



Town Planning Evidence Statement

Instructed by Allens Lawyers on behalf of X-Elio Australia Pty Ltd

Planning Panels Victoria

Applications:

- 2017-274 (for a 30MW solar farm at 235 Victoria Road, Tallygaroopna); and
- 2017-344 (for a 68MW solar farm at 1090 Lemnos North Road, Congupna).

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Date: May 2018





Table of Contents

1. INTRODUCTION.....	3
What is this Review Panel About?	3
Council’s Assessment Process	5
My Evidence	7
Site Inspection Record.....	7
2. PLANNING EVIDENCE	8
The Review Sites	8
The Planning Policy Context	10
The Statutory Planning Context	11
What are the issues?	13
Planning Assessment	13
Is the location appropriate for the proposed use?.....	20
Amenity and Off-site impacts	21
The Greater Shepparton Planning Scheme.....	24
Proposed planning permit conditions	26
3. CONCLUSION	28
4. REQUIREMENTS UNDER PRACTICE DIRECTION NO. 2: EXPERT EVIDENCE	29
APPENDIX A: PHYSICAL CONTEXT	30
235 Victoria Road, Tallygaroopna	30
1090 Lemnos North Road, Congupna.....	34
APPENDIX B: THE PROPOSALS	38
235 Victoria Road, Tallygaroopna	38
1090 Lemnos North Road, Congupna.....	38
APPENDIX C: GREATER SHEPPARTON PLANNING SCHEME	41
Zoning and Overlays.....	41



Particular and General Provisions	45
State Planning Policy Framework	46
Local Planning Policy Framework	46
Reference Documents	47
APPENDIX D: ASSESSMENT	48
Clause 35.07 (Farming Zone) Decision Guidelines	48
Clause 52.42 (Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction) Decision Guidelines	52
Clause 65 (Approval of an Application or Plan) Decision Guidelines	53



1. INTRODUCTION

1. I received instructions from Allens Lawyers, acting on behalf of the Permit Applicant X-Elio Australia Pty Ltd (X-Elio) to give town planning evidence in respect of two Planning Permit Applications relating to the use and development of land for solar farms in the Greater Shepparton City Council area:
 - An application for a 30MW solar farm at 235 Victoria Road, Tallygaroopna (Application no. 2017-274); and
 - An application for a 68MW solar farm at 1090 Lemnos North Road, Congupna (Application no. 2017-344).

What is this Review Panel About?

2. On 21 November 2017, Greater Shepparton City Council resolved the following:

That the Council direct the Chief Executive Officer to write to the Minister of Planning:

 - *requesting under section 97C of the Planning and Environment Act 1987 that the Minister for Planning decide the solar farm planning applications referred to the Minister in the Greater Shepparton City Council local government area.*
 - *inviting the Minister for Planning to establish a process that provides a fair and proper opportunity for all affected stakeholders to be heard.*
3. The Minister for Planning agreed to the Council's request (which was confirmed by letter dated 13 February 2018). The Minister for Planning will decide the following four solar farm planning permit applications: 2017-162, 2017-274, 2017-301 and 2017-344, and established this Review Panel to consider these four planning permit applications concurrently.
4. On 20 February 2018, the Council resolved the following in respect of each of the four planning permit applications for solar farms:

That the Council resolve to:

 1. *Note that by letter dated 13 February 2018 the Minister for Planning gave notice that the Minister:*
 - a) *has agreed to the Council's request under section 97C of the Planning and Environment Act 1987 that the Minister for Planning decide the following solar farm planning permit applications: 2017-162; 2017-274; 2017-301; 2017-344;*



b) intends to establish a combined Panel to consider those planning permit applications.

2. Note that as a result the Council is no longer the decision maker for the planning permit applications that were referred to the Minister and the Council must not proceed further with the applications.

3. Through its representatives, appear and make submissions at the hearing(s) by a combined Panel appointed by the Minister for Planning for planning permit application [each of the four planning permit application numbers were inserted here] and make available Council Planning Officer's reports.

4. Note the complexities of planning permit application [each individual planning permit number was inserted here] and that there are community concerns in relation to that application.

5. Write to the Panel and request that the hearing(s) be held in Shepparton.

6. Authorise the Chief Executive Officer (who may in turn delegate these authorisations to any of his or her delegates) to:

a) take whatever steps as they see fit so as to implement this resolution, including but not limited to engaging legal representatives and appointing expert witnesses;

b) comply with any directions of the Minister for Planning given to the Council as the referring responsible authority; and

c) instruct the Council's legal representatives regardless of Council's position to provide the following draft conditions to the Panel:

Conditions for each individual application followed.

5. The Minister for Planning appointed this Review Panel on 16 March 2018. The role of the Panel is to:
- *Give submitters an opportunity to be heard in an independent forum in an informal, non-judicial manner; and*
 - *Give independent advice to the Planning Authority and the Minister about the permit applications¹.*

¹ Correspondence from Planning Panels Victoria dated 16 March 2018



Council's Assessment Process

6. The minutes for the 20 February 2018 Council meeting included reports that recommended the approval of the following planning applications (subject to conditions):
- Application no. 2017-274 (for a 30MW solar farm at 235 Victoria Road, Tallygaroopna); and
 - Application no. 2017-344 (for a 68MW solar farm at 1090 Lemnos North Road, Congupna).

Tallygaroopna

7. The Report indicated that, Council advertised the application and five objections were received. The objections broadly related to the following issues:
- *Incomplete / insufficient application information;*
 - *Proximity of the land to the township of Tallygaroopna;*
 - *Creation of an eyesore in a rural environment;*
 - *Creation of a micro climate as a result of the solar farm (the heat island effect); and*
 - *Loss of productive agricultural land².*
8. Council engaged Sustainable Energy Transformation to undertake an expert review of the grounds of objection. The conclusion of this expert review was:
- The technical aspects raised in the objections have been reviewed. Some aspects have been found to be without a technical basis and others can be adequately addressed with appropriate requirements in management plans for the site development.³*
9. Based on this expert assessment, Council Officers were satisfied that there was no technical energy basis to refuse the application. Council officers believed the key issue to be whether the loss of agricultural land in a food bowl of national significance for a solar farm was acceptable⁴.
10. Having assessed the application, Council Officers recommended that a notice of decision to grant a permit be issued⁵.

² Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 107)

³ Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 108)

⁴ Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 107)

⁵ Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 109)



Congupna

11. The Report indicates that Council advertised the application and three objections⁶ were received. The objections broadly related to the following issues:
 - *Loss of productive agricultural land;*
 - *Conflict between agricultural activities and the operation of the solar farm i.e. dust; caused by farming and then settling on the solar panels;*
 - *Devaluation of land;*
 - *Impact on flood flows; and*
 - *Fire risk*⁷.
12. Council engaged Sustainable Energy Transformation to undertake an expert review of the grounds of objection. The expert review concluded that:

*The technical aspects raised in the objections have been reviewed. Some aspects have been found to be without a technical basis and others can be adequately addressed with appropriate requirements in management plans for the site development.*⁸
13. Based on the expert assessment, Council Officers were satisfied that there was no technical energy basis to refuse the application. Council Officers believed the key issue to be whether the loss of agricultural land in a food bowl of national significance for a solar farm is acceptable⁹.
14. Having assessed the application, Council Officers recommend that notice of decision to grant a permit be issued¹⁰.

⁶ I am instructed that one objection was withdrawn at the Directions Hearing for this matter.

⁷ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 169)

⁸ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 170)

⁹ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 169)

¹⁰ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 171)



My Evidence

15. In preparing this statement, I have:
- Inspected the sites and their surrounds;
 - Inspected a solar farm west of Kerang, also in northern Victoria;
 - Reviewed material lodged in support of the applications;
 - Read Section 10.10 of the Minutes of the Ordinary Council Meeting 21 November 2017, where Council resolved to request that the Minister for Planning decide on the solar farm applications;
 - Read Sections 10.3 to 10.6 of the Minutes of the Ordinary Council Meeting 20 February 2018 where Council Officers recommended that notice of decision to grant a permit be issued by Council;
 - Read the Panel's Directions; and
 - Reviewed the relevant provisions of the Greater Shepparton Planning Scheme.
16. I support the grant of a planning permit for the proposal. My opinion is in Section 2 of my statement and my conclusion in Section 3 summarises my opinion. I was not involved in the permit application process.

