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**OBJECT**

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Organisation:	Key issues: <i>Land use compatibility, Traffic and transport, Visual, Other issues</i>
Location: <i>New South Wales</i>	
Attachment: <i>Jan Habgood - IPC Speaker Notes.pdf</i> <i>Jan Habgood - IPC submission.pdf</i>	

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*Please find submission attached:*

- 1. IPC meeting speaker notes*
- 2. Further submissions*

My name is Jan Habgood. My family has owned the property known as “Brooklyn” which is approximately 2km north of the project site since 2002.

The Executive Summary contained in the State Significant Development assessment report of the Department concludes “the project would result in benefits to the state of NSW and the local community and is therefore in the public interest and approvable.” Accordingly, it is obviously crucial to determine what the phrase “in the public interest” means. I suggest that assessment will depend entirely on the circumstances in which the assessment is made. Even public sector lawyers agree there may be some circumstances in which it is appropriate to choose “the least worst option – the decision that causes the least harm rather than the most good”. I understand to date the IPC has not refused any solar farm applications, however the Middlebrook Solar Farm is certainly a project which is refusible.

So, what makes solar farms so compelling and what makes the Middlebrook project so refusible? I intend to largely follow the Department’s assessment to make my case. In considering the Energy context, national and state policies are referenced but so too is the New England North West Regional Plan 2041. The Department’s stated objective of that policy is to position the New England North West region to be a leader in renewable energy generation. What the Department does not also reference from that Plan are issues such as:

1. Rural land should be principally planned and managed for agriculture, requiring clear consideration of potential conflicts for new development.
2. According to the Plan the road map for energy technology and investment centres on the New England Energy Zone. Loomberah is not in that zone.
3. The Plan notes concern about the cumulative impacts of solar farms on agricultural land. Loomberah is confronted by the immediate proposal plus Lambruk Solar just to the north, plus the seven other projects the Department identifies all less than 50km from Middlebrook.

The Tamworth Regional Council LEP expresses similar sentiments. I also draw your attention to the following explicit objective of the RU1 zone of the LEP: To permit development for purposes where it can be demonstrated that suitable land or premises are not available elsewhere. I challenge the applicant and all players in the approval process to establish that this objective will be met if the Middlebrook Solar Farm is approved.

Next the Department looks at the 2022 Large Scale Solar Energy Guidelines and suggests they support the Middlebrook proposal. Those Guidelines introduced “key principles” that consent authorities should consider including one area I request the panel to consider in depth – visual amenity. The Guidelines instruct applicants to engage with the local community to determine baseline landscape character. However, the views of neighbours are ignored and we are left with the summary provided by the applicant in its response to submissions that “the solar farm is expected to have no more than a low visual impact on surrounding receptors”.

This conclusion has obviously been accepted by the Department in its assessment despite objector urgings to require at least a peer review of the Visual Impact Assessment if not a completely independent study.

The panel will be familiar with the Land and Environment Court judgement of Dixon SC in the *IT Power (Australia) Pty Ltd v. Mid Western Regional Council* case decided in late 2023. I recognise that the facts in that case can be readily distinguished from the facts surrounding Middlebrook Solar – it was not a decision involving an SSD and there were LEP considerations specific to the area which are absent in the immediate case. **However**, there are many telling findings in that case which if not precedents in future appeals, they will at least provide obiter dictum to help understand how some of the Visual Aspects of the Statutory Context referred to by the Department are likely to be viewed at the judicial level.

Dixon SC recognised that the broader public benefits of a proposal are a relevant consideration but refused the Development Application for a multitude of reasons at least some of which are instructive.

First, notwithstanding significant setbacks from public roads and proposed landscape screening it was concluded that the proposal would have adverse visual impact. Applicants in SSD cases almost invariably conclude this will not be the case. Significantly, Dixon SC found that photovoltaic panels, other infrastructure and security fencing would result in a higher magnitude of change to the existing open rural vista.

Critical comment was also made of the unreliability of the prescribed methodology (including photomontage treatment) of the Technical Supplement – Landscape and Visual Assessment, Large Scale Solar Energy Guideline (2022).

Almost invariably, the visual impact assessment will be subjective notwithstanding that an objective tool is sought to be employed. In this regard I note that late last year the Department released a draft update to the Guideline which proposed “a more proportionate approach that does not rely exclusively on photomontages”. Whilst I appreciate any adoption of the updated approach will not directly impact this application, I urge the panel to be cautious in accepting the VIA conclusions of only low impact. The panel needs to be satisfied that the applicant’s advisors have not misapplied some aspects of the current guide and arrived at an erroneous conclusion. From the “Brooklyn” perspective I cannot see how a low impact conclusion was reached.

