

8 December 2021

NSW Department of Planning, Industry and Environment  
Attn: Ms. Katrina O'Reilly  
4 Parramatta Square  
12 Darcy Street  
Parramatta NSW 2150

Dear Ms. O'Reilly,

**West Wyalong Solar Farm – Non-Compliance Notification (Condition 5, Schedule 4)  
Independent Environmental Audit Findings**

In accordance with Condition 5, Schedule 4, of State significant development consent (SSD 9504) for the West Wyalong Solar Farm (the Project), I am writing to provide notification to the Department of Planning, Industry and Environment (DPIE) that it has been identified that the Project is non-compliant with five conditions of the consent.

These non-compliances were identified in the Independent Environmental Audit Report prepared by Peter Marshman of J2M Systems, dated 30 November 2021, and are detailed in Table 1, including:

- the condition of the consent that the Project is non-compliant with;
- the way in which the Project does not comply and the reasons for the non-compliance; and
- what actions have been, or will be, undertaken to address the non-compliance.

Of the five non-compliances identified in the Independent Environmental Audit Report, two have already been self-reported to DPIE as they relate to the one reportable incident that occurred in August 2021.

The Independent Environmental Audit Report, and a response to it, will be submitted to DPIE by 22 December 2021, within 2 months of the audit site inspection being undertaken (i.e. 20-22 October 2021), in accordance with Condition 6D, Schedule 4, of the consent.

In the interim, feel free to contact me on 0409 601 473 if you have any questions.

Kind regards,



Diana Mitchell  
Principal Environmental Planner



**Table 1 – Summary of Non-compliances**

| #                                      | Approval ID                     | Specific Requirement   | IEA Findings and Recommendation  | Actions taken to rectify the issue  |
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| <b>Project Approval SSD 9504 Mod 1</b> |                                 |  |  |   |
| <b>WWSF IEA- 2021 NC 01</b>            | <b>Schedule 3, Condition 13</b> | <p>Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with BCS, and to the satisfaction of the Secretary. This plan must:</p> <p>(a) include a description of the measures that would be implemented for:</p> <ul style="list-style-type: none"> <li>• managing the remnant vegetation and fauna habitat on site;</li> <li>• protecting vegetation and fauna habitat outside the approved disturbance areas;</li> <li>• minimising the clearing of native vegetation and fauna habitat within the Myers Lane road reserve;</li> <li>• minimising clearing and avoiding unnecessary disturbance of vegetation that is associated with the construction and operation of the development;</li> <li>• minimising the impacts to fauna on site and implementing fauna management protocols;</li> </ul> | <p>A site inspection was undertaken as part of the audit. Project No-Go Zone fencing is now established on-site within active construction areas.</p> <p><b>Non-compliance WWSF IEA NC1</b><br/>Environmental protection measures listed in Tables 4-1 and 4-2 were generally observed implemented during the audit site inspection, including no-go zones, sediment and erosion control, inspection of work areas. However, based on the reported incident (refer to Self-Reported Non-Compliance below), the ecologist was not present during all vegetation clearing on site, no-go zones were not established prior to clearing commencing, and vegetation clearing was not monitored to ensure compliance which in non-compliant with the mitigation measures provided within Table 4-1 and thus non-compliant with the implementation requirements of this condition.</p> <p><b>Self-Reported Non-compliance NC1</b><br/>The proponent has self-reported a noncompliance with Condition 19 and 20 of SSD 9504 to the Department and other relevant</p> | <p>The detailed design for the 132kV transmission line design in Myers Lane has been prepared and is with Essential Energy for review and endorsement.</p> <p>Once the design has been endorsed by Essential Energy, confirmation of the easement width and clearance requirements will be provided, which will inform the identification of vegetation that can be retained in the Myers Lane corridor.</p> <p>If vegetation is identified to be retained in Myers Lane, PCL will establish No Go Zone fencing around this vegetation in accordance with the requirements of the Biodiversity Management Plan.</p> |

