

Prairie Solar Farm

Planning Application

Appendix 12 – Public Land
Manager Consent

June 2018



Department of Environment, Land, Water and Planning

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Ref: SP463464 / L6-10279.49 (20180430 cn)

Mr Matt Stafford
Senior Environment and Development Planner
Pacific Hydro Australia
Level 13, 700 Collins Street
MELBOURNE VIC 3000

Dear Mr Stafford,

**APPLICATION FOR CONSENT PURSUANT TO CLAUSE 36.03-2 OF THE LODDON PLANNING SCHEME
PACIFIC HYDRO AUSTRALIA : SOLAR FARM
CROWN ALLOTMENTS 28A, 2031-2037, 60A, 2039-2042, 81A, 2044, 2045, 117B AND 2047, PARISH OF HAYANMI**

I refer to your request for Public Land Manager's consent over the above-described Crown land.

The proposed development is for installation of approximately one million solar Photovoltaic (PV) panels mounted on tracking racks, construction of access tracks and vehicular crossing over Bullock Creek, substation, temporary construction compounds, operation and maintenance facility and 4.5 kilometres of transmission line extension and switchyard over both Crown land and freehold land.

The project will result in the loss of native vegetation comprising a patch of 1.808 ha including seven large trees, and four large scattered trees. The total proposed loss is 2.089 ha which would result in a referral to the department under clause 66.02-2.

The subject Crown land is zoned Public Conservation and Resource Zone and is affected by the Floodway Overlay under the Loddon Planning Scheme.

Requirement for a permit

The PCRZ (at clause 36.03-1) requires a permit for any of the *uses* listed in clause 62.02-1 to be undertaken 'by or on behalf of the public land manager' for the exemption to apply.

Clause 62.02-1 *Buildings and works not requiring a permit* of the Loddon Planning Scheme has the effect of removing the exemption for certain works on land zoned PCRZ. The clause however states '*... other than a requirement in the Public Conservation and Resource Zone...*' (my emphasis) thus meaning a permit is required.

Since the use or works are not being undertaken on behalf of the Minister for Energy, Environment and Climate Change (the minister responsible for managing the Crown land) the department considers that the exemption does not apply and that a planning permit should be obtained for the works.

Comments

Land status

There is Crown land, including government road and water frontage held under licence within the area where the solar farm is proposed. The licences are not issued to the applicant, and have been issued for grazing.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Privacy and Data Protection Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Privacy Coordinator, Department of Environment, Land, Water and Planning, PO Box 500, East Melbourne, Victoria 8002



Land Owner Consent to the use of the land

The department's response to the proposed development is subject to the department approving the final design and layout of works proposed on Crown land. While some works such as access tracks may be considered appropriate, the final layout of the facility should not propose any structures such as solar panels or buildings on the Crown land; and works on Crown land should be designed to minimise impacts.

Occupation of Crown land

To authorise the ongoing use of the Crown land associated with the proposed development, a licence will be required for the proposed use prior to any works taking place on Crown land.

Any licence over water frontage or Government road can only be held by the adjoining owner/ occupier of the adjoining freehold.

As part of the Crown land is already licensed, the proposed licensee will need to obtain the consent from the existing licensee to coexist on site.

A licence issued would be issued under section 138 of the *Land Act* 1958, for a purpose appropriate for the proposed use. Due to the changed land use, a valuation will be required to determine an appropriate rental.

Licensed Government roads can be fenced in with the development, however unlicensed/ open Government roads should be excluded from developed area. Any licensed areas will need to reflect the area occupied once the location of fencing is confirmed to ensure that all areas fenced in with the proposed development are held under licence.

Please contact Melissa Dole on 03 5430 4898 for further information about licensing Crown land.

Riparian Waterway Management

Prior to the commencement of works a riparian management licence may be required by the landowner/occupier. The riparian management licence will specify the licensee's long-term management responsibilities including fencing of the waterway and riparian area and may provide for controlled grazing in certain circumstances.

Please contact Melissa Dole on 03 5430 4898 for further information about riparian management licences.

Native Title

The subject land is located within the area of the Dja Dja Wurrung Land Use Activity Agreement (LUAA) which is an agreement between the State of Victoria and the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC) that came into effect on 25 October 2013.

The land use activity of Land Owner Consent is a 'Routine Activity' and there are no procedural requirements. The land use activity can proceed without any further action required. Please note that Land Owner Consent is the only activity which has been assessed to date.

When you finalise the requirements for use of the Crown land and apply for any licence or amendments, as required by the Department of Environment, Land, Water and Planning, the activities will be further assessed under the LUAA. This must be done prior to any works commencing.

Please contact Sarah O'Bree on ☎ 5430 4705 for further information.

Cultural Heritage

Please note that the works are within a landform considered to have potential for the identification and possible disturbance of Aboriginal Cultural Heritage values. Aboriginal Victoria should be contacted for advice about this matter.

