33 – Hazardous and Offensive Development* and *SEPP 55 – Remediation of Land* were consolidated into the State Environmental Planning Policy (Resilience & Hazards) 2021 and the *State Environmental Planning Policy (Infrastructure) 2007* was consolidated into the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. The consolidated SEPPs commenced on 1 March 2022. Provisions from the previous SEPPs were transferred into the consolidated SEPPs and the transfer does not affect the operation or meaning of the provisions and the provisions are to be construed as if they had not been transferred (s.30A, *Interpretation Act 1987* (NSW); s.1.4, *SEPP (Transport and Infrastructure) 2021*; s.1.4, *SEPP (Resilience & Hazards) 2021*). References to the former SEPPs are deemed as references to the equivalent provisions in the new consolidated SEPPs.

The Commission agrees with the Department's assessment of EPIs set out in Appendix I of the AR, including the Hazards SEPP, Primary Production SEPP, Biodiversity and Conservation SEPP, and the Transport and Infrastructure SEPP.

The Commission is of the view that the Project is consistent with the objectives of the RU1 Primary Production zone as the Project:

- allows for a permissible non-agricultural use that, subject to changes proposed by the Commission, will not restrict the use of other land in the locality for agricultural purposes;
- allows for the Site to be used for agricultural purposes by supporting potential grazing and cropping as far as practicable;
- does not conflict with land uses on adjoining lands;
- minimises the fragmentation of resource lands;
- allows for the Site to be returned to its predevelopment agricultural capabilities; and
- will contribute to a diverse regional economy.

The Commission is satisfied that the Project is consistent with the following provisions of the BLEP 2014:

- Flood planning (clause 5.21);
- Earthworks (clause 6.1); and
- Essential service (clause 6.6)

Relevant DCPs	Section 2.10 of the Planning Systems SEPP states that development control plans do not apply to SSD. The Commission does not consider any development control plans to be relevant to the determination of the Application.
Planning agreement	The Commission has considered the in-principle Voluntary Planning Agreement (VPA) the Applicant has with Council for the Project, in accordance with section 4.15(1)(iia) of the EP&A Act. The VPA consists of an annual payment to Council of \$18,000 for the life of the Project. The Commission notes that Council agreed to the general terms of the VPA in October 2023.
Likely Impacts of the Development	The likely impacts of the Project have been considered in section 5 of this Statement of Reasons.
Suitability of the Site for Development	The Commission has considered the suitability of the Site and finds that it is suitable for the following reasons: <ul style="list-style-type: none"> • the development is permissible with consent;

	<ul style="list-style-type: none"> • the inherent agricultural capability of the land will not be affected in the long term; • decommissioning and rehabilitation would be capable of returning the land to its pre-development condition; • the Commission's conditions facilitate maintenance of the Site's land capability and aim to allow the continued dual agricultural use of the land as far as practicable; • adverse impacts on surrounding receivers have been minimised as far as practicable and would be further managed and mitigated by the conditions of consent as imposed; • the use of the Site is for the purpose of electricity generation and is an orderly and economic use and development of land; • the development of the Site for the purpose of electricity generation will allow the anticipated social and economic benefits to be realised; • the development of the Site will contribute to the orderly transition from coal and gas fired power generations, to power generation with lower emissions; and • the development of the Site will assist in meeting NSW's target of net zero emissions by 2050.
Objects of the EP&A Act	In this determination, the Commission has carefully considered the Objects of the EP&A Act and is satisfied that the Application is consistent with the Objects of the EP&A Act.
Ecologically Sustainable Development	For the reasons detailed in section 5 of this Statement of Reasons the Commission finds that the development is consistent with ESD principles and would achieve an acceptable balance between environmental, economic and social considerations.
The Public Interest	<p>The Commission has considered whether the grant of consent to the Application is in the public interest. In doing so, the Commission has weighed the predicted benefits of the development against its predicted negative impacts.</p> <p>The Commission's consideration of the public interest has also been informed by consideration of the principles of ESD.</p> <p>The Commission has given due consideration to the principles of ESD in its assessment of each of the key issues, as set out in section 5 below. The Commission finds that, on balance, the development is not inconsistent with ESD principles, and that the Project would achieve an appropriate balance between relevant environmental, economic and social considerations. The likely benefits of the Project warrant the conclusion that an appropriately conditioned approval is in the public interest.</p>

3.5 Additional Considerations

33. In determining the Application, the Commission has also considered:

- Noise Policy for Industry 2017 (**NPfi**);
- Interim Construction Noise Guideline 2009 (**ICNG**);
- NSW Road Noise Policy 2011 (**RNP**);
- NSW Biodiversity Offsets Scheme;
- NSW Biodiversity Offsets Policy for Major Projects 2014;
- Social Impact Assessment Guideline 2021 (**SIA Guideline**);
- Land and Soil Capability Mapping for NSW (OEH 2017);

- *Renewable energy generation and agriculture in NSW's rural landscape and economy – growth sectors on a complementary path* (NSW Agricultural Commissioner, 2022) (**Agriculture Commissioner's Report**); and
- *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004).

3.6 The Commission's Meetings

34. As part of the determination process, the Commission met with various organisations and individuals as set out in Table 2. All meeting and site inspection notes were made available on the Commission's website.

Table 2 – Commission's Meetings

Meeting	Date	Transcript/Notes Available on
Department	22 November 2023	29 November 2023
Applicant	21 November 2023	24 November 2023
Council	22 November 2023	29 November 2023
Public Meeting	30 November 2023	6 December 2023
Site Inspection & Locality Tour	30 November 2023 & 1 December 2023	6 December 2023

4. Community Participation

4.1 Community group attendance at the site inspection

35. Commissioners Sheridan Coakes (Chair), Chris Wilson and Richard Pearson conducted an inspection of the Site on 31 November 2023. The Commission invited representatives from Glanmire Action Group and Bathurst Community Climate Action Network to attend and observe at the Site Inspection. The four neighbouring property owners to the Site (residential receivers R4, R5, R7, and R21), and their selected representatives, were also invited to attend. As part of its Locality Tour, the Commission also visited the properties of the four immediate neighbouring property owners on 30 November and 1 December 2023.

4.2 Public Meeting

36. The Commission conducted a Public Meeting on 30 November 2023. Registered speakers presented to the Commission Panel in-person or via telephone. The Public Meeting was streamed live on the Commission's website.
37. The Commission heard from the Department, the Applicant, various community group representatives and individual community members. In total, 24 speakers presented to the Commission during the Public Meeting. Presentations made at the Public Meeting have been considered by the Commission as submissions and are referenced below in section 4.3 below.

4.3 Public Submissions

- 38. As part of the Commission’s consideration of the Project, all persons were offered the opportunity to make written submissions to the Commission until 5pm, 8 December 2023.
- 39. The Commission received a total of 47 written submissions on the Application, comprising 15 submissions through its website and 32 emailed submissions. An overview of the written submissions received by the Commission is provided in Figure 3 below. The key issues raised in submissions are summarised in Figure 4 below.
- 40. For the reasons set out in this Statement of Reasons, the Commission considers that the matters raised in submissions do not preclude the grant of development consent and that the matters can be satisfactorily addressed by the conditions of consent imposed by the Commission.