Site Inspection Record

17. I inspected both sites on Thursday 3 May 2018.
18. I have documented what I observed on the sites and the surrounding area and have taken photographs.
19. During my inspections, I walked around the sites and the surrounding area.
20. In addition, I inspected the Gannawarra Solar Farm¹¹, located to the west of Kerang, Victoria. During that visit, I walked (and was driven) around part of the facility and inspected it from the roadside.

¹¹ <http://edifyenergy.com/projects/gannawarra/>



2. PLANNING EVIDENCE

The Review Sites

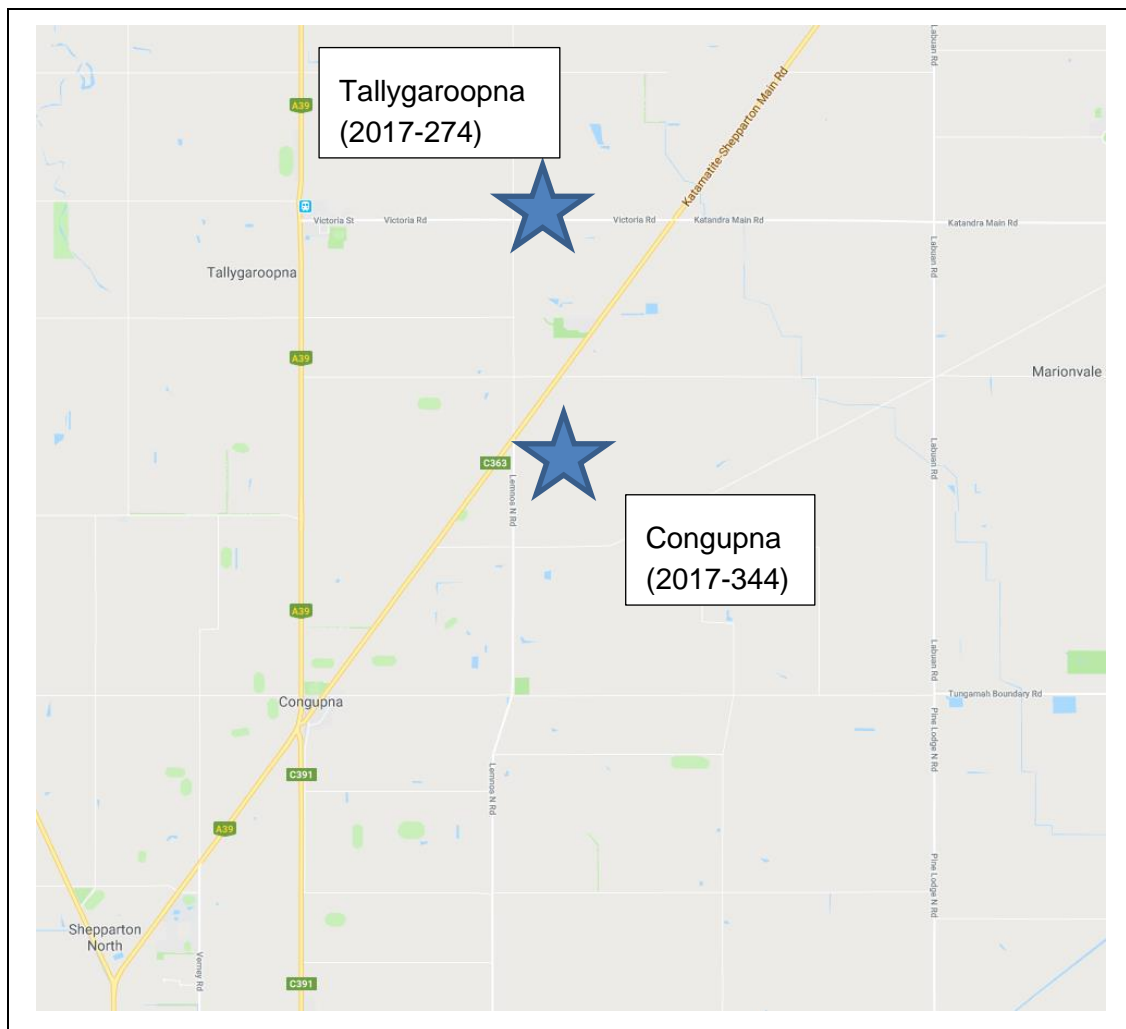


Figure 1 Locality Plan (Source: Google Maps)

Site selection

21. I have been informed by the client that these sites were selected because they are in an area of high solar exposure, and adjacent to existing electrical infrastructure - with available capacity (being essential for the project location).
22. Individual site analysis considered land zoning, planning, topography, surrounding land uses and surrounding existing and proposed generators.

p.8



235 Victoria Road, Tallygaroopna

23. This site is approximately 1.7 kilometres east of Tallygaroopna and 15 kilometres north east of Shepparton. The site is 95.9ha, flat and irregular in shape. It is bounded by:
- A Goulburn Valley water channel to the north;
 - Edwards Road to the east;
 - Victoria Road to the south; and
 - A private property to the west.
24. Most of the site is clear of native vegetation. According to the Town Planning Report, the land has been used for agriculture for many years, primarily for cropping and grazing¹².
25. An orchard and a dairy farm are located to the east, and the surrounding area is typically used for cropping¹³.
26. Further detail, including site photographs are included in **Appendix A**.

1090 Lemnos North Road, Congupna

27. The site is approximately 4.5 kilometres north-east of Congupna, and 12 kilometres north east of Shepparton. This site is 160ha, flat and irregular in shape. It is bounded by:
- The C363 (Katamatite-Shepparton Main Road) along the north west boundary of the site;
 - Lemnos North Road along the western boundary;
 - O'Shea's Road to the north; and
 - Private properties to the east and south.
28. Congupna Creek traverses a small section of the north-eastern corner of the site. There are three large patches of trees in the north eastern and south western corners and along the eastern boundary. Established native trees also line the Katamatite-Shepparton Main Road abuttal and the northern boundary. There are scattered paddock trees across the site.

¹² Solar Farm Development Town Planning Report 235 Victoria Road, Tallygaroopna September 2017 prepared for X-Elio by Spiire (page 6)

¹³ Solar Farm Development Town Planning Report 235 Victoria Road, Tallygaroopna September 2017 prepared for X-Elio by Spiire (page 7)



29. I am instructed that the land has been used for cropping and agriculture for many years, and land surrounding the property is used for cropping¹⁴.

30. Further detail, including site photographs, is included in **Appendix A**.

The Planning Policy Context

31. As both proposals have an almost identical statutory and policy context this section applies to both sites unless otherwise stated.

32. Within the State Planning Policy Framework ('SPPF'), the following policies are relevant to these applications:

- Clause 10 'Operation of the State Planning Policy Framework';
- Clause 11.01 'Victoria';
- Clause 11.07 'Regional Victoria';
- Clause 11.12 'Hume';
- Clause 12.01 'Biodiversity';
- Clause 13.02 'Floodplains';
- Clause 13.04 'Noise and Air';
- Clause 13.05 'Bushfire';
- Clause 14.01 'Agriculture';
- Clause 15.03-2 'Aboriginal Cultural Heritage';
- Clause 17 'Economic Development';
- Clause 19.01 'Infrastructure'; and
- Clause 19.01 'Renewable Energy'.

33. The following Clauses within the Local Planning Policy Framework ('LPPF') are most relevant to these applications.

- Clause 21.02 'Key Influences and Issues';
- Clause 21.03 'Vision, Sustainability Principles and Strategic Directions';
- Clause 21.05 'Environment';

¹⁴ *Solar Farm Development Town Planning Report 1090 Lemnos North Road, Congupna, November 2017 prepared for X-Elio by Spiire (page 6-7)*



- Clause 21.06 'Economic Development' (including Clause 21.06-1 Agriculture);
- Clause 21.07 'Infrastructure'; and
- Clause 21.09 'Reference Documents'¹⁵.

The Statutory Planning Context

34. Both sites are zoned **Farming Zone - Schedule 1**¹⁶. The Purpose of the Farming Zone is:
- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - *To provide for the use of land for agriculture.*
 - *To encourage the retention of productive agricultural land.*
 - *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
 - *To encourage the retention of employment and population to support rural communities.*
 - *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*
35. The Floodway Overlay (FO)¹⁷ and Land Subject to Inundation Overlay (LSIO)¹⁸ apply to parts of both sites.
36. The planning scheme maps affecting both sites are provided at **Appendix C**.
37. In addition, part of 1090 Lemnos Road North, Congupna is within an area of Aboriginal Cultural Heritage Sensitivity. The land at 235 Victoria Road, Tallygaroopna is not within an area of Aboriginal Cultural Heritage Sensitivity¹⁹.