Secondly, I submit there are errors and deficiencies in the treatment of the “visual context”. For example, the Department states “the land within the site is predominantly characterised by flat or gently sloping plains”. It is an inaccurate stretch to label any of the project area as “plains”. Geographers describe a plain as flat land, that does not change much in elevation and in most instances is relatively treeless. That is certainly not the topography of the subject land. Such inaccurate characterisation of the land inevitably distorts the visual impact of the proposed development. From our home the land is undulating, sloping up from the Middlebrook Road frontage and highly visible. We will therefore be subjected to a view of almost the entire panel array, the whole 750,000 panels, the substation and battery area and potentially the carpark and other buildings.

In the Landscape Character Assessment the Department noted public submissions highlighted that the landscape is valued by the community for its scenic value and agricultural history (and I note, the applicant's own survey confirmed this finding). According to the guidelines it is not sufficient to simply note community values, they must be taken into account. It is misleading to suggest the development would be similar in nature and size to agricultural sheds commonly used in the area. The large contiguous panel mass and 6ha substation are excessive and incongruous with the surrounding landscape.

Going back to my earlier case discussion I note it was argued that the solar array is a "discordant element" that alters the landscape character of the area and I would suggest the character of the experience in living and working on our properties. I do not believe the EIS, the Applicant's response or the department's assessment properly consider how the project will impact on the elements that make up our landscape and its distinctive character as well as our sense of place.

The character of the area is more than just a visual assessment. It includes factors such as how long the project will have impact – greater than my lifetime I would suggest – traffic effects, disruption, dust. The applicant is not proposing to bitumen seal Middlebrook Road to even the second entry point. So, we are confronted with the situation of hundreds of vehicular movements per day on an unsealed public road PLUS machinery operating and vehicles moving around the site on the proposed 48km of internal dirt tracks. I shudder to think of how the character of our home and property will change with this industrialisation and change to the environment. The dust nuisance will pervade the lives of all residents who live in the vicinity. Dust is an insidious phenomenon and I urge the panel to not dismiss the concerns of so many people who objected to this proposal due to the dust it will produce. Frequently throughout the approval process we have heard and read about mitigation factors. I acknowledge that the applicant has made some changes to its original plans perhaps because of community concerns or perhaps because of project expediency, however many of the suggestions made in submissions have been ignored. For example:

- Locating the substation and other infrastructure out of sight from Middlebrook Road behind a knoll but still under the power line. When we were first approached by Total Eren representatives in approximately 2019, this was stressed by them as a mitigating feature.
- Also, landscape screening around the project road perimeter. I note this requirement seems to be absent from the final recommendations notwithstanding earlier references to for example specie type. Recent meetings between the panel and the Department/or the applicant have suggested there will not be such screening because there is no need for screening and the community has not called for it. I believe this to be erroneous. Most neighbours at least believed there would be a visual buffer of trees.
- Another suggestion also ignored is further road bitumening
- I now come to meaningful neighbour payments. Whilst reviewing the transcript of the 2 September meeting between the IPC and the applicant, I was surprised and disappointed to read the Applicant had asserted that "nobody has shown any kind of interest in neighbour payments". We have

endeavoured over years and months to negotiate (via face to face, email and phone communications) a realistic compensation arrangement with Total Energy based on how we perceive the likely impacts, other payment offers we have become aware of, plus quantum developed in other jurisdictions and in other renewable energy regimes. We feel the current offer to project neighbours is unrealistic and insulting given what we will have to put up with.

Compensation is also relevant in terms of the reduction in land values we will almost certainly suffer. I implore the Panel to not simply dismiss the land value concern because at this early stage in the renewables journey there is no data available. I note for your consideration:

- (a) The value of land reflects its amenity and agricultural capacity. Land values in the vicinity of Spring Creek and in Loomberah generally are anecdotally twice those of other land around Tamworth – so much for the applicant's claim express and implied of low capacity, low value agricultural land.
- (b) Recent nearby land sales suggest a bare land value of over \$30,000 per hectare.
- (c) The immediate effect in our neighbourhood of the approval of this industrial project will freeze all but forced sales (death, illness, family breakdown etc) for the life of the project – potentially many decades.
- (d) It has been opined to me by agents and valuers (including a representative from the Valuer General) that the number of willing purchasers will be severely limited due to the high visibility and industrial nature of the project.
- (e) Our farms are our homes, our businesses, our life savings, our superannuation and our principal asset, so any impact on value will strike a painful blow.

Also adding to stress levels will be any impact on obtaining public risk insurance and the cost of insurance generally. We are all aware that the cost of insurance rises with risk – for example, if land is flood prone, subject to bush fire risk, located near hazardous industry. In the 2022 Taskforce to Review the Framework for Managing Issues and Opportunities from the forecast growth in renewable energy and agricultural sectors in NSW the Government undertook to carry out analysis in relation to insurance effects. The Task Force recommended that measures to combat negative insurance effects of solar farms on neighbours such as indemnities and compensation for effects on premiums, should be built into commercial agreements (compensation) with neighbours. I understand the IPC itself has sought guidance from government policy to address this issue. Until there are firm guidelines, I suggest it is not safe for you to approve the Middlebrook project.