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|  |  | <ul style="list-style-type: none"> <li>• avoiding the removal of hollow-bearing trees during spring to avoid the main breeding period for hollow-dependent fauna;</li> <li>• rehabilitating and revegetating temporary disturbance areas with species that are endemic to the area;</li> <li>• maximising the salvage of vegetative and soil resources within the approved disturbance area for beneficial reuse in the enhancement or the rehabilitation of the site; and</li> <li>• controlling weeds and feral pests; (b) include a fauna monitoring and management protocol, including identification and reporting of fauna mortalities to BCS; and (c) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.</li> </ul> <p>Following Secretary's approval, the Applicant must implement the Biodiversity Management Plan.</p> | <p>agencies and stakeholders with regard to the Bee Tree Incident on 23 August 2021.</p> <p>Investigations into the non-compliance remain ongoing, however it is apparent that no-go fencing was not installed by the Construction Contractor prior to construction activities commencing and therefore the requirements of the Protocol 13 of the Biodiversity Management Plan were not complied with.</p> <p><b>Auditor Recommendation:</b> No-go fencing to be installed in all remaining non-active construction areas (e.g. Myers Lane) to ensure it is effectively in place prior to construction activities commencing in these areas.</p> |  |
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|                                   |  | <p><i>Note: If the biodiversity credits are retired via a Biodiversity Stewardship Agreement, then the Biodiversity Management Plan does not need to include any of the matters that are covered under the Biobanking Stewardship Agreement.</i></p>   |  |   |
| <p><b>WWSFIEA- 2021 NC 02</b></p> | <p><b>Schedule 3, Condition 21</b></p> | <p>The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.</p> <p><i>Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain the necessary water licences for the development.</i></p> | <p><b>Non-Conformance</b><br/>The Proponent has not obtained the necessary water licences for the development.</p> <p><b>Auditor recommendation:</b> Proponent to obtain necessary water licences for the project.</p> | <p>PCL have engaged with relevant Government agencies regarding the process to obtain a Water Access Licence for the extraction of water from the dam located on site. As there are no water allocations that can be purchased in the local area, PCL will not obtain a water licence, nor continue sourcing water from this farm dam.</p> <p>Going forward, PCL will obtain water from Goldenfields Water Country Council for the purposes of dust suppression and general construction water. Water will be collected from the West Wyalong standpipe in Boundary Street.</p> |
| <p><b>WWSFIEA- 2021 NC 03</b></p> | <p><b>Schedule 4, Condition 1</b></p>  | <p>Prior to commencing the development, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This</p>   | <p><b>Non-compliant – Implementation of the CEMP</b><br/>The HSE Plan has been inconsistently implemented on site, with requirements such as environmental risk register and project</p>                               | <p>PCL have reviewed and revised the Health, Safety and Environment Plan to ensure it is aligned with the Construction Environmental</p>  |

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|  |  | <p>strategy must: (a) provide the strategic framework for environmental management of the development;</p> <p>(b) identify the statutory approvals that apply to the development;</p> <p>(c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;</p> <p>(d) describe the procedures that would be implemented to:</p> <ul style="list-style-type: none"> <li>• keep the local community and relevant agencies informed about the operation and environmental performance of the development;</li> <li>• receive, handle, respond to, and record complaints;</li> <li>• resolve any disputes that may arise;</li> <li>• respond to any non-compliance;</li> <li>• respond to emergencies; and</li> </ul> <p>(e) include:</p> | <p>environmental checklist not being completed and regular site environmental inspections being completed following a different process than that described in the HSE Plan (i.e. using a different checklist to the one nominated in the HSE Plan).</p> <p>The site risk register provided for review during the audit did not identify or assesses environmental aspects and impacts. The risk register provided does not adequately identify or assesses environmental aspects and impacts.</p> <p>Whilst site inspections are occurring on site, the completion of these is ad-hoc and the forms used for the inspections are inconsistent and/or informal.</p> <p>Inspection records were provided for October, however construction commenced in early August 2021.</p> <p><b>Auditor Recommendations:</b></p> <ul style="list-style-type: none"> <li>• A detailed internal audit be promptly undertaken on the PCL HSE plan (as required by the CEMP and EMS) to verify the statements and procedures within the HSE Plan, verify implementation and to identify areas to streamline content to enable better</li> </ul> | <p>Management Plan, in response to the feedback provided in the Independent Environmental Audit.</p> <p>PCL have updated the Operational Risk Register to include environmental and cultural risks associated with the Project, and associated control measures.</p> <p>PCL have collated all inspection requirements into a central spreadsheet to ensure that all inspections required under the Environmental Management Strategy and associated plans, including the Construction Environmental Management Plan, can be easily identified and tracked going forward. This spreadsheet identifies the responsible person, frequency of inspections and hyperlinks to relevant inspection form to be used to conduct the inspection, to ensure consistency.</p> <p>PCL have clarified that one Mobile Plant Register is maintained as outline in the Mobile Plant Management Plan. Sub-contractors on the project have provided separate spreadsheets with</p> |
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|  |  | <ul style="list-style-type: none"> <li>• references to any plans approved under the conditions of this consent; and</li> <li>• a clear plan depicting all the monitoring to be carried out in relation to the development. Following the Secretary’s approval, the Applicant must implement the Environmental Management Strategy.</li> </ul> | <p>interpretation and effective implementation on site.</p> <ul style="list-style-type: none"> <li>• The project risk register be reviewed and revised to adequately identify and assesses environmental aspects and impacts.</li> <li>• The implementation of the existing CEMP could be improved by establishing one concise monitoring and accountabilities schedule depicting all the relevant inspection, monitoring and reporting requirements as outlined within all project management plans, including frequency, type, person responsible, method/form, record(s) to be maintained and reporting requirements.</li> <li>• There are currently 2 mobile plant registers being maintained and it is recommended these be consolidated into one register covering all plant and equipment on site, and that any identified gaps in on-boarding documentation, such as most recent maintenance records, be promptly rectified.</li> </ul> | <p>their mobile plant details. PCL will ensure that their register is maintained as a parent document. An internal audit is being conducted to ensure the Mobile Plant Register is up to date and accurate.</p> |
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| <b>The following 2 non-compliances have been notified as an incident</b> |                                  |  |  |  |
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| <b>WWSF-IEA-2021 Self Reported SR NC 01</b>                              | <b>Schedule 3, Condition 19.</b> | The Applicant must ensure the development does not cause any direct or indirect impacts on the Aboriginal heritage items identified in | <b>Self-Reported Non-compliance</b><br>The proponent has self-reported a noncompliance with the requirements of this | DPIE and Heritage NSW undertook a site visit on 10 November 2021 as part of their incident investigation. An outcome |

