

ReD4NE Inc.

Community Alliance for Responsible Energy Development for the New England

Dear Commissioner Chris Wilson
NSW Independent Planning Commission
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Sydney 2000.
[Email;<submissions@ipcn.nsw.gov.au>](mailto:submissions@ipcn.nsw.gov.au)

Dear Commissioner Wilson and Panel Members

Re Oxley Solar Farm (SSD -10346)

It is ReD4NE's position on behalf of the Community, including the Castle Doyle Road Action Group, that this is a project that should not be the subject of IPC's consent determination. RED4NE's position goes to its interpretation and response comments on the additional material notified by the IPC Panel on 15 November 2023. It does so in the context of the IPC Public Submission Guidelines.

- Firstly, the questions asked and the response offered to the IPC's *Question on Notice of 10 October 2023*, confirm **the unsuitability of the site for a large-scale solar development**. Neither the DPE's Addendum, nor the Developer's responses assist the merits in favour of the Application – in fact it is ReD4NE's view that they detract. We highlight that the answers around Bushfire; Roads and Traffic; Visual Impact; glint and glare, all require specific answers based on final design of the solar panel configuration, screening vegetation, discussions with the neighbours and detailed landscape management plans **which are unfinished**. All questions from the IPC and responses from the Developer, DPE and Energy Co gravitate to **one obvious conclusion -the site is unsuitable**.
1. Secondly, consent is not in the public interest. The paucity of Energy Co's response to the IPC request confirms a complete lack of public interest, negligible benefits, obvious erosion of intergenerational equity and clear conflict with the principles of Ecologically Sustainable Development¹. Energy Co conceal - rather than reveal - that the Project offers a thimble full of contribution to grid efficiency and grid stability, and certainly no downward impact on price. Energy Co remain evasive as to their policy and regulatory obligation to promote for 'social licence'. In this regard they avoid a more transparent answer to the IPC 's question – the project is impeded from contributing to the NSW Renewable Transition 'as set out in the Roadmap and EII Act' In tabling this concern ReD4NE is not asking the IPC to comment on the appropriateness of the law or the policy – it is what it is – but its interpretation is crucial and it does go to the IPC's charter. It does go to the core fabric of EII Act² in terms of impacts of that development, including environmental impacts on both the natural and built environments; social impacts; economic impacts; the suitability of the site for the development and the public interest, which include the benefits of the proposed development and consideration of intergenerational equity and the principles of Ecologically Sustainable Development³.

¹ IPC Public Submission Guidelines

² Electricity Infrastructure Investment Act 2020

³ Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act),

2. **As to site suitability**, the Department ('DPE') have erred in their initial decision to recommend this Project and no further information in the DPE Memo of Addendum Response to Questions on Notice, or the Developer's 'November 3 Response', assist the case in favour of Consent for the following reasons;
- a) The Developer's post exhibition amendments to the 'project by refining the development footprint to increase setback distances from sensitive receivers (including the Oxley Wild Rivers National Park and nearby residences) are really just window dressing. The pertinent point on which the DPE seem in denial, is, the Project **is still a very poor site selection** – no Addendum correcting typographical errors assist their erroneous recommendation. No revised landscape plans, doctored photomontages or proposed mitigation plantings, either now or after consent, can change the fact that it is a significant development - in the wrong place. Excuse the metaphorical reference, but we seem to be just trying to 'put lipstick on a pig' -the Developer on notice from the IPC can't offer conclusive answers to some critical questions on fire risk, on visual amenity, glint and glare.
 - b) Alarmingly the Developer offers unacceptable answers on bush fire risk in a known bush fire prone zone with combustible BESS configurations. Any fire risk assessment expert would be alarmed at the development proposition, particularly after the 2019 fire season disasters.
 - c) The Developer concedes the fragility of watering requirements in any drought situation and further concedes that it has no contingency plan. Obviously the lack of available water negates against any construction interests and mitigates against propagating vegetation screening. Prominent points raised by the Developer in a failed defence as to the obvious loss of visual amenity.
 - d) The Developer's post exhibition amendments do not take account of the potential runoff from the site into the Macleay River Catchment. **The additional comments referenced in 'November 3 Response' offer no specific actions that will be deployed to ensure run-off of toxins and other waste don't infiltrate the National Park and pollute the Macleay Catchment.** That's the question that was asked. Observations of panel manufacturers and industry views on recycling offer little to no comfort -they are captive comments. The Department demonstrate a scant regard that the Gara River traverses the site, intersects with Commissioners Waters at the western boundary of the site, before entering Gara Gorge, within the National Park. The potential for toxins leaking into the National Park and ultimately the Macleay River its residences, farms and aquaculture are very real threats. Ultimately the Armidale Regional Council (ARC) are liable as they are the signoff – as Solar Generation is not scheduled under the Protection of the Environment Operations (POEO) Act. The IPC needs to assure the Community that the ARC has acknowledged and accepted its liability to the Communities, to the National Park, to its unique biodiversity and to the downstream communities, many of whom rely on the Macleay for their livelihood.
3. The IPC has requested that **Energy Co provide advice** on how this project will address concerns on grid security and reliability, on the paucity of the proposed BESS configuration, the impacts on transmission network costs and energy prices. Quite reasonably, the IPC seek to determine a conclusion as to whether the Project will make a contribution to the Energy Transition. Energy Co, faced with this request, assume their default position, with which the community have become increasingly frustrated;- evasion; side step; with non-answers; remain opaque and avoid at all costs any association with the Planning Regime.

