



Modification Report (MOD2)

West Wyalong Solar Farm

Prepared for
West Wyalong Trust

Date
26 May 2022

Rev00



Inspired thinking
embracing the challenges
of a changing world

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Appendix A - Land Owners Consent

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Prepared by — Carolay Guarin		Date — 28 April 2022
Reviewed by — Trevor Allen		Date — 24 May 2022
Authorised by — Trevor Allen		Date — 26 May 2022

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1. Introduction

1.1 Background and development context

The West Wyalong Solar Farm was granted Development Consent SSD 9504 on 28th November 2019 for the construction, operation and decommissioning of a 90-megawatt solar farm on two lots at a site 16 kilometres northeast of West Wyalong, in the Bland Shire Local Government Area. The Development Consent includes a substation.

The Development Consent was modified (SSD-9504-Mod-1) on 22 September 2021 to amend the road upgrade requirements in Blands Lane, Bodells Lane and Newell Highway.

This document supports an application to modify the Development Consent to subdivide one of the lots on which the approved solar farm infrastructure is located to enable the switching station (located within the approved substation) and the land upon which it is located to be transferred to Essential Energy.

Essential Energy is a state-owned electricity infrastructure company which owns, maintains and operates the electrical distribution network for 95% of New South Wales.

The *Embedded Generator Connection Agreement* (the “Connection Agreement”) between Essential Energy and the Applicant and developer of the Solar Farm, requires the switching station and the land upon which it is located to become the responsibility of Essential Energy after its construction and prior to commencing operations. Accordingly, the transfer of part of the site of the solar farm requires subdivision.

The need for the proposed subdivision was foreshadowed in the EIS (January 2019) for the approved solar farm. Table 18 of the EIS (page 71) states:

“The proposal involves the installation of transformers and a customer and site substation. It will be necessary to create a separate lot on which the customer substation will be located. A separate DA will be lodged with Bland Shire Council to create the lot when the substation is constructed”.

However, for reasons stated in Section 4.2 below, a Local DA for the proposed subdivision of the site under the *Bland Local Environmental Plan 2011* (LEP) is prohibited.

1.2 Site description

The site is located at 228-230 Blands Lane, Wyalong and is legally described as Lot 17 DP 753081 and Lot 118 DP 1276160. Lot 118 has an approximate area of 280 hectares.

Lot 118 DP 1276160 was previously known as Lot 18 DP 753081 as recognised in the consent. This new lot and DP occurred when the Applicant prepared a plan of redefinition of Lot 18 DP 753081 that included registering an access easement over Lot 17 DP 753081 from Blands Lane to the approved substation currently being constructed (**Figure 1**).

1.3 Proponent

Table 1 provides the proponent details as per Clause 100 (1)(a) of *Environmental Planning and Assessment Regulation 2021* (the “Regulation”).

Table 1 Proponent details	
Proponent	Lightsource Development Services Australia Pty Ltd
Address	Level 19, 'CBW', 118 William St, Melbourne 3000
Contact	Georgia King – Environmental Planner
Mobile	0434 258 199

