

# Development Consent

## Section 89E of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I approve the development application referred to in Schedule 1, subject to the conditions in Schedules 2 to 4.

These conditions are required to:

- prevent and/or minimise any adverse environmental impacts of the development;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the development.

**David Kitto**  
**Executive Director**  
**Resource Assessments and Business Systems**

Sydney

2018

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### **SCHEDULE 1**

**Application Number:** SSD 8540  
**Applicant:** ESCO Pacific Pty Ltd  
**Consent Authority:** Minister for Planning  
**Land:** See Appendix 1  
**Development:** Finley Solar

**Blue type represents Modification 1 – 4 June 2018.**

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## DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Applicant	ESCO Pacific Pty Ltd, or any person who seeks to carry out the development approved under this consent
Cessation of operations	Operation of the development has ceased for a continuous period of 6 months
Conditions of this consent	Conditions contained in schedules 1 to 4 inclusive
Construction	The construction of the development, including but not limited to the carrying out of any earthworks on site and the construction of solar panels and any ancillary infrastructure (but excludes any upgrades to the public road network required under this consent, installation of fencing, artefact survey, overhead line safety marking, geotechnical drilling and/or surveying)
Council	Berrigan Shire Council
Decommissioning	The removal of solar panels and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning and Environment
Development	The development as described in the EIS
Development footprint	The area described as the development footprint in the figure in Appendix 1
EIS	<p>The environmental impact statement for Finley Solar (dated 6 September 2017) as amended by:</p> <ul style="list-style-type: none"> <li>• <a href="#">Finley Solar response to submissions report (dated November 2017)</a>;</li> <li>• <a href="#">correspondence from the Applicant dated 6 September 2017, 10 November 2017, 11 December 2017, 12 January 2018, 15 January 2018 and 17 January 2018</a>; and</li> <li>• <a href="#">Finley Solar Modification 1 Application (dated May 2018)</a>.</li> </ul>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Heavy vehicle	A vehicle that has a combined Gross Vehicle Mass or Aggregate Trailer Mass of more than 4.5 tonnes
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	<p>A set of circumstances that:</p> <ul style="list-style-type: none"> <li>• causes or threatens to cause material harm to the environment; and/or</li> <li>• breaches or exceeds the limits or performance measures/criteria in this consent</li> </ul>
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
OEH	Office of Environment and Heritage
Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
Project site	As shown in the table and figure in Appendix 1
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, irrigation channels, drainage channels
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
RMS	Roads and Maritime Services
Secretary	Secretary of the Department, or nominee
Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, materials storage compounds, maintenance workshops, or material stockpiles
Upgrading	The augmentation and/or replacement of solar panels (excluding maintenance) and ancillary infrastructure on site
Vehicle Movement	One vehicle entering and leaving the site

## **SCHEDULE 2 ADMINISTRATIVE CONDITIONS**

### **OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT**

1. In addition to meeting the specific environmental performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, upgrading or decommissioning of the development.

### **TERMS OF CONSENT**

2. The Applicant must carry out the development:
  - (a) generally in accordance with the EIS; and
  - (b) in accordance with the conditions of this consent.

*Note: The general layout of the development is shown in Appendix 1.*

3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.
4. The Applicant must comply with any requirement/s of the Secretary arising from the Department's assessment of:
  - (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
  - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
  - (c) the implementation of any actions or measures contained in these documents.

### **FINAL LAYOUT PLANS**

5. Prior to the commencement of construction, the Applicant must submit detailed plans of the final layout of the development to the Secretary, including details on the siting of solar panels and ancillary infrastructure.

*Note: If the construction of the development is to be staged, then the provision of these plans may be staged.*

### **UPGRADING OF SOLAR PANELS AND ANCILLARY INFRASTRUCTURE**

6. Over time, the Applicant may upgrade the solar panels and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the Secretary incorporating the proposed upgrades.

### **WORK AS EXECUTED PLANS**

7. Prior to the commencement of operations, or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to the Department.

### **NOTIFICATION OF DEPARTMENT**

8. Prior to the commencement of construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing of the date of commencement, or cessation, of the relevant phase.

If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to the commencement of the relevant stage, and clearly identify the development that would be carried out during the relevant stage.