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| (NC SR 1) |   | <p>Table 1 of Appendix 3 or located outside the approved development footprint.</p>   | <p>condition to the Department and other relevant agencies and stakeholders.</p> <p>A direct impact has occurred to an Aboriginal heritage item identified in Table 1 of Appendix 3 of the Consent, namely a WWSF Bee Tree, AHIMS number 43-4-0058, identified as a scarred tree.</p> <p>Early investigations by the project team indicate that as a result of 'no go' fencing not being erected around the Bee Tree and the Bee Tree being incorrectly identified for removal, clearing operations on the 23rd of August 2021, resulted in direct impact to the Bee Tree (AHIMS ID 43-4-0058) causing non-compliance with the requirements of this condition.</p> <p><b>Auditor Recommendation:</b><br/>At the time of this audit, NSW DPIE, Heritage NSW and West Wyalong LALC are investigating the incident and as such the auditor declines to make recommendations with regard to the incident.</p> | <p>of the investigation is anticipated by January 2022.</p>  |
|           | <p><b>Schedule 3, Condition 19A</b></p> | <p>Prior to carrying out any development that could directly or indirectly impact the heritage items identified in Table 2 of Appendix 3, the Applicant must salvage and relocate the item/s that would be impacted</p> | <p>Refer to above. Condition 19A was established as part of SSD 9504 Modification 1, and came into effect after the incident. The self-reported non-compliance with Schedule 3, Condition 19 of the Development Consent is considered to</p>  | <p>DPIE and Heritage NSW undertook a site visit on 10 November 2021 as part of their incident investigation. An outcome of the investigation is anticipated by January 2022.</p> |

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|   | <p>and obtain a Care Agreement for the transfer and safekeeping of artefacts to the West Wyalong Local Aboriginal Land Council.</p> <p><i>Note: The location of the Aboriginal heritage items referred to in this condition are shown in the figure in Appendix 3.</i></p>   | <p>have included the requirements of this condition.</p>   |  |
| <p><b>WWSF-IEA-2021</b><br/><b>Self Reported SR</b><br/><b>NC 02</b><br/><b>(NC SR 2)</b></p> | <p>Prior to commencing construction, the Applicant must prepare a Heritage Management Plan for the development to the satisfaction of the Secretary. This plan must:</p> <p>(a) be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;</p> <p>(b) be prepared in consultation with Heritage NSW and Aboriginal Stakeholders;</p> <p>(c) include a description of the measures that would be implemented for:</p> <ul style="list-style-type: none"> <li>protecting the Aboriginal heritage items identified in Table 1 of Appendix 3 or outside the approved development footprint, including fencing off the Aboriginal heritage items prior to commencing construction;</li> <li>salvaging and relocating the Aboriginal heritage items located within the approved development footprint, as identified in Table 2 of Appendix 3;</li> </ul> | <p><b>Self-Reported Non-compliance</b></p> <p>A direct impact has occurred to an Aboriginal heritage item identified in Table 1 of Appendix 3 of the Consent, namely a WWSF Bee Tree, AHIMS number 43-4-0058, identified as a scarred tree.</p> <p>Early investigations by the project team indicate that as a result of ‘no go’ fencing not being erected around the Bee Tree and the Bee Tree being incorrectly identified for removal, clearing operations on the 23rd of August 2021, resulted in direct impact to the Bee Tree (AHIMS ID 43-4-0058) causing non-compliance with the requirements of this condition.</p> <p><b>Auditor Recommendation:</b></p> <p>At the time of this audit, NSW DPIE, Heritage NSW and West Wyalong LALC are investigating the incident and as such the auditor declines to make recommendations with regard to the incident.</p> | <p>DPIE and Heritage NSW undertook a site visit on 10 November 2021 as part of their incident investigation. An outcome of the investigation is anticipated by January 2022.</p> |

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|  | <ul style="list-style-type: none"> <li>• a contingency plan and reporting procedure if: - previously unidentified heritage items are found; or Aboriginal skeletal material is discovered;</li> <li>- ensuring workers on site receive suitable heritage inductions prior to carrying out any development on site, and that records are kept of these inductions; and</li> <li>- ongoing consultation with Aboriginal stakeholders during the implementation of the plan;</li> </ul> <ul style="list-style-type: none"> <li>• include a program to monitor and report on the effectiveness of these measures and any heritage impacts of the project.</li> </ul> <p>Following the Secretary's approval, the Applicant must implement the Heritage Management Plan.</p> |  |  |
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