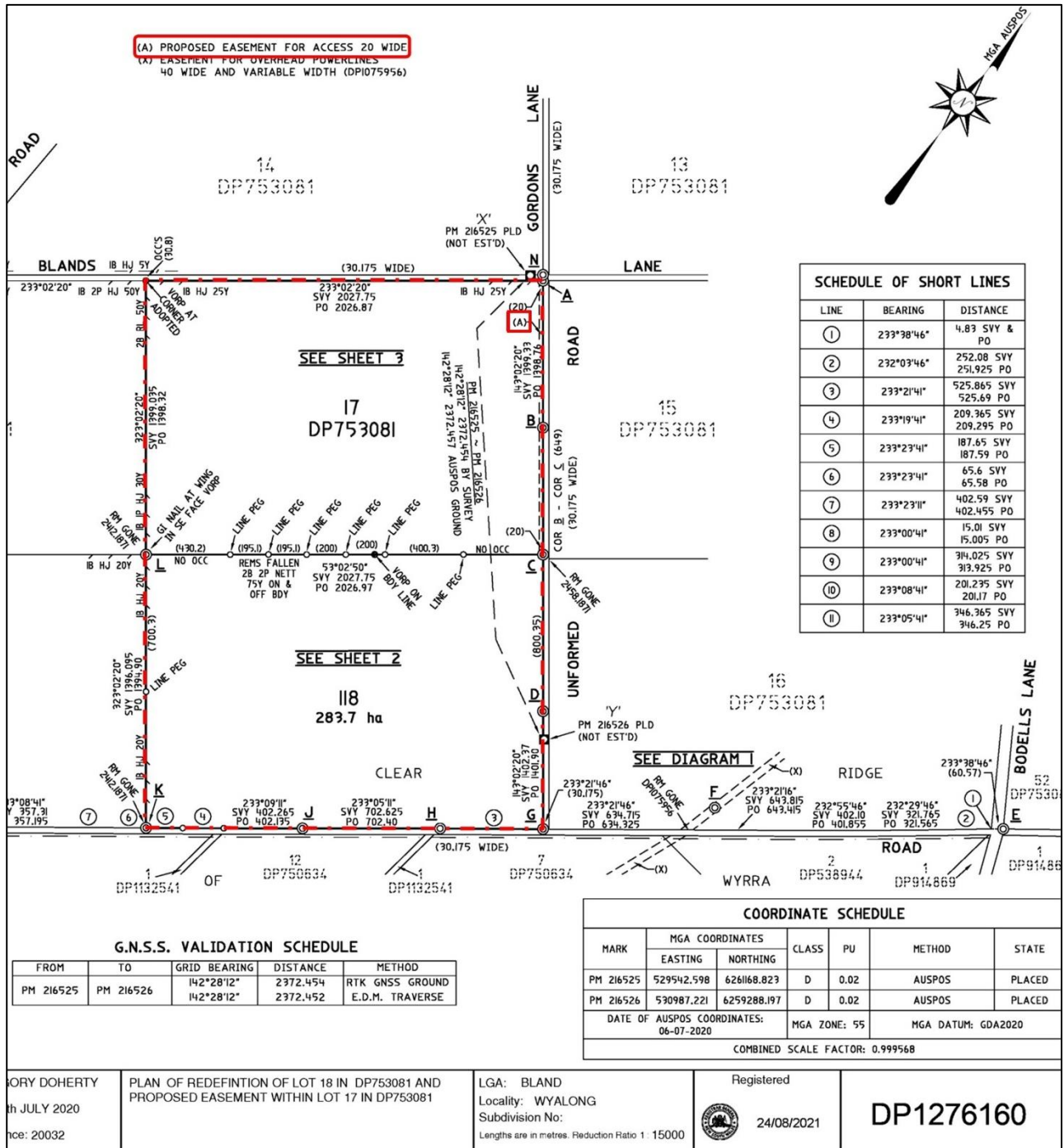


Figure 1 Lot 118 DP 1276160 with red dashed line indicating entire site with (A) indicating access easement through Lot 17.

2. Strategic Context

As of January 2019, the strategic context of the site - as described in the EIS – is provided in **Table 2**.

Table 2 Strategic context of the site

Direction	Description
North	North of the site is Blands Lane. Past the lane is predominately agriculture landholdings with one residential farm house and ancillary sheds. Clear Ridge Railway station is approximately 3.3km from the site. Approximately 3.7km further to the north is the intersection of Clear Ridge Road and Bodells Lane
South	South of the site is Myers Lane and predominately agriculture landholdings with no particular built or

	natural elements of significance.
East	East of the site is predominately agriculture landholdings with no particular built or natural elements of significance. Approximately 2.74km to the east is Bodells Lane and Wyrra State Forest, a large land parcel of tree planting.
West	West of the site agriculture landholdings with no built or natural elements of significance. Clear Ridge Road is approximately 1.5km from the site. The adjacent landholding to the southwestern boundary of the site (Lot 20 DP753081) is owned by the NSW Free Flight Society.