## **STRUCTURAL ADEQUACY**

9. The Applicant must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the *Building Code of Australia*.

*Notes:*

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## **DEMOLITION**

10. The Applicant must ensure that all demolition work on site is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

## **PROTECTION OF PUBLIC INFRASTRUCTURE**

11. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

## **OPERATION OF PLANT AND EQUIPMENT**

12. The Applicant must ensure that all plant and equipment used on site, or in connection with the development, is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## SCHEDULE 3 ENVIRONMENTAL CONDITIONS – GENERAL

### BATTERIES

#### Battery Storage Restriction

1. Battery storage is not permitted on the project site.

*Note: Nothing in this condition prevents the Applicant from seeking to modify the consent to permit battery storage in the future.*

### TRANSPORT

#### Heavy Vehicle Restrictions

2. The Applicant must ensure that the:
  - (a) development does not generate more than:
    - 38 heavy vehicle movements a day during construction, upgrading or decommissioning;
    - 10 oversized vehicle movements during construction, upgrading or decommissioning; or
    - 4 heavy vehicle movements a day during operations;on the public road network; and
  - (c) length of any vehicles (except for oversized vehicles) used for the development does not exceed 19 metres, unless the Secretary agrees otherwise.
3. The Applicant must keep accurate records of the number of heavy vehicles entering or leaving the site each day.

#### Access Route

4. All vehicular traffic associated with the development must travel to and from the project site via the Riverina Highway, Canalla Road and the approved site entry points (shown in Appendix 1).

#### Road Upgrades

5. Prior to the commencement of construction, and to the satisfaction of RMS and Council and in accordance with the *Austrroads Guide to Road Design* (as amended by RMS supplements), the Applicant must:
  - (a) upgrade the intersection of the Riverina Highway and Canalla Road including a Basic Right Turn (BAR) and Basic Left Turn (BAL) treatment; and
  - (b) upgrade the section of Canalla Road from its intersection of the Riverina Highway to a minimum of 50 m, including paving and widening of the road to allow two-way heavy vehicle traffic.

#### Operating Conditions

6. The Applicant must ensure:
  - (a) the internal project site roadways are constructed as all-weather roadways;
  - (b) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
  - (c) the capacity of the existing roadside drainage network is not reduced;
  - (d) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
  - (e) vehicles leaving the site are in a clean condition and do not result in dirt being tracked onto the public road network.

#### Channel Crossings

7. The Applicant must ensure all irrigation channel and drainage channel bridge crossings located on the project site (shown in Appendix 1) are:
  - consistent with Department of Industry – Lands & Water's *Guidelines for Controlled Activities on Waterfront Land* (2012); and
  - completed in consultation with relevant landowners, including Murray Irrigation Limited.

## **Traffic Management Plan**

8. Prior to the commencement of any road upgrades required under this consent, the Applicant must prepare a Traffic Management Plan for the development in consultation with the RMS and Council, and to the satisfaction of the Secretary. This plan must include:
- (a) details of the entire transport route to be used for development-related traffic;
  - (b) a protocol for undertaking dilapidation surveys to assess the:
    - existing condition of local roads on the transport route/s prior to construction, upgrading or decommissioning activities; and
    - condition of the transport route/s following construction, upgrading or decommissioning activities;
  - (c) a protocol for the repair of any roads identified in the dilapidation surveys to have been damaged during construction, upgrading or decommissioning works;
  - (d) details of the measures that would be implemented to minimise traffic safety issues and disruption to local users of the transport route/s during construction, upgrading or decommissioning works, including:
    - temporary traffic controls, including detours and signage;
    - notifying the local community about project-related traffic impacts;
    - procedures for receiving and addressing complaints from the community about development-related traffic;
    - minimising potential for conflict with school buses, rail services and other motorists as far as practicable;
    - scheduling of haulage vehicle movements to minimise convoy length or platoons;
    - responding to local climate conditions that may affect road safety such as fog, dust, wet weather;
    - responding to any emergency repair or maintenance requirements; and
    - a traffic management system for managing over-dimensional vehicles; and
  - (e) a driver's code of conduct that addresses:
    - travelling speeds;
    - driver fatigue;
    - procedures to ensure that drivers adhere to the designated transport routes; and
    - procedures to ensure that drivers implement safe driving practices.

Following approval, the Applicant must implement the plan.

## **LANDSCAPING**

### **Vegetation Buffer**

9. The Applicant must establish and maintain a mature vegetation buffer around the site at the locations outlined in the figure in Appendix 1 to the satisfaction of the Secretary. This vegetation buffer must:
- (a) be planted prior to the commencement of operations;
  - (b) consist of a variety of vegetation species that are endemic to the area;
  - (c) be effective at screening view of the solar panels and ancillary infrastructure on site from surrounding residences within 3 years of the commencement of construction; and
  - (d) be properly maintained and kept free of weeds.

