



New South Wales Government
Independent Planning Commission

Walla Walla Solar Farm SSD 9874

Statement of Reasons for Decision

Andrew Hutton (Chair)
Professor Zada Lipman

27 November 2020

STATEMENT OF REASONS FOR DECISION

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1 INTRODUCTION

1. On 2 October 2020, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State significant development application (SSD 9874) (**Application**) from FRV Services Australia Pty Ltd (**Applicant**) seeking approval for the Walla Walla Solar Farm (**Project**) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. On 1 April 2020, the Applicant sought an amendment to the Application under clause 55 of the *Environmental Planning and Assessment Regulation 2000*. A further amendment to the application was made on 25 May 2020. The amendments to the Application were agreed by the Department under delegation from the Commission. Accordingly, the Commission has now determined the Application as amended.
3. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
 - the Project constitutes State significant development (**SSD**) under section 4.36 of the EP&A Act;
 - the Department received more than 50 unique submissions from the public objecting to the Application; and
 - Greater Hume Shire Council (**Council**) objected to the Application.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Mr Andrew Hutton (Chair), and Professor Zada Lipman to constitute the Commission determining the Application.

2 THE APPLICATION

5. The Department’s Assessment Report (**AR**), from September 2020, describes the site (**Site**) and locality of the Project within section 2.1 and other proposed and approved solar farms in the region within section 2.2.
6. The main components of the Project are set out at Table 1 of the AR. The amendments to the Application made on 1 April and 25 May 2020 are set out within section 4.4, Appendix C and Appendix G of the AR.
7. The AR states that the Applicant “*proposes to develop a new State significant solar farm development approximately 5 kilometres (km) northeast of Walla Walla in the Greater Hume Local Government Area*”.
8. Assessment Report Paragraph (**ARP**) 1.1.2 states that “*the project involves the construction of a new solar farm with a generating capacity of approximately 300 megawatts. It also involves the upgrading and decommissioning of infrastructure and equipment over time*”, while ARP 1.1.3 states that “*The Solar farm would connect to TransGrid’s existing Wagga Wagga to Jindera 330 kilovolt (kV) overhead transmission line which traverses the site near its western boundary*”.

9. Figure 1 (below) depicts the layout of the Project.

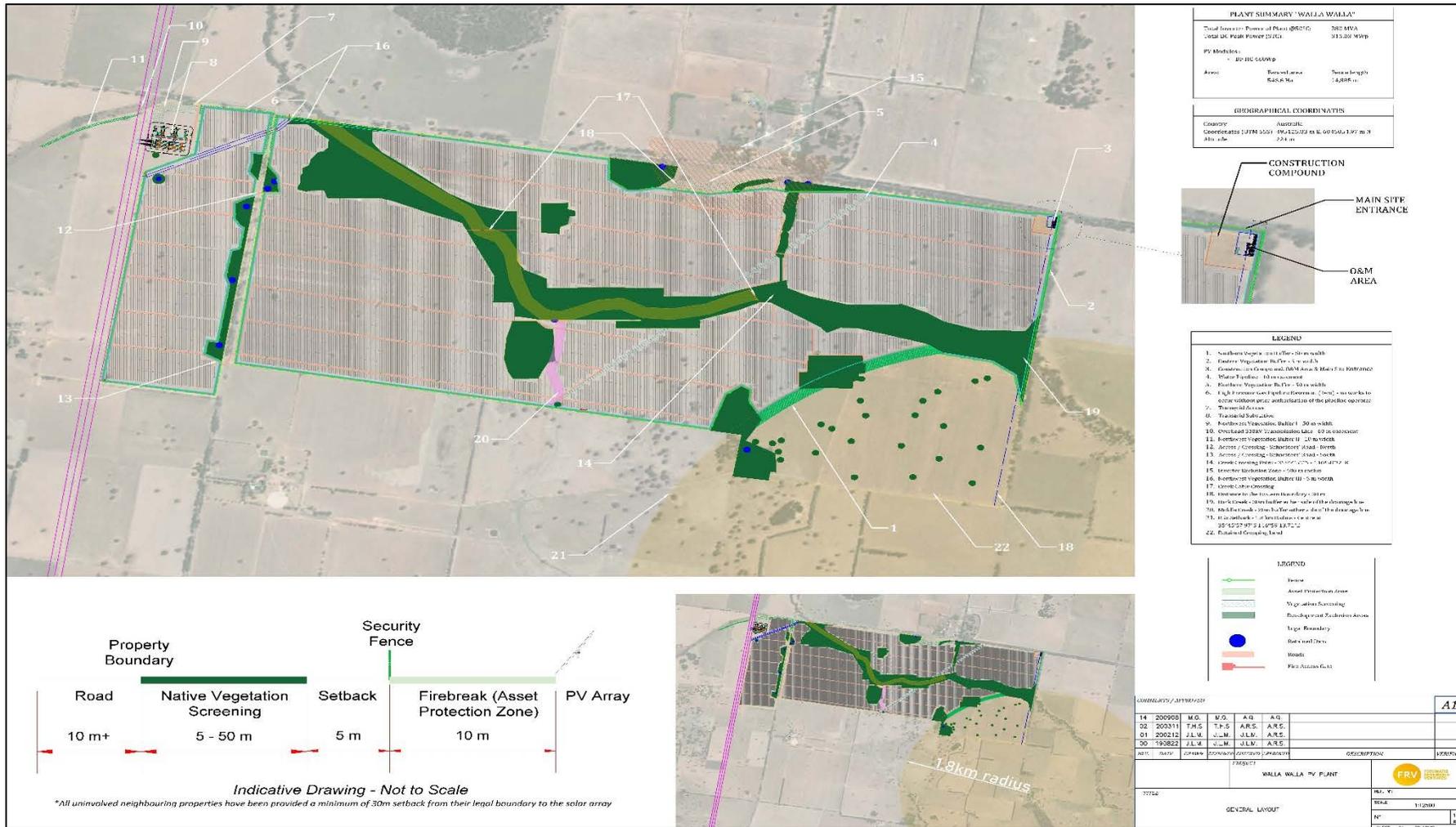


Figure 1 – Project Layout (Source: Applicant's correspondence further amending the project, dated 25 May 2020)