Native vegetation protected under the Aboriginal Heritage Act 2006

Bullock Creek is within an area of Cultural Heritage Sensitivity. The likelihood of unrecorded Cultural Heritage being in these areas is high. Scar trees may be present and should be photographed, and mapped around the impact zone.

Native Vegetation – Clause 52.17

DELWP has assessed this application in accordance with the detailed assessment pathway.

The total area of native vegetation proposed to be removed totals 2.089 hectares within location category 3. This is comprised of:

- 1.808 hectares of patch containing seven large trees
- 4 large scattered trees

Vegetation losses

The following infrastructure has not been indicated on plans and may include further vegetation loss:

- Underground wiring
- Transformer
- Fencing

Patches located under panel arrays are considered lost due to shading and must be offset. It appears that the panel array covers current roadsides with patches of Plains Grassland that will require minimisation of impacts and offsetting if they cannot be avoided. If, after 10 years, a qualified native vegetation assessor finds that the vegetation is not lost, this evidence can be presented to the responsible authority to consider reconciliation of offset credits.

If the overhead transmission line is to intersect the Plains Woodland patch, tree lopping will need to be accounted for if more than 1/3 of the canopy or involves the trunk. Native vegetation where towers or power poles impact tree protection zones by greater than 10 per cent will be considered lost. Drawings should be revised to show tree protection zones, if the transmission line is to remain intersecting treed areas.

Further details on the dimensions of the base of towers, and construction methods is required to ensure it can be contained within the stated 10 metres by 10 metres footprint. Likewise, evidence that installation of the road can be restricted to only the width of 4 metres is required.

It is recommended that as per the Listing Advice for Natural Grasslands of the Murray Valley Plains (NGMVP) survey of grassland areas is recommended during late winter to spring (<http://www.environment.gov.au/biodiversity/threatened/communities/pubs/117-listing-advice.pdf>).

Vegetation surveys were conducted in February and March which is not considered the optimal time for detection of grasses or indicator species of the EPBC Act-listed Natural Grasslands of the Murray Valley Plains. It is recommended grazing be removed as per the Listing Advice. This is pertinent to the McCreas Road (unused road license 0601433, purpose: grazing).

Avoid and minimise

Evidence must be provided that no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal. Investigation of other government roads must be undertaken to inform design that will avoid impacts to Plains Grassland, and NGMVP. The current location of the transmission line bisects the patch of Plains Grassland (EVC 132) qualifying as NGMVP in the south of the subject land. The location of the transmission line will cause fragmentation of an endangered ecological community.

It appears that the creek crossing design has not yet been finalised. The department supports the selection of areas that lack native vegetation, consistent with the design consideration demonstrated by the applicant. The final design will need to demonstrate that tree protection zones (12 times the diameter of the tree trunk at a height of 1.4 metres) or structural root zones are not impacted by the bridge crossings. Any trees impacted will be considered lost and offsets required.

It is recommended that of the two identified location options for the substation and operation and maintenance facilities that the western option is chosen to avoid removal of native vegetation by not constructing the southernmost proposed creek crossing.

The proposed avoidance of mapped wetlands is supported.

Offsets

A revised Native Vegetation Removal report, and associated offset requirements, will be required to reflect losses caused by shading of patches due to the solar array and encroachment of Tree Protection Zones, as well as further avoidance and minimisation.

Clause 52.42 – Renewable Energy Facility (Other than Wind Energy and Facility and Geothermal Energy Extraction)

DELWP has assessed this application against the objectives and decision guidelines of the above provision. DELWP is not a referral authority under section 66 for Clause 52.42. Comments have been provided to assist council determine important biodiversity considerations of the planning permit application under Clause 52.42.

Threatened Flora and Fauna

Avoidance of the EPBC-Act listed Natural Grasslands of the Murray Valley Plain is recommended.

Avoidance of large trees which are likely habitat for South-eastern Long-eared Bat (*Nyctophilus corbeni*) is recommended. Seven large trees within patches are proposed for removal, as well as four scattered trees.

Likelihood of occurrence for EPBC Act and *Flora and Fauna Guarantee Act 1988* flora has not been assessed by the applicant. Targeted flora surveys for impacted road reserves (e.g. McCreas Road) are recommended for the species below.