### **Landscaping Plan**

10. Prior to the commencement of construction, the Applicant must prepare a detailed Landscaping Plan for the development in consultation with RMS, Council and surrounding landowners, to the satisfaction of the Secretary. This plan must:
- (a) include a description of measures that would be implemented to ensure that the vegetated buffer achieves the objectives of condition 9 (b) – (d) of this consent;
  - (b) include a program to monitor and report on the effectiveness of these measures; and
  - (c) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following approval, the Applicant must implement the plan.

## LAND MANAGEMENT

11. Following any construction or upgrading on site, the Applicant must:
- (a) restore the ground cover of the site as soon as practicable, but within 12 months of completing any construction or upgrades, using suitable species;
  - (b) maintain ground cover; and
  - (c) keep this ground cover free of weeds.

## BIODIVERSITY

### Biodiversity Management Plan

12. Prior to the commencement of construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with OEH, and to the satisfaction of the Secretary. This plan must:
- (a) include a description of the measures that would be implemented for:
    - minimising clearing and avoiding unnecessary disturbance of vegetation that is associated with the construction and operation of the development;
    - minimising the impacts to fauna on site (including fauna interaction with perimeter fencing) and implementing fauna management protocols;
    - avoiding the removal of hollow-bearing trees during spring to early summer to avoid the main breeding period for hollow-dependent fauna;
    - rehabilitating and revegetating temporary disturbance areas;
    - protecting vegetation and fauna habitat outside the approved disturbance areas;
    - 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;
    - controlling weeds and feral pests; and
  - (b) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following approval, the Applicant must implement the plan.

## AMENITY

### Construction, Upgrading and Decommissioning Hours

13. Unless the Secretary agrees otherwise, the Applicant may only undertake construction, upgrading or decommissioning activities on site between:
- (a) 7 am to 6 pm Monday to Friday;
  - (b) 8 am to 1 pm Saturdays; and
  - (c) at no time on Sundays and NSW public holidays.

The following construction, upgrading or decommissioning activities may be undertaken outside these hours without the approval of the Secretary:

- the delivery of materials as requested by the NSW Police Force or other authorities for safety reasons; or
- emergency work to avoid the loss of life, property and/or material harm to the environment.

### Noise

14. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009), or its latest version.

### Dust

15. The Applicant must minimise the dust generated by the development.

### Visual

16. The Applicant must:
- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
  - (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
  - (c) not mount any advertising signs or logos on site, except where this is required for safety purposes.

## Lighting

17. The Applicant must:
- (a) minimise the off-site lighting impacts of the development; and
  - (b) ensure that all external lighting associated with the development:
    - is installed as low intensity lighting (except where required for safety or emergency purposes);
    - does not shine above the horizontal; and
    - complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version.

## HERITAGE

### Discovery of Human Remains

18. If human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must notify the NSW Police and OEH as soon as possible following the discovery, and work must not recommence in the area until this is authorised by OEH.

### Chance Finds Protocol

19. Prior to the commencement of construction, the Applicant must prepare a Chance Finds Protocol for the development in consultation with the Aboriginal stakeholders, and to the satisfaction of OEH. Following approval, the Applicant must implement the Chance Finds Protocol.

## SOIL & WATER

### Water Pollution

20. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the *Protection of the Environment Operations Act 1997*.

### Stormwater Drainage

21. Prior to the commencement of construction, the Applicant must:
- (a) prepare a detailed Stormwater Plan for the site in consultation with Council; and
  - (b) submit a copy of these plans to the Department for approval.

Following approval, the Applicant must implement the plan.

### Operating Conditions

22. The Applicant must:
- (a) minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version;
  - (b) ensure the solar panels and associated infrastructure are designed, constructed and maintained to avoid causing any tunnel erosion on site;
  - (c) implement appropriate flood management practices to ensure post-development flows from the site are limited to pre-development flows for all storms up to and including the 100-year Average Recurrence Interval event; and
  - (d) ensure all works (including waterway crossings) are undertaken in accordance with the *Guidelines for Controlled Activities on Waterfront Land (2012)*, or its latest version.

## HAZARDS

### Storage and Handling of Dangerous Goods

23. The Applicant must:
- (a) store and handle all dangerous or hazardous materials on site in accordance with AS1940-2004: *The storage and handling of flammable and combustible liquids*, or its latest version;
  - (b) ensure the substation is suitably banded; and
  - (c) minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.