Figure 3 – Submissions received by the Commission

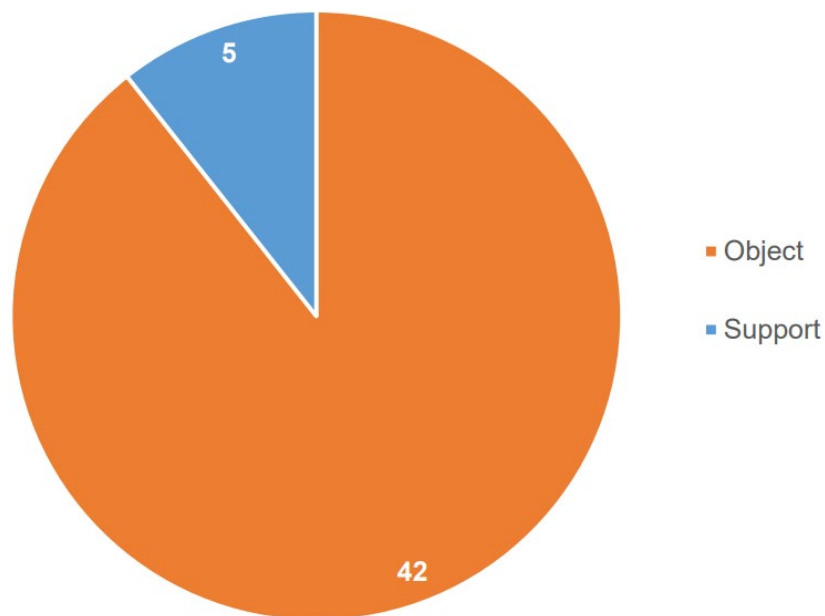
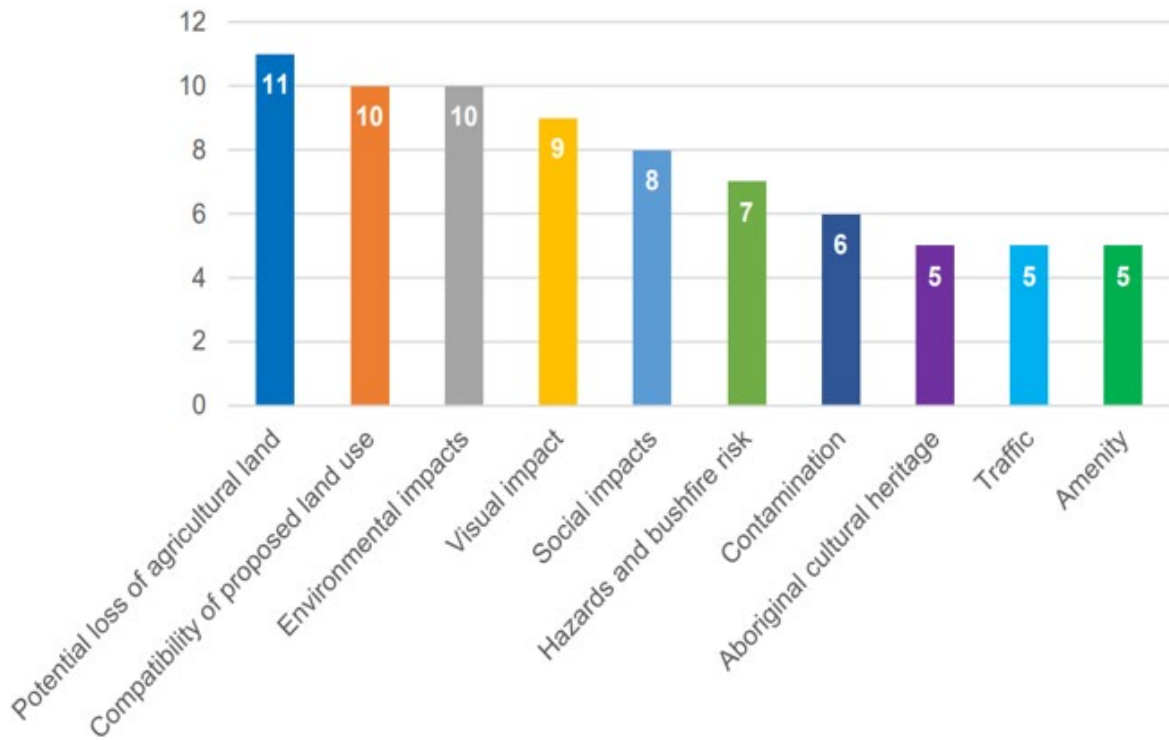


Figure 4 – Overview of key issues raised in submissions



4.3.1 Key issues raised

41. Submissions to the Commission raised a number of key issues, which are outlined below. The Commission notes that the submissions referred to below are not an exhaustive report of the submissions considered by the Commission, they are reflective and illustrative of what the Commission regards as the key issues that emerge from those submissions.¹

Agricultural land

42. Submissions opposed to the Project raised the loss of agricultural land for cropping and grazing as a justification for the Project’s refusal. Specifically, submitters stated that the loss of agricultural land, some of it identified as Class 3, would impact agricultural capability and food security for the regional economy and beyond.

43. One submission supporting the Project stated that the importance of the agricultural values of the Site were debatable, especially given the relatively small size of the Site, and that this should not stop the development of a solar farm.

Compatibility of proposed land use

¹ The Commission notes that although Aboriginal cultural heritage was identified by five objectors on the Commission’s submissions portal as an issue, Aboriginal cultural heritage issues were not raised specifically in the wording of any submissions.

44. Submissions received by the Commission made the argument that a solar farm is an industrial development which is not compatible with the surrounding agricultural uses and would potentially disrupt or inhibit the agricultural use of neighbouring land.
45. Multiple submissions objecting to the Project stated that as the proposed Site is not located within a REZ identified by the NSW government, it is therefore not suitable for any renewable energy projects.
46. Submissions also expressed concern about the proximity of the proposed Site to Bathurst and Raglan, and the Project's potential impact on the city of Bathurst's future residential growth.
47. One submitter in support of the Project stated that a solar farm can coexist in a mostly agricultural context without significant impacts on the broader agricultural uses of the area. The submission also identified that solar farms can be relatively easily removed and the land remediated if there is a future decision to return the Site to an agricultural use.

Visual Impact

48. Submissions objecting to the Project stated that the solar farm would result in industrialisation of the landscape, impacting the scenic quality of the area and creating visual amenity issues for nearby residents.
49. Some submitters stated that the proposed visual impact mitigation measures were inadequate such as the vegetation screening, which would not provide the proposed visual coverage until the trees reach maturity. Another submitter was not satisfied with the residual 100 minutes of glint and glare which would be experienced per year at their property.
50. Submissions also expressed concern about the accuracy and adequacy of the photomontages contained in the Applicant's Landscape and Visual Impact Assessment (LVIA) submitted with the EIS, particularly the photomontages' depiction of vegetation screenings proposed for visual impact mitigation and the Project's ancillary infrastructure
51. One submitter in support of the Project stated that aesthetic impacts to the landscape needed to be assessed against the greater goal of meeting NSW's renewable energy targets.

Surface water

52. Submissions received by the Commission identified that the removal of paddock dams as part of the Project could impact the flow of surface water and potentially create erosion and flooding impacts. One submitter stated that further investigations into impacts on surface water were needed as the immediate vicinity of the Site has experienced localised flooding.

Social Impacts

53. Submissions opposed to the Project raised a perceived lack of consultation undertaken by the Applicant through the assessment process, in particular a lack of communication and engagement on technical study outcomes and suggested that the Applicant has not obtained a 'social license' to develop the Site. Some submitters to the Commission stated that the social and economic benefits outlined by the proposal were not great enough to justify the negative impacts to local amenity the Project would create.
54. Some other submitters stated that the Project's potential to impact on local character and sense of place was creating stress and anxiety in the community.

Bushfire risk

55. Submissions received by the Commission opposing the Project raised the risk of bushfires as a potential negative impact of the development of the Site. One submitter stated that the size of the asset protection zone (**APZ**) was not consistent with best practices for avoiding the spread of fires to adjoining farms.

Contamination

56. Concerns about the disposal of solar panels was raised by one submitter who questioned what responsibility the operator would have to safely dispose of old panels. Another submitter raised the risk of potential contamination of land from the onsite battery system and run off from solar panels.

Traffic

57. Submissions to the Commission identified the likely impact of peak vehicle movements during construction on Brewongle Lane. Submitters stated that this posed a risk of interfering with farming activities that rely on the use of Brewongle Lane.