What are the permit triggers?

38. For both sites, a permit is required under the following clauses:
- **Clause 35.07-1** Table of Uses. Within the Farming Zone a 'Renewable energy facility (other than Wind energy facility)' is a section 2 use. The condition that applies is 'Must

¹⁵ I have considered all these clauses in my evidence. I have not undertaken a written assessment against each clause but have instead concentrated on those sections that I consider to be most relevant to the Panel.

¹⁶ Clause 35.07.

¹⁷ Clause 44.03.

¹⁸ Clause 44.04.

¹⁹ According to the Planning Property Report.



meet the requirements of Clause 52.42'. A permit is required to use land for a Renewable energy facility.

- **Clause 35.07-4** Buildings and works. Within the Farming Zone:

A permit is required to construct or carry out any of the following:

- *A building or works associated with a use in Section 2 of Clause 35.07-1....*

None of the exemptions in this clause apply and a permit is required for buildings and works.

- **Clause 44.03-1** Buildings and works. Within the Floodway Overlay:

A permit is required to construct a building or to construct or carry out works, including...

None of the exemptions in this clause or the schedule apply and a permit is required under clause 44.03-1 for buildings and works²⁰.

- **Clause 44.04-1** Buildings and works. Within the Land Subject to Inundation Overlay:

A permit is required to construct a building or to construct or carry out works, including...

None of the exemptions in this clause apply and a permit is required under clause 44.04 for buildings and works.

- **Clause 52.05-10** Category 4 - Sensitive areas. In Clause 52.05 (Advertising Signs), the Farming Zone is in Category 4 'sensitive areas'. Under clause 52.05-10 a 'Business identification sign' is a sign listed in Section 2 of clause 52.05-10. The condition that applies is 'The total advertisement area to each premises must not exceed 3m²'. Both applications meet this requirement and a permit is required under clause 52.05-10 (Advertising signs) for a business identification sign.

- **Clause 52.17-1** Permit requirement. Under Clause 57.17 (Native Vegetation):

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

None of the exemptions in this clause apply and a permit is required under clause 52.17 for the removal of native vegetation.

²⁰ I note that this permit trigger was not listed in the Minutes – Ordinary Council Meeting 20 February 2018 Council minutes in relation to item 10.4 Use and Develop 235 Victoria Road, Tallygaroopna for a Solar Farm. It is possible that there is no development proposed within the overlay.



What are the issues?

39. Having dealt with the permit triggers I now consider the planning merits of both applications. I have asked myself the following:
- Does the proposal adequately respond to applicable State and local planning policies?
 - Is the location of the proposed solar farms in a rural area appropriate?
 - Are matters concerning amenity and any off-site impacts adequately resolved?
 - Can the proposals be favourably assessed against the Greater Shepparton Planning Scheme?

Planning Assessment

40. Again, as both sites have an identical policy context, this section applies to both applications.
41. Outside of the planning system, it is important to acknowledge that there are State, national and international commitments to limit global warming, primarily through the reduction of Greenhouse Gas emissions. The United Nations Framework Convention on Climate Change has adopted the Paris Agreement, which aims to limit global warming to well below 2°C, with an aspirational goal of 1.5°C. Australia's contribution towards this target is a commitment to reduce greenhouse gas emissions by 26 to 28 percent below 2005 levels by 2030.
42. Global warming is clearly an internationally significant issue that is affecting the entire planet: not only this country.
43. One of the key initiatives to deliver on this commitment is the Commonwealth Government's Renewable Energy Target (RET). The RET is designed to ensure that at least 33,000 Gigawatt-hours of Australia's electricity comes from renewable sources by 2020.²¹ The production of solar energy will also assist in achieving the Victorian Government's renewable energy target of 25 percent of generation by 2020 and 40 percent generation by 2025.²²
44. The proposed 30MW solar farm (235 Victoria Road, Tallygaroopna) and 68MW solar farm (1090 Lemnos North Road, Congupna) will contribute towards these targets being met, and an overall reduction in Greenhouse Gas emissions from the generation of electricity.
45. Having outlined the relevant clauses of the SPPF above, I now consider them as part of the policy context.

²¹ <https://www.cleanenergycouncil.org.au/policy-advocacy/renewable-energy-target.html>

²² <https://www.energy.vic.gov.au/renewable-energy/victorias-renewable-energy-targets>



46. The objectives of **Clause 10** are:

The State Planning Policy Framework seeks to ensure that the objectives of planning in Victoria (as set out in Section 4 of the Planning and Environment Act 1987) are fostered through appropriate land use and development planning policies and practices which integrate relevant environmental, social and economic factors in the interests of net community benefit and sustainable development.

47. A key question is, are these applications an appropriate outcome that will result in net community benefit and sustainable development? I address this question within this section of my evidence.

Hume Regional Growth Plan (2014)

48. The *Hume Regional Growth Plan* is a policy guideline at clause 11.12. The vision for the Hume Region is:

The Hume Region will be resilient, diverse and thriving. It will capitalise on the strengths and competitive advantages of the four sub regions, to harness growth for the benefit of the region and to develop liveable and sustainable communities.

49. Section 11.2 Agriculture identifies land around Shepparton (including both subject sites) as 'strategic agricultural land'²³. The *Hume Regional Growth Plan* identifies:

Goulburn Valley is part of the Goulburn Murray Irrigation District, which is a significant agricultural area and is expected to continue to deliver a significant proportion of Victoria's agricultural product currently about 25 per cent of the total value of the state's agricultural production. Agricultural production will be supported through the protection and enhancement of key agricultural assets including land and water resources.²⁴

50. The *Hume Regional Growth Plan* also includes a discussion on supporting the protection of strategic farmland that states:

High quality agricultural land is a finite resource and is an essential basis for many forms of agriculture. The reference in the Victoria Planning Provisions (Clause 14.01-1) to protecting 'productive farmland that is of strategic significance in the local or regional context' is an important precept in rural land use planning. It implies a selective approach, the identification of land of better productivity and versatility that has a long-term and strategic role in the production of food and fibre.

²³ As identified on page 25 of the *Hume Regional Growth Plan (2014)*

²⁴ *Hume Regional Growth Plan (2014)* page 22



It also helps support and protect the significant investment in irrigation modernisation in the Hume Region.²⁵

51. There is policy support for the protection of strategically significant farmland within the Hume Regional Growth Plan.
52. While the proposal will result in a new non-agricultural use, it will not necessarily result in the 'permanent' loss of farmland in the same way that a residential subdivision, a rezoning to an urban zone or a permanent development would.
53. It is trite to say that the removal of a combined total of 250ha (for a period of time) is relatively minor in the context of an area of 317,000 ha of irrigated farmland (being the Shepparton Irrigation Region)²⁶.
54. The Farming Zone allows land to be used for a variety of purposes and is not limited to agricultural activities. For instance, Freeway service centres are routinely located in Farming Zone land, yet no-one expects that these activities will comprise an agricultural component. Other uses, such as quarries, are in Farming Zones because that is where the resource is. I have personally been involved in proposals for water storage tanks for water supply authorities in rural zones. In these cases, the need for vacant, non-urban land of sufficient elevation was considered a more necessary planning goal than simply retaining the land for farming.
55. As demonstrated in the zone's Purpose, sustainable land management practices are also encouraged. This highlights the appropriateness of an environmentally sustainable piece of infrastructure in the form of a solar farm in the zone. Similarly, the table of uses illustrates the broad range of uses that can be approved in the Farming Zone, including abattoir, broiler farm, camping and caravan park, car park, cemetery, crematorium, emergency services facility, industry, landscape gardening supplies, market, place of assembly, primary school, sawmill, secondary school, trade supplies and utility installation.
56. On the other hand, there are land uses that are either inherently 'urban' in nature (such as small lot housing) or which are otherwise inimical to agriculture that are discouraged (or even prohibited) from being in a Farming Zone.
57. In summary, it is too simplistic to conclude that solar farms are inappropriate or not supported by policy because they are not soil based agriculture. Instead, one must undertake a more holistic and integrated reading of the policy context before deciding on whether or not a proposal 'implements' State and local planning policy frameworks.

