



GINA VEREKER

COMMENT

Submission ID: 200744

Organisation: <i>Tamworth Regional Council</i>	Key issues: <i>Traffic and transport, Other issues</i>
Location: <i>New South Wales</i>	
Attachment: <i>FINAL Submission to the Independent Planning Commission re Middlebrook Solar Farm.pdf</i> <i>FINAL Submission to the Independent Planning Commission re Middlebrook Solar Farm.pdf</i>	

Submission date: 26/09/2024 13:25

submission uploaded as a file in letter form

Independent Planning Commission
135 King Street
SYDNEY NSW 2000

Dear Sir/Madam

TAMWORTH REGIONAL COUNCIL – SUBMISSION TO INDEPENDENT PLANNING COMMISSION – MIDDLEBROOK SOLAR FARM (APPLICATION NUMBER SSD-10455)

Ref: *ja/GV Document Set ID 2363246*

I refer to your correspondence received 22 August 2024 regarding the Middlebrook Solar Farm (SSD-10455). It is understood that the Department of Planning, Housing and Infrastructure (the Department) completed its assessment and recommended approval subject to conditions and that the Independent Planning Commission has been asked to make a determination because more than 50 unique objections were received.

Council appreciates the opportunity to provide comments to the Independent Planning Commission on the proposed development.

General

Tamworth Regional Council continues to maintain a neutral position in relation to the Middlebrook Solar Farm. Council recognises the benefits of renewable energy while being mindful of the potential negative impacts such a large development can have on an existing agriculturally based community and the environment.

Council notes that it has raised comments during the assessment that have resulted in the applicant changing the proposal or providing additional commitments to address the issue. The applicant should be commended for improving its proposal.

However, Council also notes there is still a large amount of concern from the local community, as reflected by the number of objections. Further consideration is needed in regard to some issues.

Traffic

The applicant has changed its proposed access from that included in the Environmental Impact Statement (EIS), therefore Council would like to provide updated comments, as follows.

Sealing

Council previously advised that compared to current traffic volumes, which are approximately 60 vehicles per day and eight (13%) heavy vehicles for Middlebrook Road, there will be a fourfold increase to 230 vehicles and tenfold increase to 80 (35%) heavy vehicle movements. There is potential for slightly higher than these numbers on given days.

The concern from Council's perspective is the significant damage impact on the pavement of Middlebrook Road. Middlebrook Road has a 500m sealed section from the New England Highway and then a 6.2km length of unsealed pavement to the intersection of Marsden Park Road.

The plan presented by the applicant as part of the Environmental Impact Statement was for Project vehicles to utilise 3.3km of the unsealed portion of Middlebrook Road prior to entering the site, then to use internal roads. Council advised that this is a significant stretch of pavement that will be subjected to much higher heavy vehicle use than is currently experienced and recommended the extension of the seal along Middlebrook Road to at least the access point to the development site and ideally right through to the Marsden Park intersection.

Council also advised that the report already nominated that 7m of widening to Middlebrook Road was required so applying a new seal to mitigate maintenance is entirely feasible. Condition and strengthening of the existing pavement could also be done concurrently.

The sealing of Middlebrook Road would also mitigate any dust nuisance from the Council road network, noting that any internal haul roads would likely be nominated as unsealed.

In the Response to Submissions (RTS), the applicant added a second access point "Access 2". This followed discussions with Council on traffic safety. In the RTS the distance between (now) Access 1 and Access 2 would only be sealed to 150m east of Access 1. This would leave a large portion of the distance to Access 2 unsealed.

Although the applicant has downplayed the use of Access 2 as being "limited", it would be used by 25% of construction traffic including all oversize over mass (OSOM) movements requiring escort. This increase in heavy vehicle usage poses a damage impact on the pavement of Middlebrook Road and the dust emitted from an unsealed road.

During discussions with the applicant's consultants on the second access, Council expressed the view that the extent of seal should be pushed eastwards – not based on traffic numbers, but rather, based on the requirement for vehicles heading west on Middlebrook Road to brake and stop in order to avoid conflict with vehicles turning into or out of the development site from Access 1. Given that the approach from the west is over a crest and then downhill, any element of loose gravel formation is considered to pose an unnecessary risk. It was therefore recommended that for traffic safety reasons the seal be extended to the far side of the Middlebrook Road cutting, or in other words 440m to the east of Access 1.