This strategic context remains largely unchanged for the site and is unlikely to have any significance for the proposed modification.

3. Description of proposed modification

3.1 Subdivision of Lot 118 DP 1276160

The proposed development is a modification to the Development Consent to permit subdivision of Lot 118 DP 1276160 to create two lots. The location of the proposed lot within the approved *General Layout of Development plan* in Appendix 1 of the consent is shown in **Figure 2**.

Access to the proposed lot will be via the approved “access point” to the solar farm on Blands Lane and the approved “access road” from Blands Lane to the substation. An easement has been granted to facilitate access to the substation via the access road on Lot 17 as shown in Figures 1 and 3. As part of the subdivision certificate process, the access easement in Lot 17 will be extended through Lot 118 to the proposed new lot. Accordingly, there are no works required to create the proposed lot.

The proposed lot to be created within Lot 118 for Essential Energy purposes will be approximately 0.52 ha in area and approximately 90x88m in size and approximately 39m away from the eastern boundary of Lot 118.

The details of the proposed subdivision are provided in **Figures 3** and **4**.

Lot 118 DP 1276160 has an area of 283.7 hectares and the residual size after subdivision would be 283.18 ha.

3.2 Proposed condition to be added to Consolidated Consent SSD 9504

It is proposed to include a new appendix (*Appendix 6*) in the consolidated Development Consent to include **Figures 3** and **4** and insert a new condition in Schedule 2, as follows:

Subdivision Plan

The Applicant may subdivide the site to create two new lots, as identified in the figure in Appendix 6 and in accordance with the requirements of the EP&A Act.

Note:

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain a subdivision certificate for a plan of subdivision.*