Insurance

58. Submissions to the Commission stated that the elevated insurance expenses predicted as a result of Project development would impose a significant burden on affected neighbouring farming properties. The risk of fire spreading from a neighbouring property to the solar farm was identified as a significant concern for neighbours and one which has the potential to greatly increase insurance costs, potentially making ongoing farming untenable.

Rehabilitation and Closure

59. One submitter raised concern regarding the lack of a security bond or other guarantees to ensure appropriate rehabilitation and closure arrangements were made, and that this represents a future risk for the local community.

Property Value

60. Submissions opposed to the Project raised concern regarding the visual impact the solar farm and associated infrastructure would have on nearby residences and the resulting loss of property value.

Environmental Impacts

61. Some submissions received by the Commission stated that the removal of mature native trees and other forms of flora would impact habitat for native species.
62. One submitter identified the best practice mitigation hierarchy for development that has the potential to impact biodiversity is to 'avoid, minimise and offset', in that order. The submitter stated that the proposed Project had failed to 'avoid' and 'minimise' impacts.

4.4 Additional Material

63. On 5 December 2023, the Commission wrote to the Applicant seeking further information on heights, setbacks and buffers, insurance, water storage and flooding, glint and glare, agricultural land, fencing, landscaping and community engagement. The Applicant provided its response to the Commission on 12 December 2023.

64. On 5 December 2023, the Commission wrote to the Department seeking further information on setbacks and buffers, heat island effect, agricultural land, insurance, flooding, and landscaping and water. The Department provided its response to the Commission on 12 December 2023.
65. The Commission considered that it would be assisted by public submissions on the material referenced above (**Additional Material**). In accordance with the Commission's *Public Submissions Guidelines*, the Commission re-opened public submissions on this Additional Material, with submissions permitted by email between Thursday 14 December 2023 and 5pm AEDT Wednesday 20 December 2023.
66. The Commission received 8 submissions on this Additional Material. A summary of these submissions is provided below.

4.4.1 Public submissions on additional material

67. Submissions to the Commission raised a number of issues related to the additional material, as outlined below. The Commission notes that the submissions referred to below are not an exhaustive report of the submissions considered by the Commission, they are reflective and illustrative of what the Commission regards as the key issues that emerge from those submissions.

Agricultural Land

68. Submissions opposed to the Project responded to the Department's RFI response on the loss of agricultural use of the land due to the Project. Submitters were doubtful that agricultural uses could be sustained alongside the solar farm due to the layout of the panels, or the soil returned to its current quality due to ground disturbance.
69. One submission stated that the Site as a proportion of cropping land within the Bathurst LGA is potentially much higher than 0.17% as stated by the Department. Another submitter reiterated that the loss of agricultural land is not justified as the Site is not located in a renewable energy zone.

Setbacks

70. Submissions opposed to the Project raised an issue with the reliance of the Project on setbacks extending outside the Site's boundaries, including in the Brewongle Lane corridor east of the Site (as detailed in the Department's RFI Response) and within neighbouring properties to the west of the Site (as outlined in the Applicant's RFI Response).
71. Submitters stated that all mitigation measures should be applied within the boundary of the Site and not within adjoining properties and that neighbours should not be required to change their farming practices in any way to provide mitigation for the development.
72. Some submitters also identified that the proposed setbacks were not sufficient for either visual mitigation or fire risk mitigation. With regard to bushfire risk, one submitter stated that the current proposed setbacks were not satisfactory to act as APZs, with the native trees planted along the perimeter of the Site increasing the risk of bushfires.

Insurance

73. Submitters, some situated close to the Site, outlined the impact the solar farm would have on the ability for neighbours to obtain and/or afford insurance, in response to the additional material provided to the Commission. Overall, the submissions indicated that if unaddressed, the un-insurability of adjacent farms would impact the continuation of predominant land uses of the locality beyond the Project Site.

74. One submitter stated that the Applicant and Department's respective RFI responses diminished and dismissed the very real problem of obtaining insurance and that the absence of a concluded position on this issue from the State should not provide a basis for the Applicant to avoid its responsibility to mitigate this impact. The submitter stated that an increase of setbacks to 50m could represent a practical way to mitigate this impact, but that setbacks of up to 60m may be necessary.
75. Other submitters disagreed however, stating that an increase to setbacks may not necessarily reduce the likely increases to insurance costs and that this was not an evidence-based conclusion.

Flooding

76. Some submissions questioned the veracity of the Department's RFI response in relation to flooding impacts from the Project, stating that the flooding and hydrology material accompanying the proposal was incomplete and misleading. They also identified that the changes proposed by the Project, including the filling of farm dams, would cause increased water run off from the Site onto neighbouring properties.
77. One submitter stated that there was an east-to-west running first-order stream that was mapped in the indicative project layout but not avoided by the proposed solar array layout. This submitter stated that it should be avoided for development and treated as a riparian zone.

Heat Island Effect

78. Submissions opposed to the Project stated that the potential heat island effect was not effectively addressed or mitigated. Submitters disagreed with the Department's RFI response that setbacks of less than 30m would not contribute to the heat island effect. Submitters stated that a full 30m setback must be created within the Project's property to allow neighbouring property landholders to crop up to their boundary fence if desired.

Landscaping and Water

79. One submission received by the Commission objected to the Applicant's advice to the Commission regarding the estimated water requirements. The submitter stated that a sufficiently extensive water budget had not been provided that accounted for grazing animals, establishment of vegetative screening, riparian areas and potential pasture under solar arrays.

Visual Screening

80. The issue of visual screening was raised by some submissions. One submitter stated that the 5m – 10m width for screen planting proposed by the Applicant was insufficient and would result in scattered trees that wouldn't effectively screen homes. Another submitter raised concern about the time required for screen plantings to reach maturity, and the lack of measures for potential failure and replacement of plantings.

5. Key Issues

5.1 Land use and agricultural impacts

81. The Commission acknowledges the concerns raised in submissions and at the Public Meeting regarding the compatibility of the Project with surrounding land uses and the impacts of the Project on agricultural land. Submissions stated that solar farms do not belong on agricultural land, particularly the type of land contained on the Site.
82. The Commission also acknowledges the submissions that it received in support of the Project, with these noting the potential for solar farm development and agriculture to co-exist as well as prior conversions of agricultural land to other uses in the Bathurst LGA.

5.1.1 Land use compatibility

83. The Commission notes the Department's assessment of the Project's proposed land use against the provisions of the BLEP 2014 and considers the Project to be consistent with the objectives of the RU1 zoning.
84. The Commission additionally notes the Department's assessment of the Project against the provisions of the Transport and Infrastructure SEPP, and finds that the Project would not significantly conflict with:
- any of the existing or approved residential developments or agricultural land uses surrounding the Site;
 - the key commercial land uses surrounding or nearby to the Site, namely the Great Western Highway, Bathurst Regional Airport, and the Main Western Railway Line; or
 - the future growth of the Bathurst LGA's residential expansion areas.
85. The Commission acknowledges that a number of submissions raised concern regarding the impacts of the Project on the future growth of the Bathurst LGA's residential expansion areas, including Raglan, which is located approximately 4.1 km west of the Site. The Commission notes, however, that Council affirmed that the Project does not infringe on growth areas identified in its Local Strategic Planning Statement, which extend "more to the north-east and west" of the city of Bathurst (Transcript of Meeting with the Commission, page 5).
86. The Commission also acknowledges the submissions that objected to the Project given the Site is not situated within an identified REZ, but notes that the Site's location is consistent with the Solar Energy Guideline, which identifies that (page 7):
- [A] large portion (approximately 70%) of existing solar development is currently located outside REZs and continued development outside of the REZs will be required to support a transition to renewable energy*
87. The Commission is satisfied that the Project:
- is consistent with the relevant State and local strategic planning and energy frameworks;
 - is permissible development in accordance with the relevant EPIs;
 - can be readably reinstated to its existing agricultural capability; and
 - represents a compatible land use that won't negatively impact the capability and capacity of other land uses in the LGA, including key residential, commercial or agricultural uses.