Council provided feedback and as a result the Applicant has agreed to seal 440m east of Access 1. This is approximately halfway between the two access points. It would still be Council's preference for Middlebrook Road to be sealed to the access point, which now includes Access 2. Advantages of sealing for the developer are reduced maintenance during the life of the development, mitigation of weather delays and a reduction in dust generation.

Permissible Traffic Generation

Council advised during the RTS that there were substantial inconsistencies between the applicant's projected traffic movements in Table 6 of the Traffic Impact Assessment and the Department's draft Condition B1. This has now been reconciled with a maximum of 158 heavy movements a day during construction, upgrading or decommissioning.

Access Design

Further consultation on Access Site 1 is needed to address safety concerns with the design. It is recommended that Figure 3 of Appendix 5 has a caveat added that it is subject to further design work, and a requirement added to proposed condition B4 that further design work for Site Access Point 1 is approved prior to its use. It is also suggested that wording be added to the end of condition B6 to read – *"In this regard a Section 138 approval from the relevant Roads Authority shall be obtained prior to construction commencing"*.

Bridge

In the RTS, the applicant committed to a further bridge assessment once the materials and delivery contractor are confirmed. Appendix 5 of the recommended conditions should be amended to reflect that a bridge upgrade may be required if the bridge assessment proves unsuitable.

Dust

Due to the applicant not proposing to seal the entire length of Middlebrook Road to the access points, dust impacts remain a concern. The Department's recommended condition for dust is:

B19. The Applicant must minimise the dust generated by the development.

This condition is not Specific, Measurable, Achievable, Realistic and Timely (SMART). Given there would be difficulties in ensuring compliance with this condition, sealing the road to Access 2 would be the best outcome.

Resource Use and Waste Generation

Council has previously supported the applicant's commitment to a detailed Waste Management Plan but commented on the timing. A detailed plan for managing waste material during the construction phase needs to be developed in consultation with Council *prior* to construction. The Waste Management Plan must include options for diverting recoverable or recyclable waste streams from landfill, including recoverable or recyclable options that are outside of the Tamworth Local Government Area. The Plan must also detail all types of packaging and material from the construction phase.

Council's Forest Road Landfill's Environmental Protection Licence (EPL) allows 60,000 tonnes of waste per annum to be accepted. There is limited capacity for additional waste volumes, such as in the event of a disaster occurring requiring large volumes being disposed of to landfill or a one-off decommissioning of a large renewable energy project. Therefore, it is important that the applicant provide projected waste volumes in order to enable Council to plan for this, especially taking into account cumulative volumes from other proposed renewable energy projects. If volumes are predicted to exceed the EPL threshold, then Council would need to examine whether an EPL amendment is an option or whether the applicant needs to find an alternative solution.

In the RTS, the applicant again committed to the preparation of a Waste Management Plan and added that it would be developed in consultation with Council, and prepared and endorsed prior to construction. Council appreciates the applicant's cooperation in this matter.

However, the Department's proposed condition B34 does not reflect Council's needs or the applicant's commitments. Condition B34 should be amended to require a Waste Management Plan to be developed in consultation with Council and approved prior to construction.

Decommissioning

The Department's proposed decommissioning and rehabilitation condition B36 does not account for any liability if the Project is not decommissioned as planned or if there is an unexpected or temporary cessation. For example, what is the outcome if the Project goes into a period of care and maintenance indefinitely. Council's preferred option is a bond for decommissioning committed to prior to the commencement of any works. Alternatively, Council would consider a restriction on title for the decommissioning of the solar farm. Whilst it is acknowledged that the Project is located on freehold land, given the large area and high cost, it is unclear if current or future landholders will have capacity to decommission an abandoned solar farm.

On several regionally significant development applications for solar farms in the region, conditions have been imposed for a restriction on the title. For example, DA2021-0317 (PPSNTH-78):

E7 Decommission and Remediation of Land

Prior to the issue of any Occupation Certificate, the applicant must ensure that there is a notation registered on the subject lands (Lot 1 DP 328265 and Lot 97 DP 753841) ensuring that the solar farm is required to be decommissioned and the subject lands remediated at the cessation of operations in accordance with the development consent (DA2021-0317). Any such notation must be approved by Tamworth Regional Council prior to lodgement with the NSW Land Registry Services.

Reason: Site remediation.

This provides greater assurance that future land owners are aware of the decommissioning requirements. However, it still does not provide transparency regarding any financial ability to decommission the site.

This is an issue that Council has encountered in other state significant renewable energy projects. Council would request that the Independent Planning Commission and the Department investigate solutions that could be used for the industry. There are lessons to be learned from the bonds, rehabilitation funds and other options used in mining industries in different states that could be applied appropriately to renewable energy projects. Passing this potential environmental and financial impact on to a future council and future community is not an acceptable option.