²⁵ *Hume Regional Growth Plan (2014) page 23*

²⁶ *Campaspe, Greater Shepparton and Moira Regional Rural Land Use Strategy October 2008 (page 18).*



58. The need to protect farmland is an important strategic consideration. However, it is not a 'threshold' consideration. For instance, section 14.3 (of the *Hume Regional Growth Plan*) Energy, Communications, Water and Waste raises other considerations. It relevantly states that:

Growth in the towns and cities of the Hume Region will result in demand for additional water, energy and utility infrastructure. Efficient use of existing systems and preservation and identification of utility infrastructure corridors and urban location have been considered as part of this plan. The projected population and settlement patterns take into account high level planning for currently planned and anticipated service utilities²⁷.

59. Relevantly, this includes:

Electricity options such as renewable generation and decentralised systems should continue to be developed as part of this network²⁸.

60. The proposed solar farms will contribute to the generation of electricity from renewable resources and help to service the electricity needs of the Hume region in a more sustainable manner that is likely to have a positive environmental impact through the reduction of Greenhouse Gas emissions.

61. **Clause 13.05** Bushfire has the following objective:

To strengthen the resilience of settlements and communities to bushfire through risk-based planning that prioritises the protection of human life.

62. This policy must be applied to all planning applications within a designated bushfire prone area. Both sites are located within a designated bushfire prone area.

63. However, under the heading 'Use and development control in a Bushfire Prone Area' it states:

In a bushfire prone area designated in accordance with regulations made under the Building Act 1993, bushfire risk should be considered when assessing planning applications for the following uses and development: ...

64. A series of uses are then listed. The proposal (a renewable energy facility) is not included on this list. That said, the policy at Clause 13.05 is relevant. I understand that only one of the proposals²⁹ was sent to the Country Fire Authority (CFA) for comment. It did not object but did recommend a series of conditions be applied to the permits. I consider that those conditions are appropriate from a town planning perspective and support their application.

²⁷ *Hume Regional Growth Plan (2014)* page 70.

²⁸ My underlining.

²⁹ The Congupna proposal.



65. **Clause 14.01-1** Protection of agricultural land has the following objective:

To protect productive farmland which is of strategic significance in the local or regional context.

66. While the proposed applications will take productive farmland out of production (for a period of time) they will not result in the permanent loss of farmland. The land could reasonably be returned to rural use at the end of the life of the solar farm. The proposed solar farms will not result in additional dwellings, nor will they further fragment rural land holdings and occupy a small amount of agricultural land relative to the amount of agricultural land in the region. Even if the proposal offends this objective (in part or in whole), it is appropriate to balance this outcome against other relevant parts of the policy matrix.

67. **Clause 19** Infrastructure deals with infrastructure provision. Although I am not an expert on the structure of energy networks, I would have thought that there are strategic benefits in developing a disaggregated electricity generation network; to providing regional Victoria with the capacity to generate electricity and that this might contribute to the State's energy security.

68. **Clause 19.01-1** Provision of renewable energy has the following objective:

To promote the provision of renewable energy in a manner that ensures appropriate siting and design considerations are met.

69. Relevant strategies to support this objective are:

- *Facilitate renewable energy development in appropriate locations. Protect energy infrastructure against competing and incompatible uses.*
- *Develop appropriate infrastructure to meet community demand for energy services and setting aside suitable land for future energy infrastructure.*
- *In considering proposals for renewable energy, consideration should be given to the economic and environmental benefits to the broader community of renewable energy generation while also considering the need to minimise the effects of a proposal on the local community and environment.*

70. The proposed solar farms clearly support the provision of renewable energy and will assist with meeting demands for electricity. I consider matters relating to location and siting below, under amenity and off-site impacts.

p.17



71. Before I do so, it is important to understand the way the architecture of the Victoria Planning Provisions deals with renewable energy. Clause 19.01-1 and the applicable particular provision at clause 52.42 are 'facilitative' of renewable energy proposals. The purpose at clause 52.42 is to 'facilitate the establishment and expansion of renewable energy facilities'....³⁰. This can be contrasted with the operation of clause 52.33 Shipping container storage (for example) which contains no purpose whatsoever, or clause 52.37 'Dry stone walls', which has a purpose 'To conserve historic post boxes and dry stone walls'. These clauses are either 'neutral' (in the case of the shipping containers) or seek to 'conserve' in the case of dry stone walls. This distinction is relevant to the Panel because the VPPs do not set out to 'restrict' solar farms, but to facilitate them.
72. The following Clauses within the Local Planning Policy Framework (LPPF) are most relevant to these applications.
- Clause 21.05 Environment; and
 - Clause 21.06 'Economic Development' (including Clause 21.06-1 'Agriculture').
73. **Clause 21.05-2** (Floodplain and Drainage Management) includes the following objective:
- To recognise the constraints of the floodplain on the use and development of land.*
74. The land is affected by two overlay controls: Clause 44.03 (FO) and Clause 44.04 (LSIO). Both controls require a planning permit for buildings and works. To the extent that I am qualified to do so, I have commented on these controls within my evidence. Based on the Town Planning application, support from the relevant referral agencies for the application (subject to conditions), and the assessment by Council Officers I am confident that development of the solar farms is consistent with the relevant objectives and strategies under this clause.
75. **Clause 21.06-1** Agriculture calls up the 2008 *Regional Rural Land Use Strategy (RRLUS)*. This strategy identifies categories of farming areas in the applicable municipalities and recommends different subdivision and minimum lot size provisions for dwellings for each category. The key objective of this rural strategy is to secure and promote the future of agriculture across the region through the respective planning schemes.

³⁰ Clause 19.01-12 has one objective: 'To promote the provision on renewable energy in a manner that ensures appropriate siting and design considerations are met.'



76. Clause 21.06-1 'Agriculture' includes objectives to ensure that agriculture remains the major economic driver in the region and that:

Irrigated primary production and the processing of that product underpin the municipality and the Region's economy. The level of production is nationally important, and the region is responsible for significant parts of the nation's milk production, deciduous canned fruit production, stone fruit crop and tomato processing production.

77. Both sites are within a Growth area³¹. These are described as:

Growth areas being areas for growth and expansion of existing farm businesses and for new investment. Growth areas include those areas that have been retained in larger properties and provide the opportunity for large scale, stand alone new agricultural development as well as for consolidation of existing farm properties wishing to grow. The RRLUS seeks to discourage the establishment of new dwellings and where possible encourage farm tenements and property boundaries to consolidate and enlarge in line with the trends in agriculture associated with productivity and viability. The minimum subdivision size in these areas has been set at 40ha and a dwelling needs a planning permit on all land less than 60ha in area.

78. The proposed solar farms represent 'new investment' in 'growth areas' and the solar farms do not take away from the agricultural objective of clause 21.06-1 which is to 'ensure that agriculture is and remains the major economic driver in the region'. From a town planning perspective, the solar farms are compatible with agricultural land use in that they are not susceptible to the sort of reverse amenity impacts that prove problematic for many agricultural uses (like dwellings can be), they do not result in any new dwellings, nor do they result in the fragmentation of farm land.

79. The loss of a small area of agricultural land in the region (for a period of time) must be balanced against:

- Broader Federal and State targets for the production of renewable energy;
- The need to provide infrastructure to meet community demand for energy services; and
- The environmental benefits of solar energy, particularly in relation to reducing greenhouse gas emissions.

³¹ I note that Officers in the report to Council 20 February 2018 incorrectly identified both sites as being in 'Consolidation areas'



80. On balance, I believe that the policy context provides support for the loss of a small area (a combined area of 250ha) of farmland for the purposes of solar farms.

Is the location appropriate for the proposed use?

81. The Planning Scheme provides discretion to allow renewable energy facilities in the Farming Zone³².
82. While the planning scheme supports the protection of strategic agricultural land from non-agricultural uses, there are numerous examples of permitted non-agricultural uses within the Farming Zone (for example quarries, mines, caravan parks, schools and corrective institutions). Whilst many of these uses do not contribute to primary production, they remain permissible uses in the zone that are frequently considered to be acceptable.
83. I understand that both locations have good solar resources and access to a transmission network for the power. Solar farms, by comparison to other forms of power generation (such as coal, hydroelectricity and wind farms) are not land hungry uses. They are typically located in rural areas because of the availability of large sites (often in single ownership), their remoteness from urban settlement but with reasonable access and proximity to the power network of an urban area. I agree with the Council officer's assessment that:

A solar farm is a rural based enterprise as the only practical location that large scale solar farms can be located is within a non-urban area³³.

