

Ms Carolyn M<sup>c</sup>Nally  
The Secretary  
Department of Planning & Environment  
GPO Box 39  
Sydney NSW 2001

15<sup>th</sup> February 2018  
PO Box 871  
TAMWORTH, NSW, 2340

Dear Ms M<sup>c</sup>Nally,

**Re: Feedback on the Large Scale Solar Energy Draft Guideline**

The Association of Mining & Energy Related Councils of NSW ('AMERC') welcomes the opportunity to provide feedback to the Department of Planning & Environment ('DPE') regarding the Draft Large Scale Solar Energy Guideline for State Significant Developments dated November 2017.

**A. About the AMERC**

The AMERC (then AMRC) originated in 1978 with several Councils recognising that Local Government Areas associated with coal developments would benefit from a co-ordinated approach when liaising with proponents and the NSW State Government. In 1993 the scope broadened to include metalliferous mines. In 1999 it expanded further to represent Local Government on all extractive industries, including unconventional gas and in 2017 added renewable energy projects to its remit. Currently there are 19 member Councils of the AMERC, most of who are located in rural and regional areas of NSW.

**B. General Comments: AMERC Members and Large Scale Solar Energy Facilities**

Local Councils are the sphere of government directly responsible for the daily governance of Local Government Areas. They strive to facilitate human endeavour that is sustainable environmentally, socially and economically. Thus, Councils are 'on the front line' interfacing with their communities and have a very good understanding of the local issues and challenges.

AMERC warmly welcomes the DPE's initiative in releasing the draft Guideline for comment. The Guideline should assist all stakeholders because it provides sound advice in how to implement best practice Environmental Impact Assessment.

The AMERC is most supportive of the renewal of the energy generation and supply system and the mere presence of the document reaffirms the State Government's commitment to the NSW Renewable Energy Action Plan, NSW Climate Change Policy Framework and the "aspirational" long-term objective of achieving net zero emissions by 2050.

**C. Specific Comments on Elements of the Solar Guideline**

Outlined below are comments which AMERC believes will assist to make the Guideline an even more useful document.

**C.1 Community and Stakeholder Engagement (page 24)**

AMERC suggests that the single most important Environment Impact Assessment (EIA0 activity for a proponent to address is its community and stakeholder engagement. It is crucial because without building strong, effective, respectful relationships with key personnel, many a proposed project

flounders, often generating ill will and obstacles, resulting in costly delays and/or strident opposition.

This being so, AMERC suggests the chapter on Community and Stakeholder Engagement, currently the second last of six chapters, be moved to the front end of the document to convey the importance of this task and be placed after the chapter on Planning Framework.

In regard to 'Table 1 – Community and landholder consultation stages', AMREC suggests the following modifications:

*Site selection:* Para 2, 'must' include consultation with the relevant Council(s) rather than 'could'.

*Scoping stage:* Para1, consultation 'should' involve engagement on the values the wider community places on local attributes, rather than 'could'.

Whilst the document mentions the importance of consultation, plus when and with whom to consult, AMERC believes the Guideline could be enhanced by explaining in some detail what sort of 'consultation' is required. We thus suggest the following be added:

***'What is meant by 'consultation'?'***

*Truly effective engagement with the community depends in large on the attitude and commitment shown by the proponent as to the value of the assignment. To maximise the benefits, it requires a mindset that embraces the task as a great opportunity to design and deliver the very best project possible, in partnership with the community.*

*Anything short of this approach means there is a risk that the consultation phase becomes a superficial, box-ticking exercise.*

*The engagement process should be conducted in such a manner that it:*

- a) is respectful and empathetic;*
- b) builds trust and goodwill. That is, proponents genuinely listen to understand, help and deliver on promises;*
- c) respects and protects local societal norms and deeply held values, sense of place and identity - the things that give meaning to life in that district;*
- d) improves the wellbeing of the community as a whole and especially the vulnerable, disadvantaged or marginalised;*
- e) reduces social exclusion and fragmentation; and*
- f) builds capacity and governance in institutions.*

*Proponents are responsible for dialogue with the community throughout all phases of the EIA including:*

- engagement as part of up front scoping, including establishing the level of engagement and participation outcomes during the preparation of the EIS; and*
- by explaining how issues raised through engagement have been dealt with in the design of the project and the preparation of the EIS. If raised issues have not been addressed, proponents should give a reason.*

*When the EIS reports on the proponent's engagement with the community, the key performance measures should focus on the above a) – f) measures rather than procedural matters such as how many meetings, forums, workshops, etc were held. It is highly desirable that the EIS describe how the engagement outcomes have been met and how community feedback has influenced the design of the project, alternatives, the potential impacts and the proposed mitigation measures.'*

The Guideline should make the point that effective 'consultation' is not about simply informing the community what you are going to do. Consultation means effective, respectful, two-way dialogue, discussion and collaboration.

Community consultative committees (CCCs) can potentially also play an important role in facilitating dialogue and engagement between proponents and local communities and could be mentioned in the Guideline.