Scientific name	Common name	EPBC Conservation Status	Timing of survey
<i>Pimelea spinescens</i>	Spiny Rice-flower	Critically Endangered	April - August
<i>Swainsona murrayana</i>	Slender Darling-pea	Vulnerable	August - November
<i>Swainsona plagiotropis</i>	Red Swainson-pea	Vulnerable	August - November

Environmental Management Plan

Before on-ground works commence, an environmental management plan for the construction (and operation (use as required)) of the solar farm must be submitted to and approved by the Department of Environment, Land, Water and Planning. When approved, the plan is to be endorsed and will then form part of the permit. The solar farm must be conducted in accordance with the endorsed plan. The environmental management plan is to include but is not limited to:

- Overview of construction methods including management zones and construction zones (including protection of Crown land), site preparation, access, construction activities, schedule and timing of works, and contractor briefing
- Management Structure and Roles including an environmental audit process
- Applicable planning and legislative requirements
- Environmental considerations; management of and/or mitigation of impacts on:
 - surface water pollution
 - erosion and sediment
 - waterway crossings
 - terrestrial ecology
 - aquatic ecology
 - visual impacts
 - dust, odour and air quality
 - noise and vibration
 - waste management
 - vehicle hygiene
 - hazardous materials
 - environmental incidents and emergencies

- Fire protection and mitigation prior, during and post construction
- any rehabilitation and monitoring actions
- control of weeds, pathogens and pests prior, during and post construction where appropriate
- Fire protection and mitigation prior, during and post construction
- Land management plan including any grazing of the land, erosion control and sediment control (including the waterway and Crown land), compaction etc.

There may be a requirement for other plans such as threatened species management and cultural heritage management depending on survey results.

Clause 42.02 – Vegetation Protection Overlay – Schedule 1

The project footprint does not impact areas covered by VPO1 and is considered to meet the objective to protect significant pockets of remnant native vegetation.

The area identified is site (S27028) in *Remnant Vegetation Survey and Botanical Inventory of the Loddon Shire* (Diez and Foreman, 1997) and represents a wet depression grassland with Drumsticks (*Pycnosurus globulus*) and Rigid Panic (*Walwhalleya proluta*).

Public Land Manager's Consent to Making Application

The Department of Environment, Land, Water and Planning, as Public Land Manager for Crown land described as Crown Allotments 28A, 2031-2037, 60A, 2039-2042, 81A, 2044, 2045, 117B AND 2047, all of Parish of Hayanmi, hereby consents to a planning permit application being made for the solar facility including works on Crown land, however, reserves the right to comment on any planning permit application made.

For the purposes of Section 48 of the *Planning and Environment Act 1987*, this letter also acknowledges that the applicant has notified the landowner about the proposed development.

Further Information required by DELWP with planning permit application

1. Final locations of any infrastructure on Crown land (including access tracks).
2. Information about *all* native vegetation to be removed, in accordance with the application requirements of Clause 52.17.
3. Survey of trees on Crown land for cultural heritage significance.

Information requirements of Clause 52.42

4. An assessment of the proposal against any species listed under the *Flora and Fauna Guarantee Act 1988* or the *Environment Protection and Biodiversity Conservation Act 1999*.
5. An environmental management plan including, a construction management plan, any rehabilitation and monitoring.

If the above information is not provided, DELWP will object to the issue of a permit for this application as it does not satisfy the requirements of Clauses 52.17 and 52.42 of the Loddon planning scheme.

More information about meeting the information requirements to support an application to remove, destroy or lop native vegetation is available on the DELWP website at: <http://environment.vic.gov.au/native-vegetation/native-vegetation>.

Land Owner's Consent to undertake works

Land owner consent to works on Crown land will be provided when you have finalised alignment and detailed design plans have been received by the department. Please note that the following conditions at a minimum will be included in that consent:

Insurance

- 1) Prior to commencement of works, the permit holder must provide evidence to the Department of Environment, Land, Water and Planning of public liability insurance for Crown Allotments 28A, 2034, 2037, 2036, 60A, 81A, 2041 & 2042 that indemnifies the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the permit holder or any associated party consequential to the development of the land, including, but without restricting the generality of the foregoing the pollution or contamination of land or water and any costs, charges and expenses incurred in connection therewith.

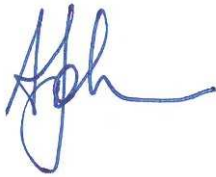
Occupation of Crown land

- 2) Prior to commencement of works on Crown land, a licence must be obtained in the name of the adjoining landowner/occupier over the subject road and water frontage; this licence must be issued for an appropriate purpose, as determined by the department, under section 138 of the *Land Act 1958*.
- 3) Any existing unused crossings of the waterway must be closed and rehabilitated to the satisfaction of the Department of Environment, Land, Water and Planning and the North Central Management Authority.
- 4) The applicant must contact the North Central CMA to confirm whether a 'Works on Waterways Permit' (WOWP) is required. Evidence that this has been undertaken will need to be provided to DELWP before works commence.

This consent is valid for three months from the date of this letter. The department reserves the right to comment (including the right to object or recommend conditions) on the planning permit once referred by Council.

If you have any questions regarding this matter, please contact Chris Naylor on telephone (03) 5430 4634.

Yours sincerely



Amanda Johnson
Program Manager
Planning and Approvals

13/06/2018

cc: Loddon Shire Council via email at planning@loddon.vic.gov.au