5.1.2 Agricultural land impacts

88. The Commission acknowledges the concerns raised in submissions about impacts to Biophysical Strategic Agricultural Land (**BSAL**) but notes that per the Department's AR and mapping available on the Department's website, the Site is not identified as containing any BSAL. As the Department notes, the majority of the Site (approximately 72%) is classified as land and soil capability (**LSC**) Class 4 (moderate to severe limitations), with the remainder comprising Class 3 (high capability, approximately 22%) and Class 5 (severe limitations, approximately 6%) land (AR para 8).
89. The Solar Energy Guideline directs proponents to consider the following key principles with respect to site selection and agricultural land use (page 26):
1. *Applicants should consider the agricultural capability of the land during the site selection process.*
 2. *Applicants should avoid siting solar energy projects on important agricultural land as far as possible.*
 3. *Agricultural assessment should be proportionate to the quality of the land and the likely impacts of a project.*
 4. *Mitigation strategies should be adopted to ensure that any significant impacts on agricultural land are minimised.*
90. For LSC Class 4 and higher land, the Solar Energy Guideline requires that proponents undertake a verification of the agricultural quality and capability of the land, including completion of a soil survey. For LSC Class 1-3 land, proponents are directed to "provide a detailed justification for the project, [including] an assessment of whether the project would significantly impact the local or regional agricultural industry" (page 26). In accordance with this guidance, the Applicant prepared a Soil and Agricultural Impact Assessment (**Soil Assessment**), dated September 2022, together with the EIS.
91. The Commission acknowledges that there were found to be some deficiencies and inaccuracies with this Soil Assessment, and that the Applicant was required to prepare an amended Soil Assessment, dated August 2023, as part of its RtS. The independent soils expert engaged by the Department, Dr David McKenzie, has since confirmed that the methodologies within the amended Soil Assessment are adequate and the revised land classification is appropriate (AR para 88).
92. The Commission notes that neither Council nor NSW Department of Primary Industries (**DPI**) – Agriculture raised concerns to the Department that the Project would compromise the long-term use of the land for agricultural purposes, subject to the removal of project infrastructure at decommissioning (AR para 91).
93. The AR identifies that the majority of the Site has been previously cleared and used for agricultural activities including grazing and some cropping (para 83). The Commission acknowledges that it received submissions that differed with this assessment and posited that cropping on the Site is in fact long-standing and regular rather than occasional or intermittent.
94. In response to statements made at the Public Meeting and written submissions that noted that only 6% of the Bathurst LGA comprises cropping land and that the Site is part of that resource, the Commission sought further information from the Department on whether it considered the loss of LSC Class 3 land on the Site within its regional context. The Department's RFI response noted that (pages 4-5):
- [E]ven if the whole project site (186 ha) was considered to be suitable cropping land, it would comprise only 0.17% of the land within the Bathurst Regional Council LGA which was subject to cropping activities in the 2020-2021 financial year [Australian Bureau of Statistics data]. However it is important to note that only approximately 40 ha of the site was identified as having a Land and Soil Capability of Class 3, and this equates to only approximately 0.03% of the cropping land within the LGA.*

The Department considers this analysis further supports the conclusions within our assessment report, that the overall agricultural productivity of the Bathurst Regional Council LGA would not be significantly reduced, noting also that the inherent agricultural capability of the land would not be affected given the site would be returned to agricultural uses following decommissioning and rehabilitation.

95. The Commission additionally notes the conclusions provided in the Agriculture Commissioner's Report, which identifies that "renewable energy development is not in conflict with agricultural land use at a sufficiently large scale to materially affect the NSW state agricultural base" (page 40). The Commission notes that the Department is currently working through the applicable recommendations from the Agriculture Commissioner's Report (refer Department's RFI response, page 7).
96. The Commission acknowledges the concerns raised in submissions but ultimately agrees with the view of the Department that the potential loss of a small area of agricultural land in the region must be balanced against factors including the broader strategic goals of the Commonwealth and NSW governments for the development of renewable energy into the future, the environmental and economic benefits of solar energy, and the benefits of dispatchable energy for grid stability and reliability (AR para 92). Further to this, the Commission notes that the Project's potential impacts must also be considered in view of Council's plans and strategies which identify renewable energy generation as a future growth opportunity for the region, including the *Bathurst Regional Council Renewable Energy Action Plan 2020*.
97. Noting the concerns raised by the community and neighbouring landowners regarding local agricultural productivity impacts, the Commission has imposed condition C11 (Land Management) to require the Applicant to maintain the agricultural land capability of the Site, including establishing and properly maintaining the ground cover of the Site and maximising current and future opportunities for dual land use as far as practicable.
98. Subject to the imposed conditions, the Commission is satisfied that the Project will not have a significant adverse impact on agricultural land in the Bathurst LGA, specifically, the current and future agricultural productivity of these lands.

5.1.3 Setbacks and buffers

99. The Commission received a number of submissions that raised concern regarding the extent and adequacy of the proposed setbacks for the Project, particularly in view of land use conflicts, visual impacts, insurability and potential bushfire and heat island risks. The Commission requested further information from both the Applicant and Department in relation to the proposed setbacks, including further clarity on their dimensions and consistency with the Solar Energy Guideline.
100. The Applicant's RFI response clarified the dimensions of the proposed western and eastern setbacks, including buffer zones, as follows: 20m in width along the western boundary north of the riparian area; approximately 15m in width along the western boundary south of the riparian area; and approximately 15m in width along the eastern boundary south of the riparian area (pages 4-6). The Commission understands the eastern boundary north of the riparian area to also be 15m in width based on the Applicant's Draft Landscape Plan submitted with the EIS. These setbacks all include a 10m APZ consistent with the advice of the NSW Rural Fire Service. A 20m APZ is provided for the substation and transformer where these border the eastern boundary in line with the Applicant's proposed safeguard measures for the BESS outlined in the EIS (refer page 269).

101. The Applicant has noted that Brewongle Lane's 20m-wide road corridor is intended to provide an increased separation distance at the eastern boundary (Applicant's RFI response, pages 5-6). Per the Department's RFI response, the Commission understands that the 15m setback to the western boundary south of the riparian area includes a 10m-wide formed access track on the land of receiver R21.
102. The Commission notes that the use of this access track as part of the setback is contrary to advice provided by DPI and contained within the Solar Energy Guideline. DPI's interim guideline *Buffer Zones to Reduce Land Use Conflict with Agriculture*, dated November 2018 (and listed as a specific guidance document at Appendix A of the Solar Energy Guideline), states that "[i]t is important that buffer zones built into the design of developments do not rely on any adjacent rural landholding for their development's buffer zones" (page 3). Regarding heat island mitigation, the Solar Energy Guideline specifies that "[w]here a solar energy project is located adjacent to a horticultural or cropping activity, the solar array should be setback from the property boundary by at least 30m to mitigate any heat island effect" (page 35).
103. Noting the above, the Commission has elected to impose condition B5(a), which requires the Applicant to prepare a revised General Layout of Development Plan, including, among other requirements, a minimum setback for solar panels and ancillary infrastructure of 30m from the western and eastern boundaries of the Site. The Commission has no issue with the proposed northern and southern boundary setbacks and has imposed condition B5(b), which requires these to be retained as proposed. Condition B5(c) additionally requires that the Applicant's development footprint only includes land owned by the Applicant, or land with which the Applicant has the written consent of the landowner to use the land as a setback.
104. The Commission acknowledges the concerns raised in submissions, including the suggestion from one submitter for a minimum 50m buffer in the interest of improving insurability and a fire exclusion area of up to 60m to mitigate fire risk, but is satisfied that the imposition of a 30m setback is in accordance with applicable guidance documents and agency advice provided to the Department and appropriately addresses any potential land use conflicts or risks.