84. The proposed solar farms will not fragment land, and during operation solar farms generally have a low impact. The land could conceivably be returned to agricultural production in the future once the plant is decommissioned.
85. Both sites are located with **Farming Zone - Schedule 1**. The Purpose of the Farming Zone is:
- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
 - *To provide for the use of land for agriculture.*
 - *To encourage the retention of productive agricultural land.*
 - *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
 - *To encourage the retention of employment and population to support rural communities.*

³² It is, after all, a nominated section 2 use.

³³ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 190).



- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

86. In response to the Purpose of the Farming Zone I note the following:

- There is policy support for development of renewable energy facilities based on a comprehensive and sustainable land management practice of harvesting the sun's energy to generate electricity;
- While the proposed solar farms do not provide for the use of land for agriculture, they are an appropriate use within the Farming Zone (and specifically listed as a section 2 use);
- The proposed solar farms do not result in the permanent loss of farmland;
- As a non-agricultural use, solar farms are a relatively low impact (I provide a detailed assessment against Clause 52.24 in **Appendix D**);
- According to the submitted Town Planning Reports, the solar farms will result in significant employment during construction, and result in 10-15 ongoing jobs³⁴. Even if this number is less, the amount of investment and employment is significantly greater than the current situation; and
- The proposed solar farms will provide essential infrastructure.

87. In summary I believe that these sites are an acceptable location for the development of a renewable energy facility and can be favourably assessed against the Purpose of the Farming Zone.

Amenity and Off-site impacts

88. Having established that the proposed solar farms are supported by policy, and the proposed locations are acceptable, I now turn to whether issues of amenity and any off-site impacts are resolved.

³⁴ *Solar Farm Development Town Planning Report 235 Victoria Road, Tallygaroopna September 2017 prepared for X-Elio by Spiire (page 8)*



89. The specific sections of the planning scheme relevant to the consideration of off-site impacts are:

- Clause 52.42 Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction), which includes the following decision guideline:

The effect of the proposal on the surrounding area in terms of noise, glint, light spill, vibration, smell and electromagnetic interference.

and

- Clause 35.07 (Farming Zone) which includes the following decision guideline:

Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.

- Clause 65 Decision guidelines, which includes the following guideline:

The effect on the amenity of the area.

90. Amenity impacts need to be understood having regard to the zoning and strategic context of the land. The Farming Zone is a zone, where a range of uses can and do cause off-site amenity impacts. I note that neither site is in or near a residential area. Consequently, amenity expectations need to be tempered accordingly.

91. I inspected the Gannawarra Solar Farm, which is located on the Lalbert-Kerang Road, west of Kerang³⁵. This is a 60 MW solar farm that will generate 116,000 MWh annually. I was driven around and walked through parts of the site.

³⁵ See map on the farm's home page <http://edifyenergy.com/projects/gannawarra/>



92. My overall impression of the facility is that is:

- Utilitarian in appearance;
- Comprised of low structures, some of which are visible from the road;
- Not easily visible from ground level when seen from a distance;
- Quiet (noting that the plant is not yet distributing electricity, although electricity was being generated);
- A low impact use that would seem to be compatible with agricultural neighbours (from a town planning perspective); and
- An appropriate land use and development in a rural area.



93. The image on the left shows rows of solar arrays. The image on the right is a closer view of the arrays.



94. The image on the left is a transformer box. The picture on the right shows the substation equipment in place. Note that this is different to what is required at the Shepparton farms.



95. While I am not qualified to comment on the technical impacts called up in Clause 52.42, I note that as part of the Council officer's assessment of the decision guidelines, its expert technical advisor concluded that:

The proposed solar farm will not result in unacceptable amenity impacts to neighbouring properties³⁶.

96. I have focussed on the amenity issues that are within my area of expertise.

97. The next question is whether the development of these two sites for solar farms is compatible with adjoining and nearby land uses. As a non-agricultural use, the proposed solar farms are a relatively low impact activity. For example, they will not result in any of the following impacts, often associated with non-agricultural uses:

- The amenity expectations that inevitably accompany new dwellings, potentially resulting in tension with so-called 'rural life-stylers';
- Significant visual impact. The solar farms are only 3 metres at their highest point and are proposed to be screened by vegetation. This is not elevated terrain and neither site will be conspicuous when viewed from a distance;
- Increase in traffic. Once operational, the impact on the surrounding road network will be minimal, limited to maintenance; or
- An increase in noise, odours or dust. Once operational, the solar arrays will not generate odours or any significant noise or dust.

98. Based on the guidance within the planning scheme relating to amenity and off-site impacts, I believe that impacts can be managed so as not to result in an unacceptable outcome for adjoining properties³⁷.

The Greater Shepparton Planning Scheme

99. I now turn to whether the solar farm applications can be favourably assessed against the Greater Shepparton Planning Scheme and provide comment on several of the Council's proposed conditions.

100. I have included a more detailed assessment against the relevant decision guidelines in **Appendix D**. The decision guidelines require a consideration of some specialist matters (such as removal of native vegetation) that are outside of area of expertise and I do not comment on those aspects in any detail.

³⁶ Item 10.4 and Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 129 and 191)

³⁷ I do not make any comment on the impact of the proposals on the agricultural potential of adjoining or nearby properties as this is outside of my area of expertise.



State and Local Planning Policy Frameworks

101. I have addressed these above under 'policy context'.

Farming Zone

102. I have addressed this above under 'Is the location appropriate for the proposed use?'

Overlays

103. The land is affected by two overlay controls: Clause 44.03 (FO) and Clause 44.04 (LSIO). Both controls require a planning permit for buildings and works. Based on the Town Planning application, support from the relevant referral agencies for the application (subject to conditions) and the assessment by Council officers, the proposals are or can be consistent with these clauses.

Native Vegetation

104. Under clause 52.17 Native Vegetation both applications require a planning permit for the removal of native vegetation. For both applications, the requirements of Clause 52.17 in force immediately before the commencement of Amendment VC138 continue to apply (as the applications were lodged before the commencement of VC138)³⁸.

235 Victoria Road, Tallygaroopna

105. Part of the planning permission sought for this site is for the removal three scattered paddock trees under Clause 52.17-2. The removal of the three trees was assessed under the low risk-based pathway. As offsets can be secured for the loss of native vegetation, Council officers were satisfied that the removal of three trees was acceptable³⁹.

1090 Lemnos Road North, Congupna

106. Part of the planning permission sought for this site is for the removal six scattered paddock trees under Clause 52.17-2. The removal of the six trees was assessed under the low risk-based pathway. As offsets can be secured for the loss of native vegetation and Council officers were satisfied that the removal of six trees was acceptable⁴⁰.

³⁸ Clause 12.01-1 Protection of biodiversity and clause 12.01-2 Native vegetation management both now apply. Issues of biodiversity and native vegetation management are outside of my area of expertise.

³⁹ Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 129)

⁴⁰ Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes (page 191)



Advertising Signs

107. For both sites, a business identification sign (less than 3 sqm) is proposed. This is appropriate and can be favourably assessed against the decision guidelines at clause 52.05-3.

Cultural Heritage

108. Part of 1090 Lemnos Road North, Congupna is within an area of Aboriginal Cultural Heritage Sensitivity (this *does not* affect 235 Victoria Road, Tallygaroopna).
109. The *Aboriginal Heritage Act 2006* requires the preparation of a Cultural Heritage Management Plan (CHMP) if all or part of the activity is a listed high impact activity, resulting in significant ground disturbance, and all or part of the activity area is an area of Aboriginal cultural heritage sensitivity, which has not been subject to significant ground disturbance.
110. Part of 1090 Lemnos Road North, Congupna is within an area of cultural heritage sensitivity and the use is a high impact activity and a CHMP is required.
111. An endorsed CHMP was provided to Council on 22 January 2018 that satisfies this requirement.

Proposed planning permit conditions

112. With regards to the proposed planning permit conditions, the proposed conditions for the application at 1090 Lemnos Road North Road, Congupna include:

Country Fire Authority Requirements

Before the development starts, plans to the satisfaction of CFA must be submitted and approved by CFA and the responsible authority. When approved, the plans will be endorsed and then form a part of the permit. The plans mentioned above must include the following:

- *Fire Management Plan;*
- *Bushfire Risk Assessment, incorporating water supply requirements;*
- *Fuel Reduction and Maintenance Plan;*
- *Emergency Management Plan; and*
- *Any other risk management information for the site.*

113. These conditions *are not* proposed for the application at 235 Victoria Road, Tallygaroopna, despite neither site being located within a Bushfire Management Overlay. However, both



sites are located within a Bushfire Prone Area. I support these conditions being applied to both sites.