2.1 The Amended Application

10. ARP 4.4.1 states that *“following consideration of submissions on the project, FRV removed infrastructure from the south-eastern corner of the project site and amended its application through an Amendment Report”*. The amendment included the introduction of a 1.2km setback from Orange Grove Gardens (R5a) to the south east.
11. A further amendment to the Project was made on 25 May 2020 in correspondence sent from the Applicant to the Department (received by the Department on 26 May 2020) which states: *“FRV has amended the proposal’s design, which would now have a development footprint of approximately 421 ha. A 1.8km setback from to the nearest PV solar array has been implemented into the design. The proposed 50m wide vegetation screening has also been retained in the design which will not only provide further visual screening but also enhance ecology by connecting existing mature vegetation to provide wildlife corridors”*.
12. As summarised in Table 3 of the AR, the amendments to the project result in a reduced footprint (from 493ha to 421ha) and an increased setback in the south east (from 800 metres to 1.8 kilometres). In addition, as per ARP 4.4.2, the amendment also included the following:
 - *“Removal of landscaping and tree planting from within the easement of the high pressure gas pipeline;*
 - *Five access gates to provide access to the high pressure gas pipeline that traverses the site; and*
 - *Details of a proposed voluntary planning agreement (VPA) with Council.”*
13. ARP 4.4.5 states that *“the Department provided the Amendment Report to government agencies for review and comment and made it available on the Department’s Website. As the project amendments would reduce the impacts of the project as a whole, the Department did not exhibit the Amendment Report.”*
14. ARP 4.4.4 states that *“despite the proposed changes, the generating capacity of the project would remain the same, as FRV propose to use higher efficiency solar panels”*.
15. The Application now before the Commission consists of the following, as set out in Table 1 of the AR:
 - *“approximately 700,000 solar panels (up to 4 m high) and 76 inverter stations (up to 4.5 m high);*
 - *an on-site substation and connection to TransGrid’s 330 kV transmission line;*
 - *internal access tracks, staff amenities, maintenance buildings (up to 6 m high), offices, laydown areas, car park, fire breaks, vegetation screening and security fencing;*
 - *an area for potential future battery storage, however no battery storage is currently proposed; and*
 - *subdivision of land within the site for the solar farm and the grid substation.”*

2.2 Need and Strategic Context

16. The Applicant’s Environmental Impact Statement (**EIS**), dated 25 October 2019, sets out the Applicant’s position on the need for the Project at section 2.1.
17. The Department summarises the strategic context of renewable and solar energy sources in ARP 2.3.2 – 2.3.10.

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

18. The Department received the Application in October 2019.
19. Under section 4.6(d) of the EP&A Act, the Department (through the Planning Secretary) is responsible for some of the Commission's functions in respect of community participation. This includes responsibility for public exhibition (and if necessary, re-exhibition) of applications. The Department's engagement and exhibition process is set out in ARP 4.1.1 – 4.1.3.
20. ARP 4.3.1 – 4.3.5 provide the following summary in relation to submissions and the submissions report prepared by the Applicant:

“During the exhibition period of the EIS, the Department received 150 submissions, including:

 - *147 public submissions (85 objections, 61 supporting and 1 comment); and*
 - *3 special interest group submissions (1 objection, 1 supporting and 1 comment);*

Of the 85 objections received, 73 were unique submissions, including an online petition opposing the project containing 576 signatures. Advice was also received from 12 government agencies (including an objection letter from Greater Hume Council).”
21. Key issues raised in submissions are provided in ARP 4.5.1 – 4.7.5 while submissions received, and the Applicant's submissions report, are provided in Appendix D. In addition, Appendix E of the AR considers community concerns raised through submissions.
22. In responding to the submissions, the Applicant amended its Application through an amendment report (**Amendment Report**), dated 1 April 2020, and further correspondence sent to the Department on 25 May 2020. The AR summarises the amendment in section 32, Table 3, Appendix C and Appendix G.
23. Sections 5.1 and 5.2 of the AR identify the compatibility of the proposed land use and visual impact as the key impacts associated with the Project. Other issues are identified in section 5.3, Table 6 of the AR.
24. ARP 7.1.1 states *“the Department has assessed the development application, EIS, submissions, Submissions Report, amended development application and additional information provided by UPC and advice received from relevant government agencies”*.
25. In ARP 7.1.13 the Department concludes *“the project achieves an appropriate balance between maximizing the efficiency of the solar resource development and minimising the potential impacts on surrounding land uses and the environment. The project would also stimulate economic investment in renewable energy and provide flow-on benefits to the local community, through job creation, capital investment and substantial contributions to Council for community enhancement projects”*.

4 THE COMMISSION'S CONSIDERATION

4.1 The Commission's Meetings and Site Inspection

26. As part of its determination, the Commission met with various persons, as set out in Table 1 below. The transcripts from all meetings along with the notes from the site inspection were made available on the Commission's website.