APPENDIX 1
GENERAL LAYOUT OF DEVELOPMENT

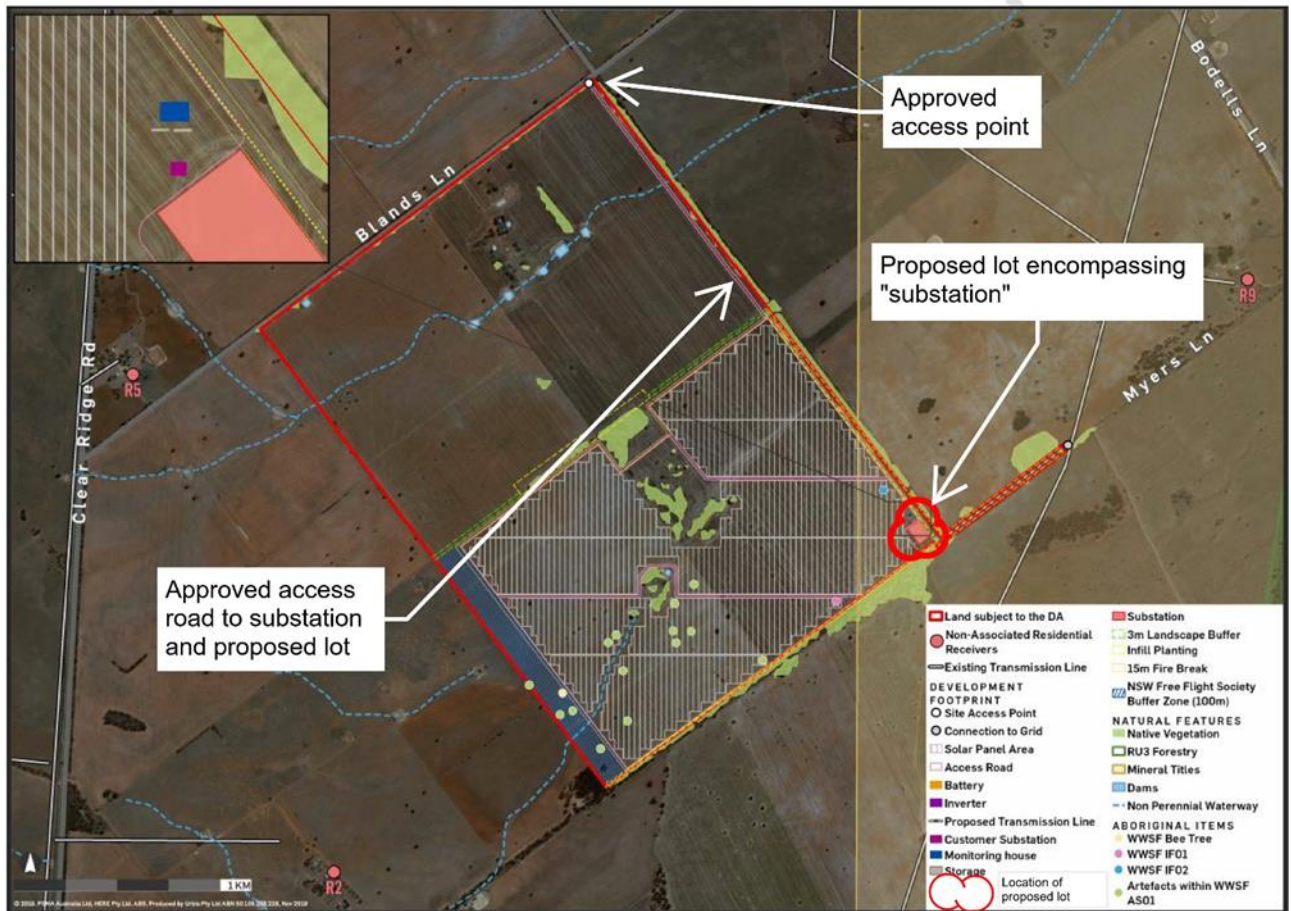


Figure 2 Proposed modification with the approved development boundary



Figure 3 Subdivision Plan



Figure 4 Details of the proposed Lot

4. Statutory context

4.1 Environmental Planning and Assessment Act 1979 (EP&A Act)

4.1.1 Section 4.55(1A) Modifications involving minimal environmental impact

Section 4.55(1A) of the EP&A Act allows a modification to a development consent if the consent authority is satisfied the proposed modification is of minimal environmental impact and is substantially the same development as the development for which the consent was granted. **Table 3** provides an assessment of the proposed modification against Section 4.55(1A).

Table 3 Assessment of modification against Section 4.55(1A)

Section	Requirement	Application to the Proposed Modification
4.55(1A)		
(a)	<i>it is satisfied that the proposed modification is of minimal environmental impact</i>	Based upon the description of the proposed modification - that does not require subdivision works - and that it is substantially the same development as the development for consent that was originally granted, - see below - the proposed modification is of minimal environmental impact.
(b)	<i>it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	<ul style="list-style-type: none"> • Schedule 1 of the Consent describes the development as the West Wyalong Solar Farm; • “Development” in Schedule 1 Definitions is defined as the “development as described in the EIS”; • Table 7 in Chapter 4 of the EIS lists and describes the components of the development that includes the following: <ul style="list-style-type: none"> ○ Substation - An on-site substation will be located at the south-eastern corner of the site; ○ Site access - The proposal will be accessed through Lot 17 from the north-east via an 8m wide private driveway off Blands Lane; ○ Internal access tracks - Running the entire perimeter of the site, with other internal access roads coming off; ○ Security fencing & CCTV - Fencing: 2.3-metre-high fencing surrounding the solar farm. <p>Modification of the development is to place a property boundary around the substation that will rely upon approved site access, approved internal access tracks and approved security fencing. The proposed subdivision does not require any new works to provide access or infrastructure to the proposed lot.</p> <p>A comparison of the approved development and the development as proposed to be modified leads to the conclusion the modified development would remain physically and qualitatively unchanged to the approved development and hence is “<i>essentially or materially</i>” the same as the approved development.</p>
(c)	<i>it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,</i>	Clause 105(4) of the Regulation states that notification of modification application involving minimal environmental impact does not apply to State significant development. Accordingly, the modification application does not require notification.
(d)	<i>it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	The proposed modification is unlikely to raise submissions from the public.