The arguments for a renewable energy future are powerful, however keeping the lights on for some should not cause a blackout for others. Counter to the Department's assessment that the Middlebrook project is approvable, please be aware that its refusal can also be justified on many levels. A true, total cost benefit analysis, indeed demands it be refused.

Further to my verbal submission at the IPC Hearing on 19 September 2024 I wish to submit the following for further consideration:

- (a) When considering the application the IPC needs to determine the least worst option – the decision that causes the least harm rather than the most good to achieve a result in the public interest.
- (b) The IPC needs to consider all objectives of planning frameworks & not ignore for example:
  - LEP requires demonstration that there is not suitable land available elsewhere.
  - New England North West Regional Plan 2041 envisages placement of energy technology in REZ & cumulative project effects.
- (c) Solar farms can be refused on visual aspect grounds. The applicant and the Department seem to largely disregard the fact that visual assessment under the Large Scale Solar Energy Guideline (2022) has two distinct elements – the Visual Impact Assessment with all its attendant shortcomings plus the Landscape Character Assessment. Consequently neighbours' sense of place is belittled.

According to a Sydney University publication "Renewables & Rural Australia: A Study of Community Experiences in Renewable Energy Zones in NSW" the socio-economic and cultural relations to land & locality in rural Australia are complex and intense. I implore you to not allow our sense of place to be diminished by the supposed mandate of planning authorities to approve renewable projects at almost any cost.

- (d) Neighbours of the Middlebrook project are largely older farmers and multi-generational farmers and the solar farm's impact on them will be profound.
- (e) The limited judicial wisdom on visual impact & landscape character highlights that these elements should both be considered and sense of place should not simply be paid lip service.
- (f) The transcript of the meeting between the IPC & Tamworth Regional Council highlights genuine concern regarding the cumulative effects of projects but there seems to be resignation that those issues will just be ignored until later.
- (g) The Council suggests that the dust issue will be solved by bitumening Middlebrook Road to the second access point. This disregards dust generation on the actual project property.
- (h) The approval condition that the applicant will be required to minimise dust is meaningless.
- (i) We have invited Council to look at the site with us but we have not had any response from Council to our numerous representations over a number of years. It appears Council does not have a real understanding of the dust issues referred to by so many objectors.

- (j) Further to accommodation and tourism aspects – apart from the Country Music Festival, Tamworth is renowned for its country music industry. There are several country music related events during the year.
- (k) The Tamworth Regional Entertainment Centre (TREC) hosts many large conferences (eg. religious conventions, school performances, outdoor & leisure exhibitions) throughout the year when accommodation is fully booked in Tamworth. If Middlebrook Solar places pressure on short term accommodation, the benefits which flow from the TREC may be lost as alternative destinations are established.
- (l) The Australian Equine & Livestock Events Centre (AELEC) on the southern verge of Tamworth is host to very large scale functions almost weekly (eg. national shows and competitions attracting about 7,000 competitors, 9,000 horses and 16,000 head of cattle each year as well as their support teams and of course spectators) The above comments regarding TREC apply equally in relation to AELEC.
- (m) Tamworth also hosts many sporting carnivals.
- (n) It would be detrimental to Tamworth if these events are lost due to the competition for accommodation posed by the workforce of renewable projects such as Middlebrook. Tamworth will suffer a loss of its unique and rich character.
- (o) Long term residents of Tamworth will also suffer the impacts of increased rents.
- (p) It is somewhat farcical to suggest employment strategies will be developed post approval. In this context it was noted in a Sydney University publication “Renewables & Rural Australia: A Study of Community Experiences in Renewable Energy Zones in NSW” at page 32 “ownership changes are very common in the globalised energy sector”.
- (q) The public hearing of Special Commission of Inquiry into Healthcare Funding in September 2024 in Tamworth heard that the books of GPs in Tamworth are closed. Specialist services are provided by a fly in/fly out medical fraternity. Locals have difficulty accessing health services. No doubt a large part of the required 400 workers for Middlebrook will be FIFO. How will their emergency health needs be met? Will this be another example of the local economy not in fact gaining benefit from the project and indeed being detrimentally impacted?
- (r) Until there are acceptable safeguards to impacts on general & public risk insurance and property values OR alternatively the applicant can prove NOT ASSERT there are no impacts then they should be required to pay compensation to impacted neighbours.

(s) There are some projects which should not be approved. Middlebrook should be put into context. It can be distinguished from other projects (eg. Glanmire):

- The land is not flat
- The scale is much bigger (750,000 panels vs. 128,000 panels)
- Lengthier construction period
- Greater workforce intrusion into immediate small local community
- There is no existing industrial/large scale non-agricultural pursuits in the area such as in the case of Glanmire (a substation about 5km away, Great Western Highway, airport 4km away and railway 1km).