### **C.2 Development Assessment: The Scoping Report (page 19)**

The AMERC strongly supports proponents preparing a substantial Scoping Report up - front in the EIA process to provide clarity and detail to the DPE that will assist it prepare the SEARs. Significant engagement with the community, including with Local Government, at this formative stage will allow any major differences in perspective to be flagged and allow the proponent to develop an engagement strategy that addresses the complexities and controversies of the situation.

The AMERC also welcomes the SEARS being more outcomes - focused in requiring proponents to address such elements as Social Impact Assessment (SIA) matters, leading to the detailed conditioning of various social impacts in the consents. We encourage increased attention being placed on how proponents have engaged, what feedback was obtained, and how the project has evolved as a result of what was heard.

On SIA matters, the AMERC believes qualitative results are very important, perhaps more so than quantitative data such as how many meetings were held. We believe key data revolves around the answers to the following types of questions:

- a) did the people who attended the workshop/meeting/etc feel their values and opinions were respected and taken seriously by the proponent?; and
- b) how receptive was the proponent to learn about their views and how willing was the company to adjust the project design accordingly?

### **C.3 State Significant Development (SSD) Declaration (page 9)**

There is anecdotal evidence to suggest that some quite large solar energy projects are being assessed by Joint Regional Planning Panels (ie with a declared Capital Investment Value (CIV) of less than \$30 Mil) when, upon more detailed investigation, there is evidence to suggest that the CIV is more than \$30 Mil. If more than \$30 Mil CIV then of course the proposal ought to be deemed a State Significant Development and assessed by the DPE as the Minister's delegate, or via the PAC if more than 25 objections or a Council objects, etc.

AMERC recommends the DPE take steps to make the CIV declarations more rigorous, transparent and accountable.

### **C.4 Planning Approval for Transmission Lines (page 10)**

AMERC concurs with the DPE's stance that 'whenever possible' development of transmission and distribution lines should form part of the associated SSD solar energy project, particularly if they are not being developed by, or on behalf of an electricity supply authority, public authority or authorised network operator.

We note that usually transmission and distribution lines are owned and operated by an electricity transmission operator or distributor (under the *Electricity Supply Act 1995*, or an 'authorised network operator' under the *Electricity Network Assets (Authorised Transactions) Act 2015*), rather than a solar energy generation operator. In such cases the Infrastructure SEPP makes development for the purpose of an electricity transmission or distribution network permissible without consent, with assessment made under Part 5 of the EP&A Act.

Hence if the transmission line infrastructure is a Part 5 matter then the DPE seeks tight co-ordination of both EA processes to streamline decision making.

### **C.5 Site Selection (page 12) and Transport Impacts (page 17)**

AMERC suggests the Guideline encourage the proponent to liaise with the local Council just as soon as possible to discuss the proposed project, even at the concept stage.

Because the local Council is usually the Roads Authority it will be able to advise on what will be required regarding the road network accommodating the type and volume of traffic generated by the construction of the project, including the necessity for road upgrades as well as possible financial road maintenance obligations during the construction, operational life and decommissioning phases of the project. Considerations will include the site's access points and road connections.

### **C.6 Development Footprint, New Technology and Site Design (page 21)**

AMERC is supportive of the DPE granting 'flexible' consents that allow some post-approval variation of technical infrastructure or energy generation capacity within the designated development footprint. This approach will allow for improvements and variations in technology, design and operation over time, without necessarily requiring further approval.

We do agree however with the proviso as stated, that this flexibility should only apply where the adverse environmental and social impacts/risks are not increased as a result of the changes. We suggest the DPE elaborate on this provision to ensure it is not used as a loophole to bypass appropriate impact assessment and consenting processes, for instance tabling a Modification.

### **C.7 Private agreements with stakeholders (page 27)**

AMERC welcomes reference in the Guideline to agreements being negotiated and voluntarily entered into between an applicant and a local council, to help manage certain impacts. As pointed out in the document, such agreements are common for other types of SSD, like mining or wind energy.

AMERC supports the adoption by proponents of voluntary planning agreements (VPAs) being struck with relevant Councils to help address road and/or bridge impacts during construction, operations and decommissioning, and the provision of funds for community enhancement projects.

As stated in the Guideline these agreements can be helpful in building social licence. AMERC is also supportive of proponents exploring potential power purchase agreements with local or regional industries or other stakeholders such as local Councils.

**C.8 Compliance management (page 29)**

AMERC recommends there be significant increases in resourcing of the DPE for improving and upscaling compliance management to address the rapidly expanding renewable energy project sector.

**D. Conclusion**

The AMERC thanks you very much for the opportunity to provide feedback on these important matters.

If you have any queries regarding the above please don't hesitate to contact the Executive Officer of the AMERC Mr Greg Lamont on phone 0407 937 636 or email [greg@yourexecutiveservice.com.au](mailto:greg@yourexecutiveservice.com.au)

The AMERC would welcome the opportunity to meet and discuss the matters herein. We look forward to your response in this regard.

Yours sincerely,

Peter Shinton

Chairman  
Association of Mining & Energy Related Councils