Table 1 – Commission's Meetings

Meeting	Date of Meeting	Transcript / Notes available on Commission's website
Department	27 October 2020	6 November 2020
Applicant	27 October 2020	6 November 2020
Greater Hume Council	27 October 2020	6 November 2020
Site Inspection	29 October 2020	5 November 2020
Public Meeting	5 November 2020	5 November 2020

4.2 Public Comments

27. All persons were offered the opportunity to provide written submissions to the Commission within seven (7) days after the public meeting which closed at 5pm on Thursday 12 November 2020.
28. The Commission received a total of 136 written submissions on the Application (3 making comment, 24 in objection, and 109 in support).

4.3 Material considered by the Commission

29. In this determination, the Commission has carefully considered the following material (**Material**):
- the Environmental Impact Statement dated 25 October 2019 and prepared by NGH Consulting (**NGH**) and its accompanying appendices (including any amendments);
 - all submissions made to the Department in respect of the proposed Application during public exhibition, 1 November 2019 – 2 December 2019;
 - the Applicant's Submissions Report, dated 1 April 2020;
 - the Applicant's Amendment Report, dated 1 April 2020;
 - the Applicant's Additional Information, dated 27 April 2020;
 - the Applicant's Additional Information, dated 13 May 2020;
 - the Applicant's correspondence further amending the project, dated 25 May 2020;
 - the AR, referred to the Commission on 2 October 2020;
 - the Department's draft conditions of consent, referred to the Commission on 2 October 2020;
 - the Applicant's comments to the Commission, dated 27 October 2020;
 - the Council's comments to the Commission, dated 27 October 2020;
 - the Department's comments to the Commission, dated 27 October 2020;
 - all speaker comments made to the Commission at the public meeting held 5 November 2020, as well as presentation material at that meeting; and
 - all public submissions received by the Commission up until 12 November 2020.

4.4 Mandatory considerations

30. In determining this application, the Commission has taken into consideration the following mandatory considerations, as provided in s 4.15(1) of the EP&A Act (**mandatory considerations**), and as are relevant to the Application:

- the provisions of all:
 - relevant environmental planning instruments (**EPIs**) including:
 - *Greater Hume Local Environment Plan 2012; (**GHLEP 2012**);*
 - *State Environment Planning Policy Infrastructure 2007 (**ISEPP 2007**);*
 - *State Environmental Planning Policy (State and Regional Development) 2011 (**SRD SEPP**);*
 - *State Environment Planning Policy No. 33 – Hazardous and Offensive Development (**H&OD SEPP**);*
 - *State Environmental Planning Policy Primary Production and Rural Development 2019 (**PP&RD SEPP**);*
 - *State Environmental Planning Policy No. 55 – Remediation of Land (**RoL SEPP**);*
 - *State Environmental Planning Policy No. 44 – Koala Habitat Protection (**Koala SEPP**);* and
 - proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved);
 - development control plans (**DCP**);
 - planning agreements that have been entered into under s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4; and
 - the *Environmental Planning and Assessment Regulations 2000 (**Regulations**)* to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act;
- that apply to the land to which the Application relates;
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for development;
 - submissions made in accordance with the EP&A Act and Regulations; and
 - the public interest.

31. ARP 7.1.1 and Appendix H of the AR state that the Department has considered all the matters set out in Paragraph 30 above.

4.5 Additional considerations

32. In determining this application, the Commission has also considered:

- Interim Construction Noise Guideline 2009 (**ICNG**);
- Large Scale Solar Energy Guideline (**Solar Energy Guideline**);
- NSW Noise Policy for Industry 2017 (**Noise Policy**); and
- NSW Renewable Energy Action Plan 2013 (**Renewable Energy Action Plan**).

4.6 Compatibility of Proposed Land Use

Council's Comments

33. Council, in its submission to the Department on 22 November 2019, raised concerns relating to the project and associated loss of 'high quality agricultural land'. Specifically, Council stated that "*inspections by Council of the development site and adjacent land would indicate that it is high quality agricultural land*". Furthermore, Council stated that they had been advised that the Site would be mapped as 'important agricultural land' under the Riverina Murray Draft Important Agricultural Land Mapping project. On this basis, Council were of the view the land could be considered to be constrained under the Solar Energy Guideline.

Applicant's Consideration

34. The Applicant's EIS considers that the project is a compatible land use which has addressed the requirements of the *NSW Large-scale Solar Energy Guideline for State Significant Development*.
35. The Applicant's EIS states in section 4.2.3 *"the activity would impact on land availability for primary production; however, it would be developed in a way that would minimise fragmentation and alienation of resource land and minimise land use conflict."* In addition, it is noted in the EIS that solar farms do not preclude the use of land for primary production, with 85% of agricultural sheep grazing activity still being possible during the operation of a solar farm.
36. The Applicant's EIS states that while the site selection process had reviewed the potential of many areas within New South Wales (NSW), the site was chosen because:
 - "The proposed site was selected because it provides the optimal combination of:*
 - *Minimal biodiversity losses.*
 - *Level terrain for cost effective construction.*
 - *High quality solar resource.*
 - *Compatible land use zone (on the development site and considering adjacent land holdings).*
 - *Existing road access.*
 - *A low number of residential dwellings and businesses within close proximity.*
 - *Onsite connection to the transmission network.*
 - *High levels of available capacity on the grid transmission system.*
 - *Land availability and support from the landowners."*