Proposed setbacks

114. I do not understand the rationale for Council's proposed planning permit conditions (for both sites) that require the plans to be modified to show:

...the solar arrays are setback at least 50 metres from the land's boundary.

115. I cannot find any justification in the Council report (dated 20 February 2018) for this condition. Without a more detailed understanding of the rationale for this condition, I cannot understand, let alone support the application of a 50-metre setback being applied along all boundaries of both sites.

116. With regards to the application at 235 Victoria Road, Tallygaroopna, a 50-metre setback from all site boundaries seems onerous along the northern boundary in particular, given that the proposed Goulburn Murray Water requirement is '*All solar panels must be setback at least ten metres from Goulburn Murray Water's East Goulburn 4/18 Channel*' (which runs along the northern boundary).



3. CONCLUSION

117. For the reasons outlined in this statement, I conclude:

- The proposed solar farms adequately respond to applicable State and local planning policies;
- The proposed locations are appropriate and compatible with the surrounding Farming Zone;
- Matters concerning amenity and any off-site impacts can adequately managed; and
- The proposals can be considered favourably when assessed against the Greater Shepparton Planning Scheme.

118. Clause 10.01 says that planning and responsible authorities should:

..... endeavour to integrate the range of policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations⁴¹.

119. In that respect, I conclude that the proposal will result in a 'net community benefit and sustainable development for the benefit of present and future generations'.

120. The proposed solar farms will support Clause 19.01-1 'Provision of renewable energy' and I am satisfied that the decision guidelines at Clause 52.42 'Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction)' can be addressed.

121. Overall, the proposals are appropriate, and I would support the granting of planning permits, subject to conditions.

122. I have made all inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have to my knowledge been withheld from the Review Panel.

John Glossop
Director
Glossop Town Planning Pty Ltd
May 2018

⁴¹ My underlining.



4. REQUIREMENTS UNDER PRACTICE DIRECTION NO. 2: EXPERT EVIDENCE

123. This statement is prepared by John Glossop, Glossop Town Planning Pty Ltd, 1/182 Capel Street, North Melbourne. I am a Director of the firm. The firm has been in business since 1997.
124. I have a Bachelor of Arts (Urban Studies) Hons. I have been engaged in the following positions and roles in my career as a planner including:
- Former planner with the Shire of Newham and Woodend (prior to its amalgamation with the Macedon Ranges Shire).
 - Strategic and Social Planning Manager, Shire of Melton until 1997.
 - Sessional member, Planning Panels Victoria between 1997-2012.
125. I have been a sessional lecturer and tutor in strategic, statutory planning and urban studies at Victoria University of Technology (1996-99) and lecturer in statutory planning Latrobe University Bendigo (2000- 02).
126. I was a member of the ResCode Advisory Committee 2000.
127. I have considerable experience in statutory and strategic planning and new format planning schemes.
128. My expertise to make this statement is based on a combination of my experience working in metropolitan Melbourne and regional Victoria, an understanding of the site's context and my experience as a planner in both the private and public sectors. I have been instructed by Allens Lawyers, acting on behalf of the Permit Applicant X-Elio Australia Pty Ltd (X-Elio) to give town planning evidence in respect of two Planning Permit Applications relating to the development of two solar farms in Greater Shepparton City Council area. To the best of my knowledge this statement is complete and accurate.
129. I first became involved with this proposal after the Minister for Planning appointed the Review Panel. I have relied on the documents referred to in the introduction section of my statement. There were no tests or experiments undertaken in the preparation of this statement. I was assisted in this statement by Nicole Vickridge of my office.



APPENDIX A: PHYSICAL CONTEXT

235 Victoria Road, Tallygaroopna

The site

130. This site is 95.9ha, it is flat and irregular in shape. The site is bounded by:

- A Goulburn Valley water channel to the north;
- Edwards Road to the east;
- Victoria Road to the south, and
- A private property (50 Victoria Street, Tallygaroopna) to the west.

131. The only built form on the site is a dwelling (and associated outbuildings) on the south east corner of the lot. There are established trees in the northern part of the site, and some established trees south of the dwelling. Most of the site is mainly clear of significant native vegetation.

132. According to the Town Planning Report the land has been used for agriculture for many years, primarily for cropping and grazing⁴².

133. The site is not located within an area of Aboriginal Cultural Heritage Sensitivity⁴³.

⁴² Solar Farm Development Town Planning Report 235 Victoria Road, Tallygaroopna September 2017 prepared for X-Elio by Spiire (page 6)

⁴³ According to the Planning Property Report.



Figure 2 Photo of 235 Victoria Road, Tallygaropna: looking north east across the southern section of the site



Figure 3 Photo of 235 Victoria Road, Tallygaroopna: looking at the site's eastern boundary with the apple orchard

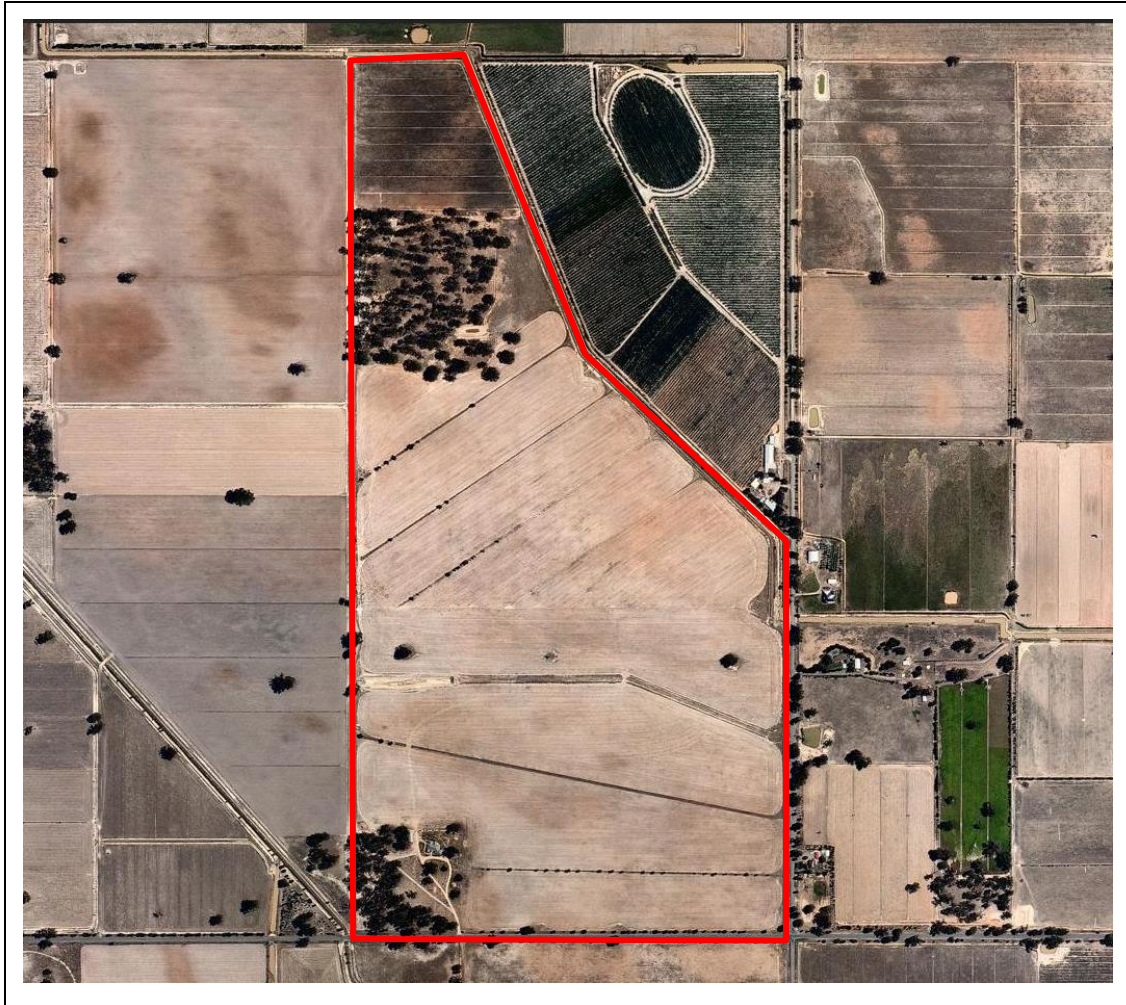


Figure 4 Aerial Photograph taken 10 January 2010 (source: NearMap)

Surrounding Area

134. According to the Town Planning Report, the site is in a farming area of the Goulburn Valley. An orchard and a dairy farm are located to the east, and the surrounding area is typically used for cropping⁴⁴.
135. The site is approximately 1.7 kilometres east of Tallygaroopna, and 15 kilometres north east of Shepparton.