The short answer to the question the IPC asks was addressed during the IPC Public Meeting. This development configuration of 215 MW generation and 50MW/MWh BESS contribution is just negligible in its contribution to grid stability and reliability. It will have no downward pressure on price. Energy Co somewhat admit this in their response. So, in summary it's 'a needle in a haystack contribution' .**What are we trading off for this?** Significant risks to a national treasure, degradation of important heritage - indigenous and non-indigenous, erosion of ESD and intergenerational damage. Really is this good

responsible development? To be meaningful, the development proposition needs to increase the generation to maybe 400MW and the BESS to 200MW/MWh:- **That simply is not going to happen on this site.** Once again, we have a Developer trying to get Consent, so they can flip the project with a higher price – sorry but its again ‘trying to put lip stick on a pig’. So, our question to the IPC:-How can you consent largely to an oversized demonstration project? A project with multiple risks as highlighted above and little to no contribution to the energy transition?

Effectively Energy Co cannot manage the REZ development and commentators across the State question whether the REZ is broken policy and poor governance. The obvious concern for communities is that the two pivotal public institutions in NSW:-environment and energy, show in DPE’s case, little respect for the Community’s **right of acceptance** and in Energy Co’s case show little interest in securing the Community’s **trust and confidence**. It obviously makes the IPC’s job harder – how is, a poorly selected site; a poorly consulted project, any more acceptable just because its foot print is given a haircut. The haircut doesn’t change **the inherent fatal flaws** associated with site selection as confirmed in 1. above. Secondly, **it’s a ‘blank cheque’** in overall capacity, stability; efficiency, and its contribution to the Energy Transition.

Energy Co in their response concede the Project “*could contribute towards meeting the NSW renewable energy objectives set out in the Roadmap and EII Act*”. What they don’t concede is that in their role as Infrastructure Planner under the EII Act and Regulations they would be impeded from recommending to the Consumer Trustee, neither grid access, an LTESA –(Long Term Energy Services Agreement) nor LTSA (Long Term Storage Agreement) for this project. If approved it could in fact present as a stranded asset - a lame duck. Why so? Because the legislated requirements specify eligibility requirement and **merit assessment** – standard contemplations under such frameworks. Specifically, their merit assessment requires, in so many words, *appropriate regard to ‘social licence’*. **This Project has no social licence.** In answer to the IPC’s question, it can’t make a contribution to the Energy Transition. Even Energy Co in its ‘November 14 Response’ concede “*the ability of the project to connect to transmission infrastructure and dispatch its generation capacity to the grid is subject to separate applicable regulatory connection processes.*”

It is quiet appalling that, despite this legislative requirement, Energy Co, on inquiry, can’t describe **what social licence** means in the context of contemplating project merit in the Renewable Energy Zone, even though the phraseology is littered throughout their media spin; their policy development documents - aka their Electricity Strategy; RoadMap; Second Reading Speech etc. Whilst Energy Co duck, weave and avoid this issue perhaps some guidance is gleaned from the Ethics Centre⁴ who suggest “*Social licence – or social license to operate – is a term that has been in usage for almost 20 years. At its simplest, it refers to the acceptance granted to a company or organisation by the community ...*”

“Social licence is another...informal “license” granted to a company by various stakeholders who may be affected by the company’s activities. Such a license is based on trust and confidence – hard to win, easy to lose...”

The Developer endorsed by the DPE induced through poor site selection; a paucity of consultation; ‘tick the box’ planning; **no acceptance** from the community; **no trust** from the community and certainly **no confidence** from the community.

The Commission has heard in both written and oral submissions that the Project is derelict of any semblance of the requisite **social licence**. This is evident most demonstrably in the opposition the project has received from the community. The only glaring conclusion you can draw from the fact that of 78 submissions received, **77** (seventy-seven) submissions were objecting to the Project and **0** (nil) were supporting the Project. As a statement as to Social Licence to Operate **that’s a pretty compelling**

⁴ The Ethics Explainer ‘ Social Licence to Operate’ Jan 2018