Department's Assessment

37. ARP 3.3.1 states *"the site is located wholly within land zoned RUI – Primary Production under the Greater Hume LEP"*. Whilst electricity generating works are not expressly listed as permitted with or without consent under a strict reading of GHLEP 2012, as stated in ARP 3.3.2 *"under the Infrastructure SEPP, electricity generating works are permissible on any land in a prescribed rural, industrial or special use zone. Land zoned RU1 Primary Production is a prescribed rural zone pursuant to the Infrastructure SEPP. Consequently, the project is permissible with development consent"*.
38. ARP 5.1.7 states *"development would not fragment or alienate resource lands in the LGA as the land could be easily returned to agricultural land following decommissioning as the inherent agricultural capability of the land would not be affected in the long-term and FRV propose to continue sheep grazing within the development footprint"*.
39. The Department found that the project was compatible with the GHLEP 2012 (see ARP 5.1.1 – 5.1.8).
40. The Department identified that most public submissions received raised loss of agricultural land as a key concern, as well as impacts on surrounding agricultural practices. In addition, the Department noted that while the site is not mapped as Biophysical Strategic Agricultural Land (BSAL), some submissions had referenced draft agricultural land mapping previously undertaken by DPI Agriculture in relation to the site. However, as stated in ARP 5.1.11, *"the Department notes that as the agricultural mapping of the area has not yet been finalised, exhibited or adopted by NSW Government, it is not directly relevant to the assessment of this project. In addition, the Department notes that DPI Agriculture has not raised any concerns regarding the project"*.

41. ARP 5.1.2 states *“under the existing Land and Soil Capability Mapping in NSW (OEH), the land within the development footprint is predominantly Class 4 (land with moderate capability, requiring specialised management practices, expertise, inputs and technology to manage productivity) and Class 6 (severely limited land, generally only suitable for grazing)”*.
42. ARP 5.1.2 also notes that the Applicant will continue sheep grazing within the development footprint with no reduction in stock numbers. Furthermore, ARP 5.1.14 states *“in response to submissions on the project, FRV removed a section of solar panels from the south-eastern corner of the project site. Consequently, the amendment has resulted in the retention of over 94ha of agricultural land capable of cultivation, which would continue to be used for cropping”*.
43. The Department accepts that the solar farm would reduce the agricultural output of the site whilst operational, however as stated in ARP 5.1.16, *“the inherent agricultural capability of the land and soils would not be affected by the project due to limited disturbance of the land to construct and operate the development”*.
44. To ensure the land returns to existing levels of agricultural capability, ARP 5.1.7 states *“the Department has included rehabilitation objectives in the recommended conditions to maintain the productivity of the agricultural land during the construction and operation of the project, and to fully reinstate the agricultural capability of the land following decommissioning of the project, including the requirement to return the site to existing Soil and Land Capability classes (i.e. Class 4 and 6)”*.
45. In relation to cumulative impacts of the project, ARP 5.1.18 states *“the development footprint of the project combined with other operational, approved and proposed SSD solar farms in the Riverina Murray region would be up to 8,200 ha if all these projects are approved and developed. Even under this worst-case scenario, the total loss of 8,200 ha of agricultural land represents a very small fraction (0.09 %) of the 9.1 million ha of land being used for agricultural output in the Riverina Murray region”*.
46. In relation to the cumulative impacts on the Greater Hume Local Government Area (**LGA**), ARP 5.19 states *“if all four proposed SSD solar projects within Greater Hume LGA are approved, they would have a combined development footprint of approximately 2,300 ha, which is approximately 0.69 % of the 335,000 ha of land being used for agriculture within the Greater Hume LGA”*.
47. In conclusion, based on the findings provided in ARP 5.1.1 – 5.1.20, the Department considers *“the proposed solar farm represents an effective and compatible use of the land within the region”*.

Commission’s Findings

48. It is acknowledged by the Commission that compatibility of the proposal with the existing land use was a key concern raised by stakeholders in the submissions made during the exhibition period as well as in representations made during the Public Meeting and subsequent submissions.
49. The Commission agrees with the Department’s assessment, as set out in paragraphs 37 - 47 above for the following reasons:
 - the Project is permissible in accordance with ISEPP 2007 and is considered compatible with GHLEP 2012;
 - the land is not identified in BSAL mapping and under existing land and soil capability mapping is predominantly Class 4 and Class 6 land;
 - the Project will not result in the fragmentation of agricultural land and although there will be a short term reduction in productivity, the inherent agricultural capability of the

land will not be affected in the long term; and

- the Applicant will continue sheep grazing within the development footprint with minimal reduction in stock numbers. Furthermore, the Applicant removed a section of solar panels from the south-eastern corner of the project site resulting in the retention of 94ha of agricultural land capable of cultivation, which would continue to be used for cropping.

50. With consideration given to the Department's assessment outlined in paragraph 49, the Commission has imposed the Department's recommended conditions which require the Applicant to maintain grazing activities at the Site.

4.7 Visual Amenity

Council's Comments

51. The Council, in its submission to the Department on 22 November 2019 in relation to the original proposal, raised concerns about the visual impact on non-associated surrounding properties. Council's submission stated: *"Council considers that residents from these properties will experience reduced amenity as the outlook from their property will change from being an agricultural landscape to one that is of an industrial appearance"*. Council's comments are set out in pages 1 – 2 of its submission.

52. While Council opposed the Project on visual impact grounds identified in paragraph 51 above, in the meeting held with the Commission on 27 October 2020 Council acknowledged that the proponent had made 'significant concessions' in relation to setbacks from non-associated residential receivers.