5.2 Visual impact

105. The visual impacts of the Project were a key issue raised in submissions to the Commission. Concern was raised about the Project's impact on the scenic quality of the area and the visual change it would create to sense of place, as a perceived industrial use of the land. Concern was also raised regarding potential negative visual amenity impacts for landowners neighbouring the Site, including glint and glare impacts.
106. At its site inspection, the Commission viewed the Site from the boundaries with the closest non-associated residential receivers, which included the eastern, southern and western boundaries.
107. According to the Applicant's Landscape and Visual Impact Assessment (**LVIA**) dated September 2022, non-associated residences within 3 km of the development footprint would experience low or very low visual impacts from the Project. Following vegetation screening, the LVIA stated that the impact would fall to either very low or nil.

108. The Department's AR found that although the introduction of the solar farm had the potential to change the local landscape, the Project would have a limited impact beyond the Project's immediate vicinity given it would not be visible from Bathurst or significantly impact the views on the approach into or out of Bathurst (AR para 106). The Department's assessment also stated that there would be no significant visual impacts, including cumulative visual impacts, on surrounding residences following mitigation (AR para 121).
109. The Applicant's RFI response confirmed that the maximum height of the proposed solar panels when vertical would be 3.5m and 1.7m when horizontal. The "more typical" height of the solar panels is projected to be 2.5 to 3.0m (Applicant's RFI response, page 2).
110. The Commission acknowledges the potential for the Project to introduce change to the landscape of the immediate vicinity but agrees with the Department that the Project would not alter the scenic character of the area beyond the immediate local vicinity.
111. The Commission finds that the visual amenity impact on nearby residences is low and limited due to the topography of the land and can be mitigated with appropriate conditions of consent. The Commission acknowledges submissions which raised concern regarding the effectiveness of the visual assessment and proposed mitigation methods, including the density of vegetative screening and the amount of time screen plantings may take to reach maturity and be effective. In response to these concerns, the Commission has imposed condition C9, requiring the Applicant to develop a vegetation buffer along the boundary of the Site. The Commission has imposed this condition to require the Applicant to ensure the buffer:
- is planted before construction (instead of before operation);
 - is comprised of fast-growing and drought-resilient trees to ensure vegetation maturity is reached as soon as practical;
 - minimises views of the Project from receivers R4, R5, R7 and R21 within 5 years of commencing operations; and
 - is properly and actively maintained with appropriate weed management and replacement of failed plantings.
112. The Commission recognises that the LVIA has found the visual impacts of the Project on the four residential receivers immediately neighbouring the Site to be low or very low, and that per the Department's *Technical Supplement - Landscape and Visual Impact Assessment* (dated August 2022 and accompanying the Department's Solar Energy Guideline), no visual mitigation is required for this level of impact (refer page 29). The Commission considers however, that in this specific instance and in view of the Site's particular constraints, the visual impacts to receivers R4, R5, R7 and R21 warrant additional mitigation measures. Given this, the Commission has imposed condition C10, which requires the Applicant to provide reasonable and feasible landscape screening on the land of receivers R4, R5, R7 and R21 if requested by the landowner(s). These additional measures must be requested within 5 years of the commencement of planting of the Project's on-site landscape screening.
113. The Commission additionally notes that condition C8 requires the Applicant's Landscape Plan to identify opportunities for additional vegetation screening in accordance with the increased setbacks imposed through condition B5, and that this Landscape Plan must be updated prior to the issue of any construction certificate in consultation with Council and receivers R4, R5, R7 and R21.

114. The Commission also finds that the potential impact of glare on nearby residences would be low and temporary (AR para 110). The Commission acknowledges the residual impact of glare at R7 but notes that per the Applicant's LVIA, the vegetation buffer along the Site's north-western boundary is projected to obstruct views to the Site from R7 over time (page 67). The Commission reiterates here its imposition of condition C9 requiring the vegetation buffer to be effective and properly maintained and condition C10 requiring off-site landscape screening if requested by receivers R4, R5, R7 and R21. Notwithstanding, the Commission has imposed condition C12(a) and (b) requiring the Applicant to limit the angle of solar panel backtracking to a minimum of 4 degrees in accordance with the recommendations of the LVIA as well as minimise the potential for any glare or reflection.

5.3 Traffic and transport

115. The Project involves a peak of up to 60 heavy vehicle movements and 107 light vehicle movements per day during the 12-month construction period (AR table 8). The Applicant's updated Traffic Impact Assessment, dated April 2023, also notes that some oversize and over mass vehicles requiring escort will be required to deliver larger plant to the site. Traffic generation during operations would consist of up to 60 heavy vehicle movements per day and occasional light vehicle deliveries.
116. Responding to a concern expressed by Council, the Applicant has agreed to seal Brewongle Lane between the proposed Site entry point and the Great Western Highway. The Commission has imposed this road upgrade through condition C4.
117. The Commission has considered the proposed primary heavy vehicle transport route during construction as well as the potential cumulative traffic impacts with other SSD projects. The Commission agrees with the Department's assessment that any cumulative traffic impacts would be acceptable and that the State road network has sufficient capacity to accommodate the cumulative impact of all construction traffic of projects currently in the assessment pipeline (AR table 8).
118. The Commission finds that the increase in traffic volumes will be largely during the construction period and that the number of vehicles during construction will be manageable if restricted to the peak volumes identified in the Department's assessment. The Commission has therefore imposed condition C1 which requires the Applicant to ensure that heavy vehicle movements do not exceed 60 per day / 13 per hour, in accordance with the updated Traffic Impact Assessment.
119. The Commission acknowledges submissions made which were concerned about high traffic volumes created by the Project that could disrupt the ongoing use of Brewongle Lane for agriculture or residential access. The Commission has imposed condition C7 which requires the Applicant to prepare a Traffic Management Plan in consultation with TfNSW and Council. This plan must include details of the transport route, road upgrades and measures that would be implemented to minimise impacts on the road network during construction, upgrading or decommissioning works. The Commission has also imposed the condition to require the Applicant to include measures to minimise the potential for conflict (related to traffic) with key tourism, cultural and entertainment related events such as motorsports, as part of the Traffic Management Plan. The Commission additionally notes that condition C4 mandates that all vehicles associated with the Project (other than those used by or in connection with the NSW Emergency Services) must enter and exit Brewongle Lane via the Great Western Highway, and hence will not be able to access Brewongle Lane from its continuation to the south and south-east.

120. Further to this, the Commission has also imposed condition C6(b) which requires the Applicant to ensure that there is sufficient parking on site for all construction and operational vehicles, and no parking, idling or queueing of trucks or other vehicles occurs on the public road network in the vicinity of the Site, including on Brewongle Lane.
121. Subject to the imposed conditions (C1 – C7), the Commission finds that the Project would not result in significant impacts on road network capacity, efficiency or safety.

5.4 Socio-economic

5.4.1 Accommodation and workforce

122. The Commission notes that up to 150 workers would be required over the 12-month construction period. Elgin has committed to maximising the sourcing of workers from the local community to reduce accommodation and service pressures (AR Table 8).
123. In its meeting with the Commission on 22 November 2023, Council acknowledged that sourcing workers and housing workers locally would be a challenge, particularly during peak tourism, cultural and entertainment periods for the LGA and with other approved SSD projects scheduled to commence construction in the coming years. Council noted however, that it was “happy to talk through [this challenge] with the Applicant” (Transcript of Meeting, page 12).
124. The Commission accepts that there is likely to be sufficient workforce accommodation for the Project, noting that the Project is not within a REZ and that there are only five other renewable energy developments within 50km of the Project (refer Table 2 and Figure 3 of the AR). To manage the potential cumulative impacts associated with multiple projects in the region, to encourage the employment of locally sourced workers, and noting Council’s concerns identified above, the Commission has imposed condition C35. This condition requires the Applicant to prepare an Accommodation and Employment Strategy for the development in consultation with Council, with input from local accommodation and employment service providers, and including consideration of and measures to minimise potential conflicts with key tourism, cultural and entertainment-related events in the LGA.
125. Subject to this condition, the Commission is satisfied with the Project’s capacity to manage its accommodation and workforce needs in a manner that does not negatively impact Bathurst and the wider LGA.