⁴⁴ Solar Farm Development Town Planning Report 235 Victoria Road, Tallygaroopna September 2017 prepared for X-Elio by Spiire (page 7)



1090 Lemnos North Road, Congupna

The site

136. This site is 160ha, it is flat and irregular in shape. The site is bounded by:

- The C363 (Katamatite-Shepparton Main Road) along the north west boundary of the site;
- Lemnos North Road along the western boundary;
- O'Shea's Road to the north; and
- Private properties to the east and south.

137. The only buildings on the site are agricultural sheds in the centre of the site. There is no dwelling located on this site.

138. The nearest dwelling is located approximately 300 metres west of the site (on the other side of the Katamatite-Shepparton Main Road).

139. There are three large patches of trees in the north eastern and south western corners and along the eastern boundary. Established native trees line the Katamatite-Shepparton Main Road frontage and the northern boundary. There are scattered paddock trees across the site.

140. Congupna Creek traverses a small section of the north-eastern corner of the site.

141. According to the Town Planning Report, the site has been laser levelled to create bays within the property suitable for irrigation. The land use been used for cropping and agriculture for many years⁴⁵.

142. The site is partly located within an area of Aboriginal Cultural Heritage Sensitivity⁴⁶.

⁴⁵ *Solar Farm Development Town Planning Report 1090 Lemnos North Road, Congupna, November 2017 prepared for X-Elio by Spiire (page 6)*

⁴⁶ According to the Planning Property Report.



Figure 5 Photo of 1090 Lemnos North Road, Congupna: taken from corner of Edwards Road and Katamatite Shepparton Road looking north east



Figure 6 Photo of 1090 Lemnos North Road, Congupna: standing in Lemnos Road North (just past the intersection of Edwards Road and Katamatite Shepparton Road) looking north east

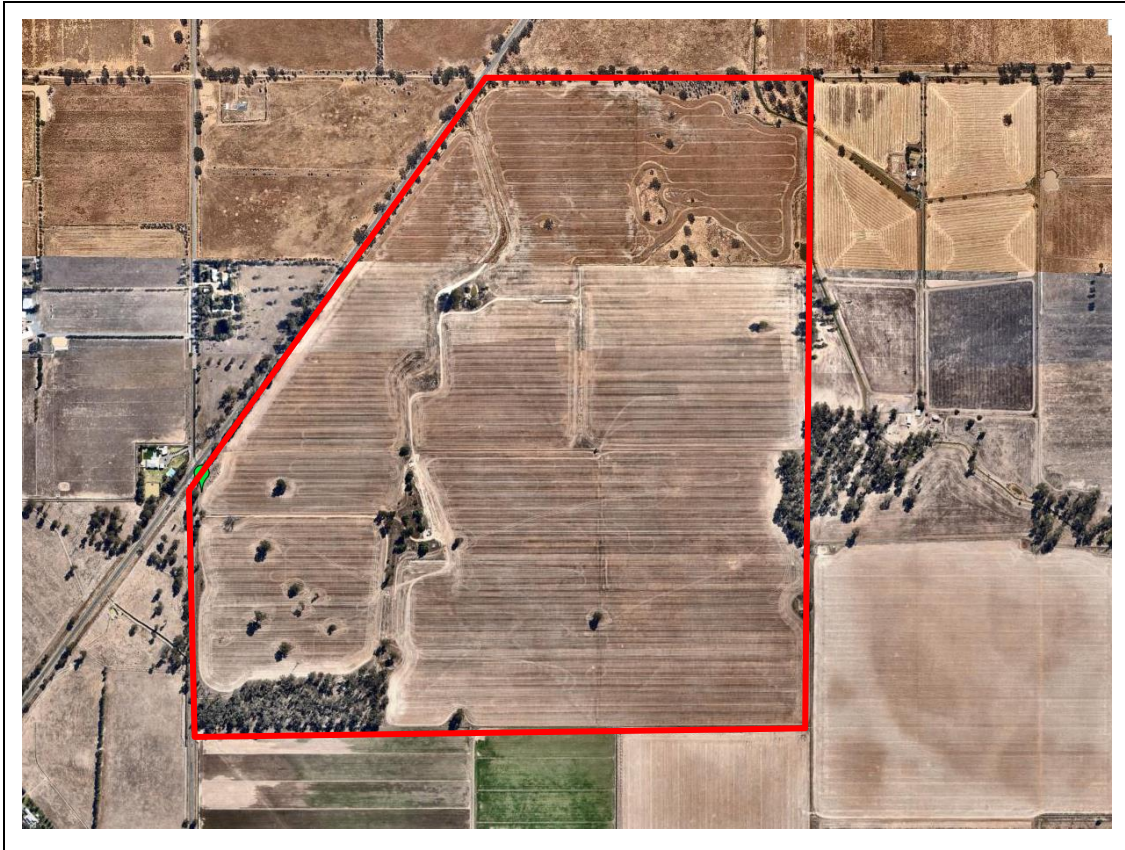


Figure 7 Aerial Photograph taken 13 April 2018 (source: NearMap)

Surrounding Area

143. According to the Town Planning Report the site is in a broad acre cropping area⁴⁷. Land surrounding the property is mostly used for cropping.
144. The site is approximately 4.5 kilometres north-east of Congupna, and 12 kilometres north east of Shepparton.

⁴⁷ Solar Farm Development Town Planning Report 1090 Lemnos North Road, Congupna, November 2017 prepared for X-Elio by Spiire (page 7)



APPENDIX B: THE PROPOSALS

235 Victoria Road, Tallygaroopna

145. The proposed development is for the use and development of land for a renewable energy facility (a 30MW solar farm). A total of 90,900 solar panels are proposed. At their highest point, the panels will be 3.03 metres high and each panel will be about 2sqm.
146. Ten inverters (each housed within a shipping container) and a small office are also proposed.

1090 Lemnos North Road, Congupna

147. The proposed development is for the use and development for land for a renewable energy facility (a 68MW solar farm). A total of 196,080 solar panels are proposed. At their highest point, the panels will be 3.03 metres high and each panel will be about 2sqm.
148. Nineteen inverters (each housed within a shipping container) and a small office are also proposed.



Figure 8 Proposed layout 235 Victoria Road, Tallygaroopna (source: Item 10.4 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes, page 121)