Applicant's Consideration

53. The Applicant's EIS included a Visual Impact Assessment (**VIA**) dated 2 October 2019, prepared by NGH. The VIA included a strategy to address identified impacts, including onsite vegetation screening, general design measures and a process to verify the actual visual impacts of the proposal. The Applicant's EIS included an assessment of visual impacts based on the findings set out in the VIA.

54. The Applicant's EIS considers visual impacts associated with the project on nearby residential receptors and public viewpoints within section 6.2.1. The residential receptors considered in the Applicant's VIA included the residences immediately to the north on Benambra Road (referred to as R1a and R1b), the residence north-west of the project (referred to as R1) and the Orange Grove Gardens to the south-east (referred to as R5a).

55. The Applicant's Amendment Report summarises changes made to the application that address visual impacts of the project on non-associated residential receivers. Page 4 of the Amendment Report identifies the following revised mitigation measures:

"FRV have provided the following visual mitigation measures within the proposed design:

- *Altered the solar array design layout, setting back the solar arrays so that the total distance between Orange Grove Gardens' built structures and the nearest panels is 1200m*
- *An arrangement with the landowner to crop the south eastern corner of the development site to maintain agricultural views for wedding functions.*
- *FRV will implement an extensive 50 m vegetation buffer along the full length of the southern development boundary. Following this 50 m buffer, an additional 5 m vegetation buffer would travel the full length of the eastern boundary to complement the existing mature vegetation that is present. A detailed landscaping plan has been created, which includes:*

- *Specific species (shrubs and trees) that encourage foraging, pollination and habitat creation for local insects, birds and fauna.*
- *Erecting nesting and faunal boxes to encourage wildlife use of the area.*
- *Connect existing vegetation to create an ecological corridor for local and seasonal wildlife.*
- *From this vegetation buffer, a further 10 m setback would occur for the APZ.*
- *After the APZ, only then would the solar farm security fence be installed so it can be screened by the proposed vegetation.*
- *An additional 5 m minimum setback would occur before the solar array would be installed.”*

56. Other mitigation measures not mentioned above in paragraph 55 include the following:
- consolidating plans for 3 main access points along Benambra Road to a single access point to the north-east of the project to reduce dust and noise impacts on R1a and R1b;
 - introduction of an ‘inverter exclusion zone’ within a 400m radius of R1a to further reduce visual impacts; and
 - relocating the substation 100m south from where it was initially proposed and treating it with an extensive 50m visual buffer to reduce potential visual impacts on R2.
57. The Applicant’s response to a request for further information dated 25 May 2020 further amended the project in response to visual impact concerns raised by objectors and the Department. In the correspondence prepared, the Applicant stated: *“In response to the Department’s comments regarding potential visual impacts on Orange Grove Gardens (R5a), FRV has amended the proposal’s design, which would now have a development footprint of approximately 421 ha. A 1.8km setback from R5a to the nearest PV solar array has been implemented into the design. The proposed 50m wide vegetation screening has also been retained in the design which will not only provide further visual screening but also enhance ecology by connecting existing mature vegetation to provide wildlife corridors”*.
58. Glare is considered in section 6.2.2 of the EIS and potential cumulative impacts associated with the construction and operation of the Culcairn Solar Farm are considered in section 6.2.3 of the EIS. The Applicant’s EIS provides safeguards and mitigation measures in relation to visual impacts within section 6.2.4.

Department’s Assessment

59. The Department summarised the visual context of the site and impact at surrounding receivers (see ARP 5.2.2 – 5.2.4 and Table 5). Furthermore, a summary of visual mitigation measures is also provided at ARP 5.2.6:

“FRV has proposed the following avoidance and mitigation measures to reduce the potential visual impacts on surrounding receivers:

- *setting back project infrastructure from R1a by a further 130m, providing a minimum separation distance of 210m between the project and the residence;*
- *moving the proposed location of the on-site substation approximately 100m south to reduce visual impacts on R2, providing a separation distance of 900m;*
- *setting back project infrastructure 1.8km from Orange Grove Gardens (R5a);*
- *retention of mature vegetation within and surrounding the site; and*
- *installing vegetation screening along sensitive parts of the site boundary, in order to screen views of the project from nearby receivers and road users. All proposed screening would be to a minimum depth of 5 m with more extensive landscaping to a depth of 50 m to reduce views from the most affected receivers (i.e. R1a, R1b, R2 and R5a)”*.