Based on the above, the proposed modification to subdivide Lot 118 DP 1276160 to create two lots is substantially the same development and would have minimal environmental impacts. Accordingly, the modification application would be of minor environmental impact and can be made under Section 4.55(1A) of the EP&A Act.

4.2 Section 4.15 Evaluation

Section 4.55(3) of the EP&A Act requires modifications to take into consideration matters referred in *Section 4.15 Evaluation (1) Matters for consideration - general*. An evaluation of the modification application is provided in **Table 4**.

Table 4 Evaluation of modification application under Section 4.15(1)

Section 4.15 Evaluation	Evaluation against modification application
<p>(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application—</p>	
<p>(a) the provisions of—</p>	
<p>(i) any environmental planning instrument, and</p>	<p>Bland LEP 2011</p> <p><i>Clause 4.1 Minimum subdivision lot size</i> - the minimum lot size development standard for land zoned <i>Rural RU1 Primary Production</i> is 200ha. Subdividing Lot 118 to create a 0.52ha lot would not meet the development standard.</p> <p><i>Clause 4.2 Rural Subdivision</i> - permits subdivision but only for primary production purposes. Subdivision for <i>electricity generating works</i> and ancillary land uses (i.e. substation) would not be a primary production purpose.</p> <p><i>Clause 4.6 Exceptions to Development Standards</i> - might be used on the basis that maintaining the existing minimum lot size of 200ha would, under the circumstances, be unreasonable and unnecessary. However, Clause 4.6(6)(b) limits the variation of the development standard if:</p> <p style="text-align: center;"><i>“the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard”.</i></p> <p>Under Section 4.38(3) Consent for State significant development of the Act states:</p> <p style="text-align: center;"><i>“Development consent may be granted despite the development being partly prohibited by an environmental planning instrument.”</i></p> <p>As the proposed development is prohibited under the LEP and it is ancillary to the approved <i>electricity generating works</i>, the only pathway to obtaining consent for the proposed subdivision is to modify the existing consent.</p> <p>State Environmental Planning Policy (Transport and Infrastructure) 2021</p> <p><i>Clause 2.48 – Determination of development applications – other development</i> - The consent authority must give written notice to the electricity supply authority for the area in which the development is to be carried out. As Essential Energy is requiring the lot to be created and its subsequent transfer to them, Essential Energy are unlikely to object to the proposed modification application.</p>
<p>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</p>	<p>There are no known proposed instruments that have been publicly exhibited that would have a bearing upon the proposed modification.</p>
<p>(iii) any development control plan, and</p>	<p>Clause 2.10 of <i>SEPP Planning Systems 2021</i> states development control plans do not apply to state significant development.</p>
<p>(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and</p>	<p>The consent does not require the preparation of a Voluntary Planning Agreement.</p>
<p>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</p>	<p>Please see Section 4.3.</p>