### Operating Conditions

24. The Applicant must:
- (a) minimise the fire risks of the development;
  - (b) ensure that the development:

- includes at least a 10 metre defendable space around the perimeter of the solar array area that permits unobstructed vehicle access;
  - manages the defendable space and solar array area as an Asset Protection Zone;
  - complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection 2006* (or equivalent) and *Standards for Asset Protection Zones*;
  - is suitably equipped to respond to any fires on site;
- (c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
- (d) notify the relevant local emergency management committee following construction of the development, and prior to the commencement of operations.

### Emergency Response Plan

25. Prior to the commencement of operations, the Applicant must prepare an Emergency Response Plan for the development in consultation with the RFS. This plan must identify the fire risks and controls of the development, and the procedures that would be implemented if there is a fire on site or in the vicinity of the site. Two copies of the plan must be kept on site in a prominent position adjacent to the site entry point at all times.

### WASTE

26. The Applicant must:
- (a) minimise the waste generated by the development;
  - (b) classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
  - (c) store and handle all waste on site in accordance with its classification;
  - (d) not receive or dispose of any waste on site; and
  - (e) remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal.

### ACCOMMODATION AND EMPLOYMENT STRATEGY

27. Prior to the commencement of construction, the Applicant must prepare an Accommodation and Employment Strategy for the development in consultation with Council, and to the satisfaction of the Secretary. This strategy must:
- (a) propose a strategy to facilitate the accommodation of the workforce associated with the development;
  - (b) investigate options for prioritising the employment of local workers for the construction and operation of the development where feasible; and
  - (c) include a program to monitor and review the effectiveness of the strategy over the life of the development.

Following the Secretary's approval, the Applicant must implement the strategy.

### DECOMMISSIONING AND REHABILITATION

28. Within 18 months of the cessation of operations, unless the Secretary agrees otherwise, the Applicant shall rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must comply with the objectives in Table 2.

Table 2: Rehabilitation Objectives

<b>Feature</b>	<b>Objective</b>
Development site (as a whole)	<ul style="list-style-type: none"> <li>• Safe, stable and non-polluting</li> <li>• Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use</li> </ul>
Solar farm infrastructure	<ul style="list-style-type: none"> <li>• To be decommissioned and removed, unless the Secretary agrees otherwise</li> </ul>
Land use	<ul style="list-style-type: none"> <li>• Restore land capability to pre-existing agricultural use</li> </ul>
Community	<ul style="list-style-type: none"> <li>• Ensure public safety</li> </ul>

## **SCHEDULE 4 ENVIRONMENTAL MANAGEMENT AND REPORTING**

### **ENVIRONMENTAL MANAGEMENT**

#### **Environmental Management Strategy**

1. Prior to the commencement of construction, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
  - (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (d) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (e) include:
    - copies of any plans approved under the conditions of this consent; and
    - 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.

#### **Revision of Strategies and Plans**

2. The Applicant must:
  - (a) update the strategies and plans required under this consent to the satisfaction of the Secretary prior to carrying out any upgrading or decommissioning activities on site; and
  - (b) review and, if necessary, revise the strategies and plans required under this consent to the satisfaction of the Secretary within 1 month of the:
    - submission of an incident report under condition 3 below; or
    - any modification to the conditions of consent.

### **INCIDENT NOTIFICATION**

3. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.

### **NON-COMPLIANCE NOTIFICATION**

4. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within 7 days after the Applicant becomes aware of any non-compliance with the conditions of this consent. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been done, or will be, undertaken to address the non-compliance.

### **INDEPENDENT ENVIRONMENTAL AUDIT**

5. Within 6 months of the commencement of construction, or as directed by the Secretary, the Applicant must commission and pay the full cost of an Independent Environmental Audit (Audit) of the development. The audit must:
  - (a) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
  - (b) be carried out in consultation with the relevant agencies;
  - (c) assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and
  - (d) recommend appropriate measures or actions to improve the environmental performance of the development and any strategy, plan or program required under this consent.