60. In relation to the visual impact of the Project on the landscape, the AR states *“the Department recognises that the introduction of the proposed solar farm to a rural landscape would result in a material change to the local landscape, but considers it would have a limited impact on the region, and it would not be visible from the townships of Walla Walla (5km south east) and Culcairn (9.5km north east)”*.
61. In relation to the visual impact of the Project on the identified non-associated residential receivers, the AR concluded *“the Department considers that visual impacts to R1 and R2 would not be significant due to the topography, existing vegetation and additional setbacks and vegetation screening proposed by FRV.”*
62. ARP 5.2.22 and 5.2.23 state the following in relation to the visual impact of the Project on the non-associated residential receivers:
- “Subject to the proposed exclusion zones and the implementation of the recommended conditions, the Department considers that there would be no significant visual impacts on surrounding residences, and the rural character and visual quality of the area would be preserved as far as practicable”. The Department has recommended conditions requiring FRV to establish and maintain a mature vegetation buffer along Benambra Road, to minimise the visual impact from residences R1 and R2.”*
- “The Department has recommended conditions requiring the applicant to minimise the off-site visual impacts of the development, including the potential for any glare or reflection, and to ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape. Subject to the recommended conditions, the Department is satisfied that the project would not cause significant glint or glare to nearby receivers.”*
63. ARP 5.2.27 – 5.2.28 state the following in relation to the visual impact of the Project on Orange Grove Gardens (R5a) and the visual mitigation measures proposed by the Applicant:
- “The Department acknowledges that FRV made further amendment to its development application to provide a 1.8 km setback between the solar farm infrastructure and R5a. This setback significantly reduces the visual impact on this receiver as the solar panels would not be dominant in the views from this receiver, and most panels would be obscured by existing vegetation.”*
- “FRV has also committed to providing a vegetation buffer with a depth of 50 m to provide additional screening of the solar farm from R5a. The VIA concludes that, with mitigation, the visual impacts would be reduced (ie. low).”*
64. ARP 5.2.29 concludes that *“given the above, and following amendments to the project, the Department is satisfied that setback from the solar farm, intervening existing vegetation and proposed additional landscape planting is unlikely to have significant visual impacts on R5a”*.
65. In relation to the cumulative impacts of the Project associated with the Culcairn Solar Farm, the AR states *“in consideration of the low lying nature of the development, the distance from both projects and both existing and proposed vegetation screening, the Department considers that cumulative visual impacts would be minor.”*
66. ARP 5.2.36 concludes that *“subject to the implementation of the recommended conditions, the Department considers that there would be no significant visual impacts on surrounding residences and receivers, and the rural character and visual quality of the area would be preserved as far as practicable.”*

Commission’s Findings

67. The Commission agrees with the Department’s assessment and conclusion, as set out in paragraphs 59 to 66 above. The Commission has therefore imposed the Department’s

recommended conditions within Schedule 2, with the addition of a condition mandating the required setbacks from R1a, R1b, R2 and R5a.

4.8 Traffic and Transport

Council's Comments

68. In page 4 of its submission to the Department, Council raised concerns regarding the unsealed portion of Benambra Road if utilised during construction of the Project. Council commented that *"sealing of the Benambra Road to Schneiders Road at the full cost of the proponent should be considered"*.
69. In the meeting held with the Commission on 27 October 2020, Council raised concern regarding the use of unsealed sections of Benambra Road for the transportation of potable water the Applicant proposes to bring to the site. In particular, this related to the section between Weeamara Road and Schneiders Road as it was identified as a more direct route to the potential source of water.

Applicant's Consideration

70. The Applicant's EIS included a Traffic Impact Assessment (TIA) dated 2 October 2019, prepared by Ontoit.
71. The Applicant's EIS included details regarding traffic generation expected during construction and operation within section 6.2.2.
72. The Applicant's EIS included details regarding site access within section 6.2.3. It identifies that *"the proposal would be accessed from one main point off Benambra Road to prevent unnecessary traffic travelling up past residents on the Benambra Road. Two access crossings are proposed on the Schneiders Road. A separate access is supplied for TransGrid to access their substation"*.
73. The Applicant's EIS assesses traffic and transport impact in 6.2.4 and potential cumulative impacts associated with Culcairn Solar Farm in 6.6.5.
74. The Applicant's EIS provides safeguards for traffic, transport and associated safety impacts in 6.6.6 (see Table 6-30).

Department's Assessment

75. The AR provides a summary of the findings and recommendations in relation to traffic and transport within column 1 and column 2 of Table 3 respectively.
76. The AR states *"site access for the majority of construction and operational traffic would be via a single site access point in the north-eastern corner of the site"*.
77. The AR states the following in relation to the section of Benambra Road between Weeamara Road and Schneiders Road within Table 3:

"While Council requested that FRV seal the section of Benambra Road between Weeamara Road and Schneiders Road, the Department does not consider that these upgrades would be necessary, given its limited use by approximately two over-dimensional and 20 heavy vehicles associated with construction of the substation. However, the Department has recommended conditions to address dilapidation surveys and repairs of Benambra Road between Weeamara Road and the substation access point."

Commission's Findings

78. The Commission agrees with the Department's assessment and conclusion and has therefore imposed the Department's recommended conditions (with amendments) within Schedule 3. The amendment specifies that water carts associated with the development must travel to and from the site via Olympic Highway and Benambra Road.
79. The Commission has implemented further conditions within Schedule 3 requiring dust controls to be implemented on Benambra Road between the Site entrance and the substation to minimise dust associated with construction traffic on R1a and R1b.

4.9 Noise

80. The AR examines the potential impacts of the Project in relation to noise generation during construction, upgrading and decommissioning (see Table 6) and states the following:

"Noise generated by the proposed construction, upgrading and decommissioning activities associated with the project would be below the 'highly noise affected' criterion of 75 dB(A) in EPA's Interim Construction Noise Guideline (the ICNG) at all nearby residences.

Two non-associated receivers (R1a and R1b) are predicted to experience noise levels above the 'noise affected criterion' of 45 dB(A) in the ICNG, however these exceedances would be short term and limited to standard construction hours but below the highly noise affected criterion:

- *"R1a would experience maximum noise levels of 51 - 68 dB(A) when activities associated with earthworks, road construction, panel framing, cabling and assembly are undertaken simultaneously in proximity to the residence;*
- *R1b would experience maximum noise levels of up to 49 dB(A) only when earthworks and road construction activities are undertaken in proximity to the residence."*

81. The Department acknowledged concerns raised by Orange Grove Gardens about the potential for noise during construction to impact weddings and functions, whilst noting that prior to the amendment of the layout in the south eastern corner of the site, construction activities were below the noise affected criterion (37dB(A)). The AR states *"with the increased the setback of solar panels from R5a (from 800m to 1800m) noise impacts during construction at R5a would be less than assessed"*.
82. In relation to cumulative noise impacts, the Department states *"consideration of cumulative noise impacts found that no additional receivers would experience exceedances of the noise affected criterion in the event that both the Walla Walla Solar Farm and Culcairn Solar Farm are approved and constructed concurrently"*.
83. The Department provided recommended conditions to minimise noise associated impacts, including conditions requiring activities to be undertaken in accordance with best practice noise mitigation work practices set out in the ICNG and restricted construction hours.