<i>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	<p>The location of the proposed lot in the south east corner of Lot 118, its small size and requiring no subdivision works, is unlikely to have impact on:</p> <ul style="list-style-type: none"> the productive capacity of the parent lot and its' size for agricultural production; the natural and environmental values of the area; and will not fragment existing natural areas. <p>If the solar farm were to cease operations in the future, it would be decommissioned in accordance with <i>Condition 30 Decommissioning and Rehabilitation</i> of the consent.</p> <p>In summary, the proposed modification is unlikely to have any discernible environmental, social or economic impacts upon the site or locality.</p>
<i>(c) the suitability of the site for the development,</i>	As demonstrated by the Consent and consideration under Section 4.15(1)(b) above, the site is suitable for the proposed modification.
<i>(d) any submissions made in accordance with this Act or the regulations,</i>	A review of the Response to Submissions report, prepared by the Applicant in October 2019 following public exhibition of the EIS, indicates there were no submissions received by surrounding landowners, local community or special interest groups.
<i>(e) the public interest.</i>	Essential Energy is a public entity responsible for developing and maintaining electricity infrastructure across NSW. As Essential Energy is requiring the approved substation and the land upon which it is located be transferred to Essential Energy as part of the requirements to connect the solar farm to the transmission network, the proposed subdivision modification application is in the public interest.

4.3 Environmental Planning and Assessment Regulation 2021

The modification report has been prepared with regard to the *State Significant Development Guidelines* in accordance with Clause 99(2) of the *Environmental Planning and Assessment Regulation 2021*.

In addition, Clause 100 of the EP&A Regulation 2021 states that an application for modification of a development consent under section 4.55, 4.56 and 4.57 of the EP&A Act must contain the information presented in **Table 5**.

Table 5 Content of a modification application

Clause 100	Requirement	Section addressed
1 (a)	<i>the name and address of the applicant,</i>	Section 1.3
1 (b)	<i>a description of the development that will be carried out under the development consent,</i>	Section 1 and 4.1.1
1 (c)	<i>the address and folio identifier of the land on which the development will be carried out</i>	Section 1.2
1 (d)	<i>a description of the modification to the development consent, including the name, number and date of plans that have changed, to enable the consent authority to compare the development with the development originally approved,</i>	Section 3 and Figures 2, 3 and 4
1 (e)	<i>whether the modification is intended to—</i>	
	<i>(i) merely correct a minor error, misdescription or miscalculation, or</i>	N/A
	<i>(ii) have another effect specified in the modification application,</i>	Section 4.1.1
1 (f)	<i>a description of the expected impacts of the modification,</i>	Section 6
1 (g)	<i>an undertaking that the modified development will remain substantially the same as the development originally approved,</i>	Section 4.1.1
1 (h)	<i>for a modification application that is accompanied by a biodiversity development assessment report—the biodiversity credits information,</i>	N/A
1 (i)	<i>if the applicant is not the owner of the land—a statement that the owner consents to the making of the modification application,</i>	Appendix A
1 (j)	<i>(j) whether the modification application is being made to—</i>	N/A
	<i>(i) the Court under the Act, section 4.55, or</i>	
	<i>(ii) the consent authority under the Act, section 4.56.</i>	

5. Engagement

The Department of Planning and Environment requested the applicant to consult with Bland Shire Council. Council was consulted and they support the modification application – **Appendix B**.

6. Assessment of impacts

Refer Section 4.2

7. Justification of the modified development

The proposed modification requires no subdivision works and relies upon the approved access point and access road in the consent. Hence the proposed modification is likely to have little to no economic, environmental or social impacts upon the site and surrounding lands of the approved development.

The proposed subdivision is to facilitate the transfer of a portion of the approved substation (the switching station) and the land upon which it sits to Essential Energy under their Connection Agreement with the Applicant. Accordingly, the modification application is justified.

8. Conclusion

The proposed modification for a subdivision of Lot 118 DP 1276160 to create a new lot around a portion of the approved substation containing the connection equipment is to allow the proposed lot to be transferred to Essential Energy under the requirements of the Connection Agreement. The modification application does not require subdivision works above and beyond the already approved access point and access road to the proposed lot.

The proposed modification is administrative in effect and does not create additional environmental, social or economic impacts adversely impact upon the long term use of the site for the approved solar farm. Accordingly, the proposed modification is of minimal environmental impact. The development, as modified, would be substantially the same as the development for which the consent was originally granted.