Within 3 months of commencing an Independent Environmental Audit, or unless otherwise agreed by the Secretary, a copy of the audit report must be submitted to the Secretary, and any other NSW agency that

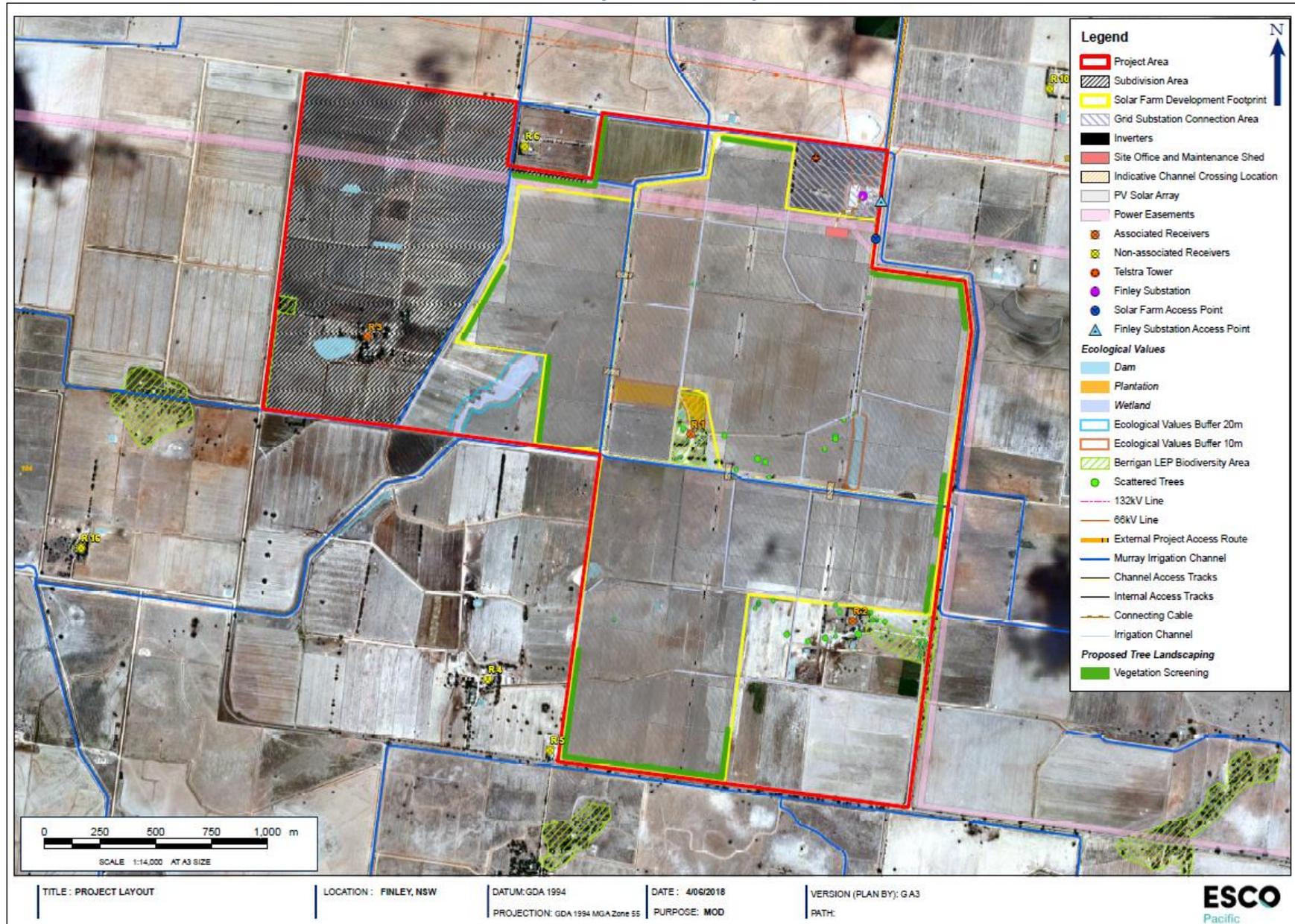
requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations.

The recommendations must be implemented to the satisfaction of the Secretary.

## **ACCESS TO INFORMATION**

6. The Applicant must:
  - (a) make the following information publicly available on its website as relevant to the stage of the development:
    - the EIS;
    - the final layout plans for the development;
    - current statutory approvals for the development;
    - the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
    - how complaints about the development can be made;
    - a complaints register;
    - any other matter required by the Secretary; and
  - (b) keep this information up to date.

## APPENDIX 1: General Layout of Development



## Schedule of Lands – Project Site

Lot Number	Deposit Plan (DP)
133, 134 and 136	752299
B	961693

*The project site will also be taken to include any crown land, including road reserves contained within the project site.*