Commission's Findings

84. The Commission agrees with the Department's assessment of potential noise impacts, as well as the recommendation to impose conditions limiting construction to the standard hours in accordance with the ICNG. The Commission has imposed a further condition requiring the appointment of a neighbourhood liaison officer to liaise with receivers, including Orange Grove Gardens, on construction noise levels.
85. The Commission has modified the conditions in Schedule 3 to further limit works which can be undertaken outside of hours without the approval of the Secretary.

4.10 Biodiversity

86. Council, in its submission to the Department on 22 November 2019, raised concerns regarding the biodiversity impacts associated with the clearing of native vegetation required to facilitate the Project.
87. The AR assessed the potential impact of the project on biodiversity (see Table 6). The Department recommended conditions requiring the Applicant to prepare and implement a Biodiversity Management Plan in consultation with the Biodiversity & Conservation Division (BCD) and to retire the applicable biodiversity offset credits in accordance with the *Biodiversity Offsets Scheme*. In Table 6 of the AR, the Department concluded “*with these measures, both BCD and the Department consider that the project is unlikely to result in a significant impact on the biodiversity values of the locality*”.
88. The Commission sought further clarification from the Department as to whether the two creek crossings were included in the assessment of the vegetation clearing required for the project and related biodiversity offsets. The Department confirmed that the creek crossings had been considered in its assessment of the clearing required and related biodiversity offsets.

Commission’s Findings

89. The Commission is satisfied with the Department’s assessment, as set out in paragraph 87 above. The Commission has therefore imposed the Department’s recommended conditions with minor amendments.

4.11 Historic Heritage & Aboriginal Heritage

90. The AR assesses the potential impacts of the Project on Aboriginal heritage (see Table 6). The Department recommended conditions requiring the Applicant to salvage and relocate Aboriginal items, to undertake consultation with Aboriginal stakeholders prior to construction and to prepare and implement a Heritage Management Plan. The Department concluded that with the recommended conditions, the project would not significantly impact the Aboriginal heritage values of the locality.
91. The Department assesses the potential impacts of the Project on the historical heritage of the project site at Table 6 of the AR. The Department concluded that the Project would not have any adverse impacts on heritage items and any unexpected finds of potential heritage significance could be appropriately managed by an unexpected finds protocol.

Commission’s Findings

92. The Commission agrees with the conclusions of the Department in relation to both Aboriginal heritage and historic heritage, as set out in paragraphs 90 and 91 above, and imposes the Department’s recommended conditions.

4.12 Water and Erosion

93. The AR considered the potential impacts of the Project on naturally occurring watercourses and water usage for construction and operation of the Project (see Table 6). The Department has recommended conditions requiring the Applicant to design, construct and maintain the Project to reduce impacts on surface water and flooding. Conditions requiring works to be in accordance with the Office of Environment and Heritage’s *Managing Stormwater: Soils and Construction manual* and the National Resource Access Regulator’s *Guidelines for Controlled Activities on Waterfront Land* have also been recommended. The Department concludes that subject to the recommended conditions, the Project would not result in significant impacts on water resources.

Commission's Findings

94. The Commission agrees with the Department regarding impacts on water resources, as set out in paragraph 93 above and has therefore imposed the Department's recommended conditions.

4.13 Dust

95. The AR assesses the potential impact of the project in relation to dust during both construction and operation (see Table 6). The Department concluded that the nature and extent of disturbance on the site is not fundamentally different to primary agricultural activities that occur in the region, and with suitable mitigation, would not result in any material dust impacts on neighbouring properties or the local community.

Commission's Findings

96. The Commission agrees with the Department's assessment, as set out in paragraph 95. The Commission has therefore imposed the Department's recommended conditions in addition to a further condition which aims to minimise dust generation from project related vehicle movement along Benambra Road between the Site entrance and the substation as previously mentioned in paragraph 79.

4.14 Bushfire Risk

97. The AR considered the potential impact of the project in relation to bushfire (see Table 6). The Department is satisfied that bushfire risks can be suitably controlled through the implementation of standard fire management procedures. The Department recommended conditions require asset protection zones to be established and maintained, and for an Emergency Plan to be implemented to the satisfaction of the Rural Fire Service (RFS) and Fire & Rescue NSW.

Commission's Findings

98. The Commission agrees with the Department's assessment in relation to bushfire and has therefore imposed the Department's recommended conditions with minor amendments.

4.15 Decommissioning and rehabilitation

99. The AR considers community submissions concerning decommissioning and rehabilitation of the Project and land following cessation of the use. The Department recommended conditions which including clear decommissioning triggers and rehabilitation objectives such as restoring land capability to its pre-existing agricultural use. With the implementation of these measures, the Department considers that the solar farm would be suitably decommissioned at the end of the project life, or within 18 months if operations cease unexpectedly, and that the Site would be appropriately rehabilitated.