Land Owners Consent



Appendix A

6 July 2021

NSW Department of Planning, Industry and Environment
Attn: Mr Karl Okorn
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Re: 228 Blands Lane, Wyalong NSW 2671


Dear Mr Okorn,

We are the registered owners of the land at 228 Blands Lane, Wyalong NSW 2671 as described as:

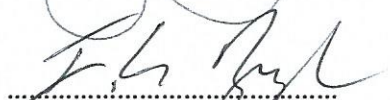
1. Lot 17 in DP 753081
2. Lot 18 in DP 753081

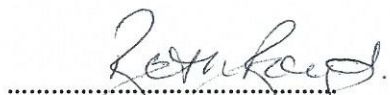
As the registered owners we hereby confirm that we provide consent to the lodgment of any modifications to the West Wyalong Solar Farm Development Consent (SSD 9504) by Lightsource Development Services Australia Pty Ltd (Lightsource bp) at 228 Blands Lane, Wyalong NSW 2671.

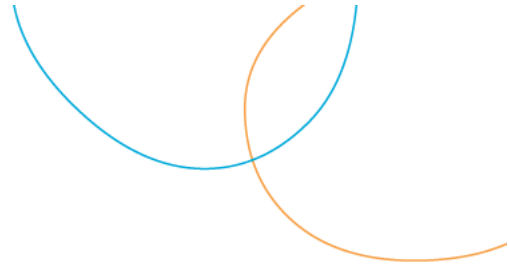
Yours sincerely


.....
Ian Gordan Boyd (Lot 17)


.....
Beth Yvonne Boyd (Lot 17)


.....
Ian Gordan Boyd as director of DLAK Pty Ltd (Lot 18)


.....
Beth Yvonne Boyd as director of DLAK Pty Ltd (Lot 18)



Consultation with Bland Shire Council



Appendix B

Georgia King

From: Will Marsh <WMarsh@blandshire.nsw.gov.au>
Sent: Thursday, 26 May 2022 8:40 AM
To: Georgia King
Cc: Lesley Duncan; Jamie Harwood; Council Records
Subject: RE: West Wyalong Solar Farm - Subdivision Modification Application

Hi Georgia,

Bland Shire Council supports the proposed Modification to subdivide Lot 118 for the purposes of an electrical sub-station.

Regards
Will



Will Marsh
Director Technical Services
PO Box 21
West Wyalong NSW 2671
Ph: (02) 6972 2266
WMarsh@blandshire.nsw.gov.au
www.blandshire.nsw.gov.au

Working together



to improve our quality of life

Bland Shire Council acknowledges the Wiradjuri people as the traditional custodians of the land we now share and offer our respect to Wiradjuri Elders, past, present and emerging.

From: Georgia King <georgia.king@lightsourcebp.com>
Sent: Wednesday, 25 May 2022 6:26 PM
To: Will Marsh <WMarsh@blandshire.nsw.gov.au>
Cc: Council Records <council@blandshire.nsw.gov.au>; Diana Mitchell <diana.mitchell@lightsourcebp.com>
Subject: West Wyalong Solar Farm - Subdivision Modification Application

Hi Will,

I hope you've been well.

Lightsource bp has prepared the **attached** Modification Application to the Development Consent (SSD 9504) to seek approval to subdivide Lot 118 DP 753081 so that a portion of the substation can be transferred into the control of Essential Energy.

As part of the requirements under the Connection Agreement with Essential Energy, certain infrastructure within the project substation will be controlled by Essential Energy (the switching station). We are also required to transfer the land upon which this infrastructure is located to Essential Energy when the project is commissioned.

We would like to provide the Modification Application to Council for review prior to submission to DPIE. Could you please confirm whether Council supports the proposed Modification Application to subdivide Lot 118?

Thanks
Georgia

Georgia King Environmental Planner | t +61434258199



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Modification Report (MOD2)

West Wyalong Solar Farm

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(Operations) Pty Ltd**
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