5.4.2 Social impact and community benefit

126. A number of submissions to the Commission raised concern regarding the extent and quality of consultation undertaken by the Applicant and the actual benefits of the proposal to the local community. Other submissions identified the socioeconomic benefits that would arise out of the provision of jobs and renewable energy provision.
127. The Commission notes the Department’s conclusion that, in addition to its contribution to energy transition, the Project would generate direct and indirect benefits to the local community, including (AR Table 8):
- up to 150 construction jobs over the 12 month construction period;
 - expenditure on accommodation and businesses in the local economy by workers involved in the Project; and
 - the procurement of goods and services by Elgin and associated contractors.

128. The Commission notes that the Applicant has also reached an in-principle agreement with Council to enter into a VPA which consists of an annual payment of \$18,000 for the life of the Project. The Commission notes the Department's point that the VPA is consistent with the upper limit of \$300 per MW per annum under the existing Solar Energy Guideline for community benefits (AR Table 8).
129. In its letter to the Department dated 4 October 2023, Council reconfirmed its agreement with the terms of the VPA, but noted:
- Despite Council believing the amount is somewhat modest, it is acknowledged that it is consistent with the Department's current guidelines for such projects. It is recommended the Department increase the monetary amount in future revisions of the Guidelines, given the cumulative impact such projects have on local communities.*
130. The Commission acknowledges that the Department's Draft Energy Policy Framework, released in November 2023, includes a benefit sharing guideline which proposes a benefit sharing rate of \$850 per MW per annum for solar energy developments. The Commission notes that a number of submissions raised concern about the proposed rate in the VPA.
131. The Commission acknowledges the disparity between the rate per MW per annum in the current Solar Energy Guideline versus the Draft Energy Policy Framework, but agrees with the Department's view that the latter policy remains a draft and that it is "entirely reasonable" for the Applicant to base the proposed rate in the VPA on approved policy (Transcript of Meeting with the Commission, page 15). The Commission also acknowledges that, as the consent authority, and pursuant to section 7.7(3) of the EP&A Act, it can only require that a VPA be entered into in terms offered by the Applicant and agreed to by the Council.
132. The Commission has imposed condition B16, which requires the Applicant to enter into a VPA, on terms offered by the Applicant, and agreed with Council prior to commencing construction.
133. Noting the submissions that raised community consultation as a concern, the Commission has additionally imposed condition B17 requiring the Applicant to prepare a Community Communication Strategy in consultation with Council, and which must provide mechanisms for the life of the development to facilitate communication between the Applicant, Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development). The Commission has also imposed condition D7 which requires that the Applicant notify the Department and Council in writing of the date of commencement, or cessation, of all phases of the development, including construction, operations, upgrading, decommissioning, and cessation of operations.
134. Subject to the imposed conditions, the Commission is satisfied with the Project's capacity to provide community benefit.

5.5 Decommissioning and rehabilitation

135. The Commission acknowledges the concerns raised in submissions regarding mechanisms to ensure appropriate decommissioning and rehabilitation of the Site occurs, and the impact of the Project's ancillary infrastructure on the agricultural capacity of the subject land.

136. The Commission understands that the operational life of the Project is 40 years, however there is potential to operate for a longer period of time if solar panels are upgraded. The Commission has imposed condition B7 which allows for the upgrading of solar panels and ancillary infrastructure once the Applicant has provided revised layout plans and project details of the development to the satisfaction of the Planning Secretary incorporating the proposed upgrades. The Commission has also imposed this condition to ensure that any upgrades remain in accordance with the approved maximum height and tilt of the solar panels and ancillary infrastructure.
137. The Solar Energy Guideline identifies the following four key decommissioning and rehabilitation principles (page 31):
- The land on which a large-scale solar energy project and supporting infrastructure is developed must be returned to pre-existing use if the project is decommissioned.
 - If operations cease, infrastructure (including underground infrastructure) should be removed unless there is significant justification for retaining it.
 - Land must be rehabilitated and restored to pre-existing use, including the pre-existing LSC class, if previously used for agricultural purposes.
 - The owner or operator of a solar energy project should be responsible for decommissioning and rehabilitation, and this should be reflected in an agreement with the host landholder.
138. Regarding the imposition of bonds or other assurances for decommissioning and rehabilitation, the Commission notes that the Solar Energy Guideline specifies (page 31):
- It is the NSW Government's policy that financial assurances should not be required by conditions of consent, and any financial assurances should be dealt with in commercial arrangements outside of the planning system.*
139. The Commission agrees with the view of the Department that, with the implementation of objective-based conditions and monitoring requirements, which are consistent with the Solar Energy Guideline principles, the Project would be suitably decommissioned at the end of the project life, or within 18 months if operations cease unexpectedly, and that the Site can be appropriately rehabilitated (AR Table 8).
140. Noting the concerns raised in submissions, the Commission has imposed condition C36 requiring the Applicant to prepare a Decommissioning and Rehabilitation Plan, which must be updated half-way through the operational life of the Project and within 2 years prior to decommissioning. The rationale for the update is to ensure this plan remains abreast of advances in recycling and waste management practices relevant to the industry. The Commission has also imposed the rehabilitation objectives within condition C37 to require all infrastructure including above and below ground to be decommissioned and removed (with the exception of the substation and any infrastructure essential for its ongoing use as well as any ancillary infrastructure to be retained with agreement of the landholder where it facilitates the future post-operational use of the land), and the restoration of the Site's land capability to pre-existing productive capacity as identified in the amended Soil Assessment.

5.6 Water

5.6.1 Water flows and flood behaviour

141. The Commission received submissions that raised concern about the impacts of the Project on water flows and flood behaviour, including on the Site as well as on neighbouring landowners' properties. In response to these concerns, the Commission sought further information from the Applicant and the Department regarding the flooding, hydrological and hydraulic assessment undertaken for the Project.
142. The Department's RFI response noted that the "flood modelling demonstrated that the Project is not predicted to have a significant impact on flood behaviour for the 1% annual exceedance probability event" (page 7). The Commission notes that the Hydrological and Hydraulic Analysis, dated September 2022 (**HHA**), modelled impacts at both pre- and post-installation of the development and concludes that (page 15):
- [T]he peak flood levels and velocities are anticipated to remain relatively unchanged across most of the proposal area, due primarily to most of the infrastructure being located outside high hazard areas of the floodplain. Some minor increases in flood levels and corresponding decreases in velocity are shown to [occur] locally within the development footprint, however these changes are very localised and not anticipated to adversely affect adjoining properties.*
143. The Commission acknowledges the concerns raised in submissions regarding increased run off and the potential for impacts on existing ephemeral waterways, as a result of Project infrastructure and the Applicant's proposal to fill four of the seven dams currently present on the Site (refer Applicant's response to the Commission's questions on notice, page 1). The Commission notes that the Applicant's RFI response clarifies that the HHA "is conservative in that it assumes all dams are full and therefore generate 100% run off in a rainfall event" (page 16). Further to this, the Applicant's RtS identifies that the model run as part of the HHA uses a "worst case" layout, which "is slightly larger than the final layout that will be developed as it includes some areas that other studies will define as exclusion zones (ie visual impact exclusion zone)" (page 96). The Commission also notes the conclusion of the HHA on this issue as follows (page 15):
- The results [...] demonstrate that there is not predicted to be a significant impact on flood behaviour for the 1% AEP event because of the proposed works, with flood level, depths, velocities and hazards remaining largely unchanged.[...] Further, velocities over the project site are shown to be contained in the range of plus or minus 0.25m/s when compared to pre-development velocities and therefore should not result in any adverse impact to the stability of the bed and banks of existing waterways or contribute to degradation of the land by erosive flood forces.*
144. The Commission agrees with the Department's assessment that the Project would not result in significant impacts on water flows and flood behaviour, and considers that any risks are capable of being effectively managed, subject to the imposed conditions. This includes condition C28, which requires the Applicant to prepare a Soil and Water Management Plan prior to commencing construction, which must be prepared by suitably qualified and experienced persons, and fully reflect current and expected hydrological conditions.
145. The Commission has also imposed condition C27 requiring the Applicant to, among other requirements, ensure that:
- the solar panels and ancillary infrastructure (including security fencing) are designed, constructed and maintained to reduce impacts on surface water, localised flooding and groundwater at the Site; and
 - the development does not cause any increased water being diverted off the Site or alter hydrology off-site.