Commission's Findings

100. The Commission is of the view that the decommission and rehabilitation of operations should be planned appropriately ahead of the cessation of operations and brought together into a consolidated Decommissioning and Rehabilitation Plan. For this reason, the Commission has imposed a requirement for the Applicant to prepare such a plan prior to the cessation of operations, all of which must be to the satisfaction of the Secretary. The Commission has imposed a condition to give effect to this requirement under Schedule 3. The Commission has also amended the conditions to specify that all solar farm infrastructure, including underground cabling, is to be removed following the cessation of operations.

4.16 Land Values

101. The AR assesses the potential impacts of the project on the land values of neighbouring properties. The Department concluded that there is no clear evidence to suggest that solar farms in NSW are adversely affecting property values and that visual impacts on surrounding residences and road users would not be significant. Accordingly, the Department considers the project would not result in any significant or widespread reduction in land values in the areas surrounding the solar farm.

Commission's Findings

102. While the Commission does not consider land values to be an environmental planning matter for consideration, it agrees with the Department's assessment in relation to the impact of solar farms on land values. The Commission agrees that there is no clear evidence to suggest that solar farms are adversely affecting property values.

4.17 Subdivision

103. The AR states at Table 6 that the Applicant's proposal to amalgamate and then subdivide into three (3) lots the land on which the grid substation would be located would result in two (2) lots below the minimum lot size of 100ha, and is therefore prohibited under the GHLEP 2012. However, under s 4.38(3) of the EP&A Act, development consent for the project as a whole can be granted despite the subdivision component being prohibited. The AR concludes that this should be approved given the subdivision is necessary for the operation of the substation, would not result in any additional dwelling entitlements on the subdivided lots, and is consistent with key objectives of the zone.

Commission's Findings

104. The Commission agrees with the Department's assessment, as set out in paragraph 103, and imposes the recommended conditions including the requirement for the Applicant to prepare and submit detailed subdivision plans to be submitted for the Secretary for approval.

4.18 Workforce Accommodation and Local Employment

105. The AR states *"FRV has committed to source workers from the local community wherever possible and the Department is satisfied that there is sufficient accommodation in nearby towns, such as Culcairn, Holbrook, Wagga Wagga and Albury"*.
106. The Department has recommended the preparation of an Accommodation and Employment Strategy for the Project in consultation with Council, with consideration of the cumulative impacts associated with other SSD projects in the area, and consideration to prioritising the employment of local workers as a condition of consent.

Commission's Findings

107. The Commission agrees with the Department and has imposed the Department's recommended conditions under Schedule 3 requiring the Applicant to prepare an Accommodation and Employment Strategy for the project in consultation with Council, with consideration to prioritising the employment of local workers.

4.19 Socio-economic Impacts

108. In Table 6, the AR concludes that the project would generate direct and indirect benefits to the local community, including up to 250 jobs during construction and 21 ongoing full-time jobs (including 16 local jobs) during operation. Benefits would also result from expenditure on accommodation and to businesses in the local economy by workers who would reside in Greater Hume LGA or the adjoining Albury and Wagga Wagga LGAs, and from the procurement of goods and services by the Applicant.
109. The AR identifies that the Applicant has offered to enter a voluntary planning agreement (VPA) with Council, which includes a one-off payment of \$700,000 at commencement of the project and subsequent annual contributions of \$50,000 for 30 years (adjusted to inflation). This has subsequently been recommended as a condition of consent by the Department.
110. In the public meeting on 5 November 2020, the Applicant identified that a \$10,000 clean energy contribution offer had been made to the 3 residential receivers in closest proximity to the Project (namely R1, R2 and R5a). The extension of this offer was confirmed in a letter from the Applicant to the Department dated 25 November 2020.

Commission's Findings

111. The Commission agrees with the Department's assessment and has therefore imposed the Department's recommended conditions of consent requiring the Applicant to enter into a VPA with Council under Schedule 2.

4.20 Objects of the EP&A Act & Public Interest

Applicant's Consideration

112. Section 4.2.1 of the Applicant's EIS states the following in relation to the objects of the Act:

"The objects of the EP&A Act have been considered throughout this environmental assessment and natural resources and competing land uses have been considered. The proposal aims to promote the orderly and economic use of the land through the provision of utility services (power generation). The proposal has been located and designed so that it would avoid native vegetation as much as possible and minimise the use of natural and artificial resources while considering the social and economic welfare of the local community. For these reasons it is considered that the proposal is consistent with the objects of the EP&A Act."

113. Section 2.2 of the EIS outlines the benefit of the Project and why it is in the public interest.

Department's Assessment

114. The Department has undertaken an assessment of the Application against the objects of the EP&A Act. These are set out in the AR at Appendix H.
115. ARP 7.1.14 states: *"On balance, the Department considers that the project is in the public interest and is approvable, subject to the recommended conditions of consent."*

Commission's Findings

116. The Commission acknowledges the Applicant's view outlined in paragraph 112 and 113. The Commission also notes that the Applicant has made amendments to the Application in order to reduce and mitigate impacts as set out in section 2.1, in response to concerns raised by the community.
117. The Commission agrees with the Department's Assessment in paragraphs 114 and 115 and is of the view that the Project is in accordance with the EP&A Act and is in the public interest.

5 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

118. The views of the community were expressed through public submissions and written 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 meeting on 30 October 2020. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in section 4 above.
119. The Commission has carefully considered the Material before it.
120. For the reasons set out in this Statement of Reasons, the Commission has determined that the Application should be granted consent subject to conditions which have been designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - outline how the land can be returned to its current use following decommissioning and rehabilitation of the site;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
121. The reasons for the Decision are given in this Statement of Reasons for Decision dated 27 November 2020.



Andrew Hutton (Chair)
Member of the Commission



Professor Zada Lipman
Member of the Commission