Returning to this Project, additional information on contingencies with the landholder undertaking the decommissioning should be included upfront in a Decommissioning Plan. It should be conditioned that prior to commencing operations, the applicant must prepare a Decommissioning Plan in consultation with the landholder, Council and other relevant stakeholders. It must be revised prior to cessation of operations.

Planning Agreements

In regards to the Department's recommended conditions, the Table referenced in Appendix 4, Part A should be amended to remove the sealing of the surface of Middlebrook Road. This does not form part of the Voluntary Planning Agreement (VPA) offer and is required as part of the conditions of consent (refer to condition B6 and Appendix 5).

The management of the community benefit fund is not specified in the VPA offer. Council's preference is for a third party to manage the community benefit fund. Furthermore, it is considered CPI must be applied to the community benefit fund, as is the accepted practice in other renewable energy VPAs.

Local Economy, Local Jobs and The Cumulative Impacts

The Department's proposed condition B35 requires the preparation of an Accommodation and Employment Strategy in consultation with Council. Council supports this condition and notes it is consistent with the applicant's previous commitments.

On 23 July 2024, Council adopted the Tamworth Regional Housing Strategy (TRHS). Priority 2.3 of the TRHS identifies the need for sufficient temporary workers accommodation in the region due to the large housing demand expected from upcoming renewable energy projects and other activities such as intensive agriculture and manufacturing. Council brings this new document to the applicant's attention while preparing its Accommodation and Employment Strategy.

Acknowledging the above, Council would raise its increasing concerns regarding the cumulative impact of the abovementioned renewable energy, intensive agriculture and protein manufacturing projects that will either coincide or at the least overlap, over the next decade. While Council welcomes the positive economic outcomes from this level of investment, Council is extremely concerned that the immense demand for temporary workers accommodation will result in an almost total utilisation of existing short term, holiday and event accommodation across the Tamworth region. Noting that the Tamworth region tourism economy is based largely on events, this will have significant impacts on Council's ability to retain its extremely successful events reputation and will likely lead to the loss of event revenue, should participants and audiences be unable to find accommodation.

At the least, Council considers that this and all other renewable energy projects should be required to consult with other similar projects in order to consider the cumulative impacts of their accommodation requirements and develop options to avoid their peak accommodation periods coinciding with other projects, as well as with Tamworth's peak events. Council asks that this issue be given appropriate attention by the Department.

Stormwater / BESS Emergency Management

During the RTS, Council provided comments on the suppression of fires and its interaction with stormwater. Suppression of BESS fires is generally managed by way of dousing with water. In doing so, pollutants including heavy metals can be mobilised, and then conveyed offsite via the stormwater network. Addressing this matter requires coordination between the stormwater conveyance and detention design, and the environmental management framework for the site. In regard to the management of mobilised pollutants in the event of a BESS fire suppression by water dousing, Council recommended conditions in relation to the inclusion of a valve or similar on the outlet to any associated detention basin, and the requirement to shut this valve in the emergency response plan in the event of a battery fire. There was an opportunity to include reference to this requirement as a footnote at B26; or, to be included in the consent text at B27, B28, B29 or B32. Please note these conditions are now B25-B28 and B32.

Council notes Condition B28 for a fire safety study must be consistent with the Department's Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline. Containment of contaminated firefighting water is part of this guideline. In preparing the fire safety study, the applicant should be required to consider Council's points above about coordination of its experts and valves on detention basins.

Draft Conditions of Consent – General


Finally, Council would recommend that the IPC give due consideration to whether the draft conditions of consent are robust and legal. Council has observed in recent state significant renewable energy approvals that a number of conditions have lacked certainty and finality for both Council and the community, meaning that the development has potential to change without adequate consultation or the appropriate assessments taking place. References in conditions such as ... *'unless the Planning Secretary agrees otherwise'* or similar wording are unacceptable to Council and in Council's legal experts' opinion, open to legal challenge.

In addition, as raised in the body of this submission, the Department's draft conditions have lacked relevant detail, including in the omission of actions already committed to by the applicant and agreed by Council. The applicant must be held to its commitments by conditions that are not open to interpretation at a later date due to lack of clarity.

Should you require any clarification in relation to the matters raised above, please contact Council on the details below.

Yours faithfully


Gina Vereker
Director, Liveable Communities

Contact: Jessica Allen 

26 September 2024