5.6.2 Erosion and sediment control

146. The Commission is satisfied with the Department's assessment that the Project is not expected to affect groundwater resources or groundwater dependent ecosystems and that any erosion and sedimentation risks associated with the Project can be effectively managed using best practice construction techniques (AR Table 8).
147. The Commission notes that, as part of condition C28, the Applicant is required to include measures to minimise erosion and control sediment generation as well as implementing a program to monitor and report on the effectiveness of these measures, including making the results of this monitoring publicly available on its website.
148. Overall, the Commission agrees with the Department's assessment that the Project would not result in significant impacts on water resources and that any erosion and sedimentation risks are capable of being effectively managed subject to conditions C26 – C28 imposed by the Commission.

5.7 Insurance

149. The Commission received a number of submissions that raised concern regarding the potential impacts of the Project on insurance premiums and acknowledges the concern that some landholders have about their ability to acquire insurance to cover potential liabilities when operating in the vicinity of large-scale solar energy developments, particularly with respect to fire and bushfire risks.
150. In response to these concerns, the Commission sought further information from the Department and Applicant regarding this issue. The Department's RFI response noted that the NSW Government is continuing to work through the applicable recommendations in the Agriculture Commissioner's Report, which includes consultation with the Insurance Council of Australia (**ICA**). The Applicant has noted that advice provided to them by the ICA identifies that the "[ICA is] not aware of any increased risk profile for farming properties that is attributable to neighbouring solar farm/BESS developments" (Applicant's RFI response, pages 11 to 12).
151. The Commission considers that the uncertainty regarding the potential impacts of solar farms on the availability and cost of insurance is a key concern for neighbouring landholders and requires clearer policy guidance from government that is properly informed by consultation with key stakeholders. In considering the existing evidence and policy guidance on the issue available to it however, the Commission agrees with the view of the Department that "clear evidence has [not] been provided on increased premiums or an inability to obtain insurance as a result of the proposed project" (Department's RFI response, page 6). The Commission considers that the increased setbacks required by condition B5 to mitigate the heat island effect will also reduce any residual fire-related risks associated with adjoining land uses, potentially addressing and/or mitigating any insurability issues.
152. Regarding fire risk associated with the Project, the Commission is satisfied that these risks can be appropriately and effectively controlled through the implementation of standard fire management procedures and recommendations made by NSW Rural Fire Service and Fire and Rescue NSW, including compliance with the former's *Planning for Bushfire Protection 2019* and *Standards for Asset Protection Zones* which has been imposed by the Commission through condition C31.

5.8 Other Issues

5.8.1 Biodiversity

153. The Department's AR states that approximately 0.8 ha of native vegetation would be cleared for the project. Given the minor extent of clearing and the degraded nature of the vegetation within the Site, the Department considers the Project would not result in a serious and irreversible impact to any biodiversity values (AR Table 8). The Commission agrees with the Department's assessment and recommended requirement for species credits to be retired in accordance with the NSW Biodiversity Offset Scheme prior to the commencement of construction of the Project as imposed in condition C15.
154. The refurbishment of the transmission line would result in soil and vegetation disturbance; however, this is not included in this Application. The Commission is satisfied with the Department's qualitative assessment of the refurbishment as low impact given the highly modified grassland vegetation that would be disturbed (AR Table 8), noting that separate approval for these works must be in place prior to the development consent commencing per conditions A1 to A2, which the Commission has imposed.

5.8.2 Contamination

155. The Commission received submissions concerned about soil contamination from damaged or degraded solar panels, particularly relating to heavy metal contaminants. The Commission notes that the Solar Energy Guideline Frequently Asked Questions (**Guideline FAQ**) provides the following advice on whether solar panels contaminate soil (page 4):
- The metals in solar panels (including lead, cadmium, copper, indium, gallium and nickel) cannot be easily released into the environment. This is because metals such as cadmium telluride (CdTe) or cadmium sulfide (CdS) are enclosed in thin layers between sheets of glass or plastic within the solar panel. Because of this, the use of metals in solar panels has not been found to pose a risk to the environment.*
- To readily release contaminants into the environment, solar panels would need to be ground to a fine dust.*
156. The Commission acknowledges the concerns raised in submissions, however agrees with the advice contained in the Guideline FAQ and is satisfied that there are minimal contamination risks from damaged or degraded solar panels.
157. Regarding contamination risks associated with the BESS, the Commission notes that the Applicant's Preliminary Hazard Analysis, dated October 2022, assesses this risk to be "very unlikely" and sets out detailed controls to mitigate risk (page 19). The Commission agrees with the Department's conclusion that the risks associated with the BESS would be minimal, subject to the mitigation measures recommended by the Preliminary Hazard Analysis (AR Table 8).

5.8.3 Waste and recycling

158. The Commission heard concerns at the Public Meeting about waste and recycling. The Applicant's RFI response affirmed the Applicant's commitment to consulting with Council regarding waste management and recycling strategies.

159. The Commission has imposed conditions that it considers will help to ensure that the Project minimises waste and pursues recycling initiatives. This includes condition C34, which, amongst other requirements, requires that the Applicant must remove all waste from the Site as soon as practicable, and ensure it is reused, recycled or sent to an appropriately licensed waste facility for disposal (in consultation with Council for use of Council's waste facilities). The Commission reiterates its imposition of condition C36 in relation to decommissioning and rehabilitation, part of which requires review half-way through the operational life of the Project and within 2 years prior to decommissioning to ensure that the operators of the Project have the most up-to-date information relating to recycling and waste management initiatives.

5.8.4 Noise

160. The Commission acknowledges that construction noise levels are predicted to exceed the 'noise management level' of 45 dB(A) in the ICNG under some scenarios at six of the nearest receivers (R2, R3, R4, R5, R44b and R44c) – noting however, that R44b and R44c are possible future residences and may not be built and/or occupied during the construction phase of the Project (AR Table 8).
161. The Commission notes that the Project's noise impacts (including operational and road traffic) are otherwise fully compliant with the ICNG, NPfl, and the NSW Environmental Protection Agency's *Road Noise Policy* (2011). The Commission has imposed condition C21 in relation to noise, which requires that the Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on-site in accordance with best practice requirements outlined in the ICNG, and ensure that the noise generated by the operation of the development during the night does not exceed 35 dB(A) $L_{Aeq, 15min}$ to be determined in accordance with the procedures in the NPfl at any non-associated residence.
162. In line with the recommendations of the Applicant's Noise Assessment, dated October 2022, for construction noise impacts on R2, R3, R4, R5, R44b and R44c, the Commission has also imposed condition C21(c). Where construction works are being undertaken within 700m of these receivers, this condition requires the Applicant to identify appropriate respite and repose periods in consultation with the landowners, where feasible and reasonable.

5.8.5 Dust

163. The Commission notes the requirement for approximately 28ML of water during construction for dust suppression and other construction purposes and that this would be sourced from imported potable water as well as rainwater collected in tanks on-site (AR Table 8).
164. The Commission is satisfied with the Department's assessment of potential dust impacts from the Project on local amenity and has imposed condition C22 requiring the Applicant to ensure all activities occurring at the Site and during road upgrades are carried out in a manner that minimises dust, including the emission of wind-blown or traffic generated dust.

5.8.6 Hazards and risks

165. The Commission acknowledges the concerns raised in submissions regarding bushfire risk, including the potential for increased risk as a result of the BESS and impacts to neighbouring properties.

166. The Department's AR finds that subject to mitigation measures, including minimum separation distances between BESS containers and use of non-combustible materials, the Project's proposed BESS would not pose an unacceptable propagation risk (AR Table 8).
167. The Commission agrees with the Department's assessment that bushfire risk can be suitably controlled through the implementation of standard fire management procedures, and notes that neither NSW Rural Fire Service nor Fire and Rescue NSW have raised any major concerns regarding the Project. The requirements to prepare and implement a detailed emergency plan, a fire safety study and procedures for managing the BESS and any fire hazards have been imposed via conditions C29 to C33.

5.8.7 Heat island effect

168. The Commission received submissions that raised concern regarding the Project's potential to create a photovoltaic heat island effect, and the impacts of this on neighbouring landowners and microclimatic conditions.
169. The Department's AR sets out evidence which supports the fact that a photovoltaic heat island effect would be negligible within a 30m setback of the development footprint, reduced further by the proposed vegetation screening along the boundary (AR Table 8). As discussed above at sections 5.1.3 and 5.7 of this Statement of Reasons and in view of the concerns raised in submissions, the Commission has imposed a minimum 30m setback through condition B5 in place of the currently proposed setbacks in order to ensure the Project appropriately manages any potential heat island effects.
170. The Commission additionally agrees with the view of the Department that the proposed landscaping buffer would further mitigate potential heat island effects, and notes that it has imposed condition B5(d), requiring the Applicant to include opportunities for additional vegetation screening as a consequence of the increased setbacks established by B5(a) and B5(b).

5.8.8 Property values

171. The Commission acknowledges the concerns raised in submissions regarding the potential for the visual impacts of the Project to affect the property values of neighbouring landowners. In response to these concerns, the Commission has considered the existing strategic and legislative guidance available on this issue.
172. The Guideline FAQ notes the following with respect to large-scale solar energy developments affecting the land value of neighbouring properties (page 5):
There is no evidence to suggest that large-scale solar developments affect the land value of neighbouring properties. While the [D]epartment acknowledges that effects on land value (positive or negative) are of great concern to the community and landholders, this is not a planning issue and is outside the scope of what the consent authority can consider in making a determination on a [development application].
173. It is noted that the NSW Court of Appeal has found that property values can be a permissible consideration but are not a mandatory consideration, whilst the NSW Land and Environment Court has found that consideration of property values should be based on expert evidence. The Commission does not have expert or peer-reviewed evidence on the Project's potential to impact on the property values of neighbouring landowners.

174. The Commission is confident however, that the suite of mitigation and management measures imposed on the construction and operation of the Project, including the increased setbacks and need for additional landscape screening will limit ongoing impacts, and consequently limit potential impacts on property values.

5.8.9 Aboriginal Cultural Heritage

175. The Commission notes that surveys of the Project area identified two Aboriginal sites; a culturally modified tree within the riparian corridor which would be avoided by the Project, and an isolated artefact within the development footprint of low significance. The Department notes that prior to the commencement of construction, and in consultation with Registered Aboriginal Parties (**RAPs**), the isolated artefact would be relocated in accordance with the *Code of Practice of archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010). Where additional Aboriginal artefacts or skeletal material are identified during construction all work would cease and an unexpected finds procedure would be implemented (AR Table 8).
176. The Commission notes Heritage NSW's satisfaction with the proposed management measures and agrees with the Department's view that the Project would not significantly impact the Aboriginal heritage values of the locality. The Commission has imposed conditions C23 and C24 in relation to Aboriginal cultural heritage. These conditions require, among other requirements, the preparation of a Heritage Management Plan prior to commencing construction as well as appropriate avoidance and salvage measures for the heritage items identified within the Site.
177. Subject to the imposed conditions, the Commission is satisfied that the Project would not have any adverse impacts on Aboriginal cultural heritage on the Site or in the surrounding area.

5.8.10 Historic Heritage

178. The Commission notes that the locally significant historic heritage item 'Woodside' cottage is located outside the development footprint and would not be directly impacted by the Project given the proposed 300m separation distance between Woodside and the Project's operational area, as well as the Applicant's proposal to supplement existing vegetation screening views of the operation from Woodside and the Great Western Highway. The Commission has ensured the latter measure will occur through imposing condition C9 (Vegetation Buffer) to require the Applicant to minimise views of the development from Woodside within 5 years of commencing operations.

5.8.11 Subdivision

179. The Commission agrees with the Department that the proposed subdivision is necessary for the operation of the substation, the battery and ancillary facilities, and should be approved for the reasons given at Table 8 of the AR. The Applicant must subdivide the Site as required by condition B12 imposed by the Commission. The condition requires that a subdivision certificate must not be issued until a final occupation certificate has been issued. The timing for the subdivision certificate ensures that land is not unnecessarily fragmented in the event that the development does not proceed.

6. The Commission's Findings and Determination

180. The views of the community were expressed through public submissions and comments received (as part of exhibition and as part of the Commission's determination process), as well as in oral presentations to the Commission at the Public Hearing. The Commission carefully considered all these views as part of making its decision.

181. The Commission has carefully considered the Material before it as set out in section 3.1 of this report. Based on its consideration of the Material, the Commission finds that the Project should be approved subject to conditions of consent for the following reasons:

- the Project is consistent with the existing strategic planning and energy framework as it will deliver a renewable energy development in NSW that will increase the proportion of renewable energy generation within the electricity grid;
- the use of the Site for a renewable energy development is consistent with the relevant EPIs, including the BLEP 2014, the Planning Systems SEPP, and the Transport and Infrastructure SEPP;
- the Site is considered to be a suitable location for renewable energy development given its topography, solar resources, avoidance of major environmental constraints, access to the regional road network, and its proximity to existing and planned electricity transmission networks;
- the Project represents an effective and compatible use of the land that will not adversely impact neighbouring land uses, subject to increased setbacks required by the Commission, or the availability of agricultural land in the Bathurst LGA;
- impacts on visual amenity and landscape character would be low and will be mitigated by retained vegetation, separation distance, and proposed and enhanced vegetation screening;
- there is unlikely to be a serious and irreversible impact on biodiversity present in the area;
- there would be no material cumulative traffic impacts on the State, regional or local road network as a result of the Project;
- there is likely to be sufficient workforce accommodation for the Project;
- the Project will generate direct and indirect benefits to the community, including through the proposed VPA;
- with the implementation of objective-based conditions and monitoring requirements, the Project is capable of being effectively decommissioned and the Site appropriately rehabilitated;
- the Project would not result in significant impacts on water flows, flood behaviour, or water resources;
- erosion and sedimentation risks associated with the Project can be effectively mitigated and managed;
- potential heat island effect risks associated with the Project can be effectively mitigated and managed given prescribed setbacks;
- fire risks can be suitably controlled through the implementation of standard fire management procedures and recommendations;
- the Project would not significantly impact the Aboriginal cultural heritage nor historic heritage values of the Site and locality;

- the conditions imposed by the Commission in view of community concerns and additional information received, including the decision by the Commission to increase setbacks on the eastern and western boundaries of the Site, will ensure that the residual impacts of the Project are appropriately mitigated and managed into the future and on cessation of operations;
- the Project is consistent with ESD principles and would achieve an acceptable balance between environmental, economic, and social considerations;
- the Project is in accordance with the Objects of the EP&A Act; and
- the Project is in the public interest.

182. For the reasons set out in paragraph 181 above, the Commission has determined that the Application should be approved subject to conditions. These conditions are designed to:

- prevent, minimise and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

183. The reasons for the Decision are given in this Statement of Reasons for Decision dated 30 January 2024.



Dr Sheridan Coakes (Chair)
Member of the Commission



Mr Chris Wilson
Member of the Commission



Mr Richard Pearson
Member of the Commission



New South Wales Government
Independent Planning Commission

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