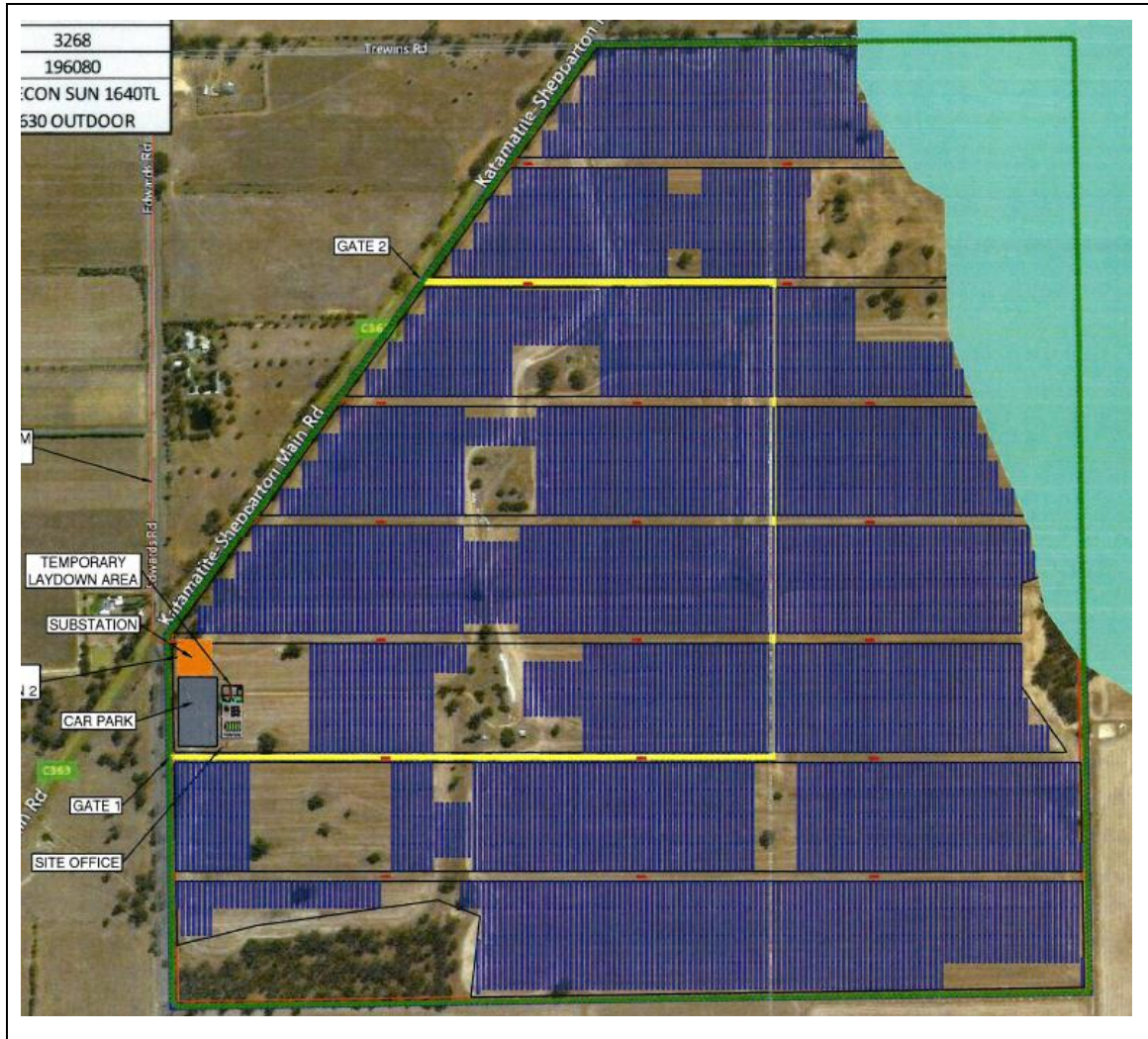


Figure 9 Proposed layout 1090 Lemnos North Road, Congupna (source: Item 10.6 Minutes – Ordinary Council Meeting 20 February 2018 Council minutes, page 185)



APPENDIX C: GREATER SHEPPARTON PLANNING SCHEME

Zoning and Overlays

149. Both sites are located with **Farming Zone - Schedule 1**. The Purpose of the Farming Zone is:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To provide for the use of land for agriculture.*
- *To encourage the retention of productive agricultural land.*
- *To ensure that non-agricultural uses, including dwellings, do not adversely affect the use of land for agriculture.*
- *To encourage the retention of employment and population to support rural communities.*
- *To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.*

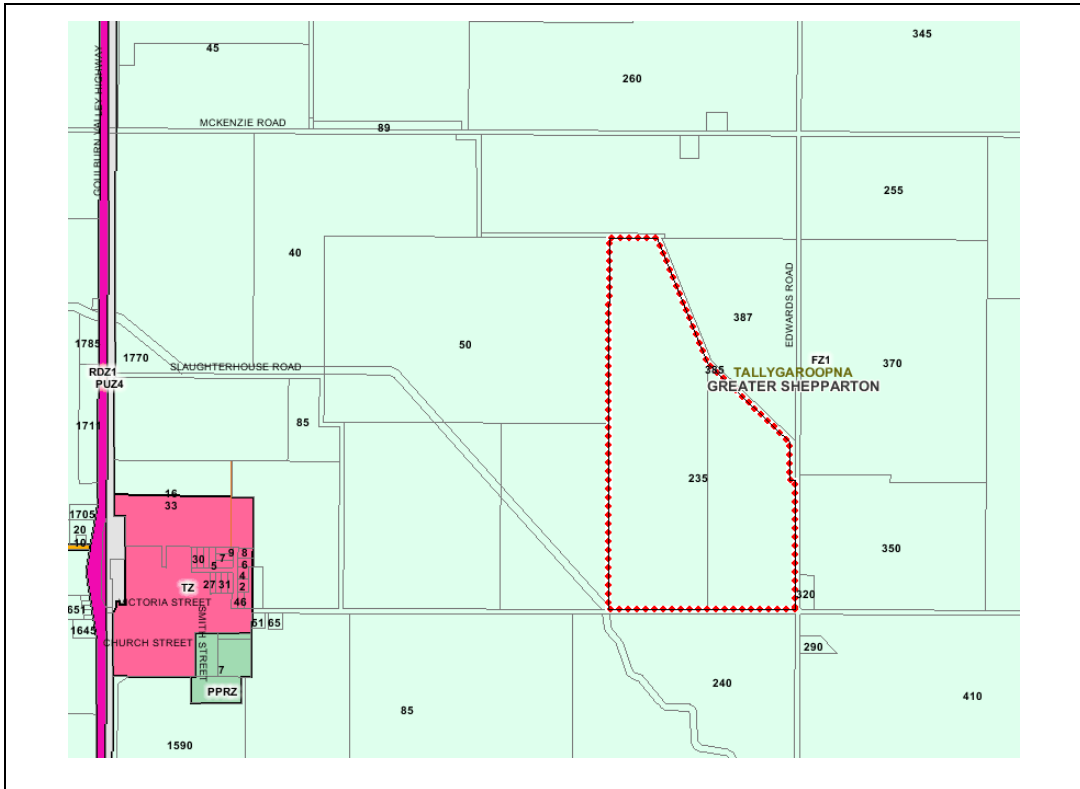


Figure 10 Zone Map 235 Victoria Road, Tallygaroopna (source Planning Maps Online)

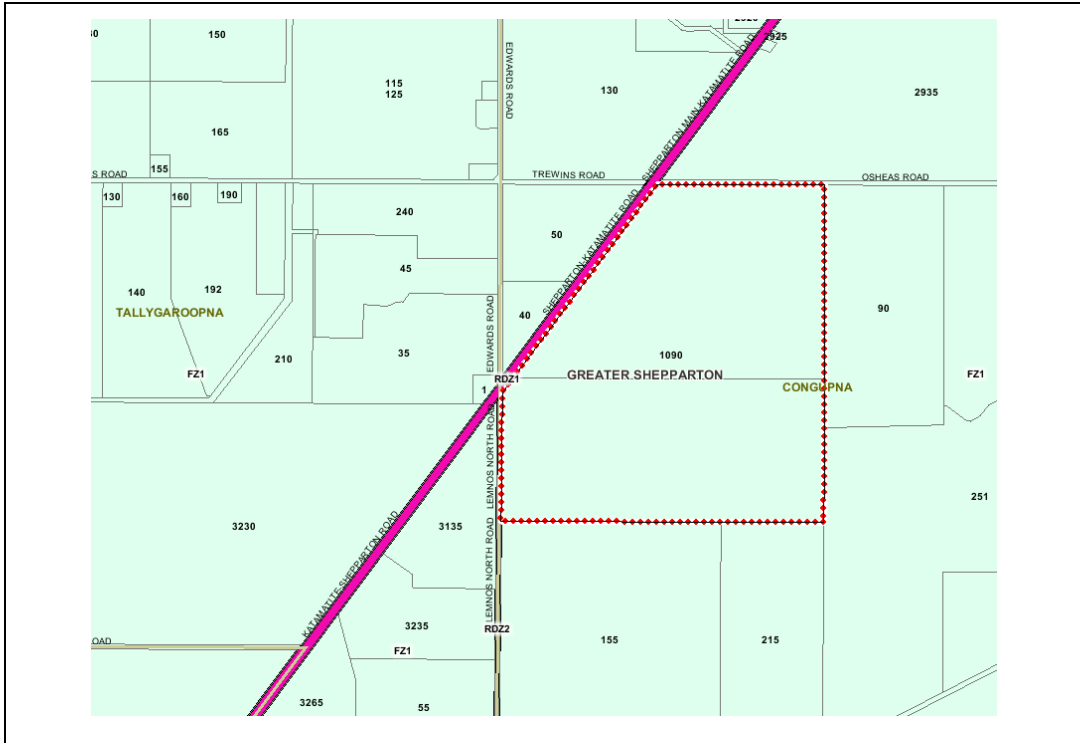


Figure 11 Zone Map 1090 Lemnos Road North, Congupna (source Planning Maps Online)



The **Floodway Overlay (FO)** and **Land Subject to Inundation Overlay (LSIO)** apply to part of both sites.

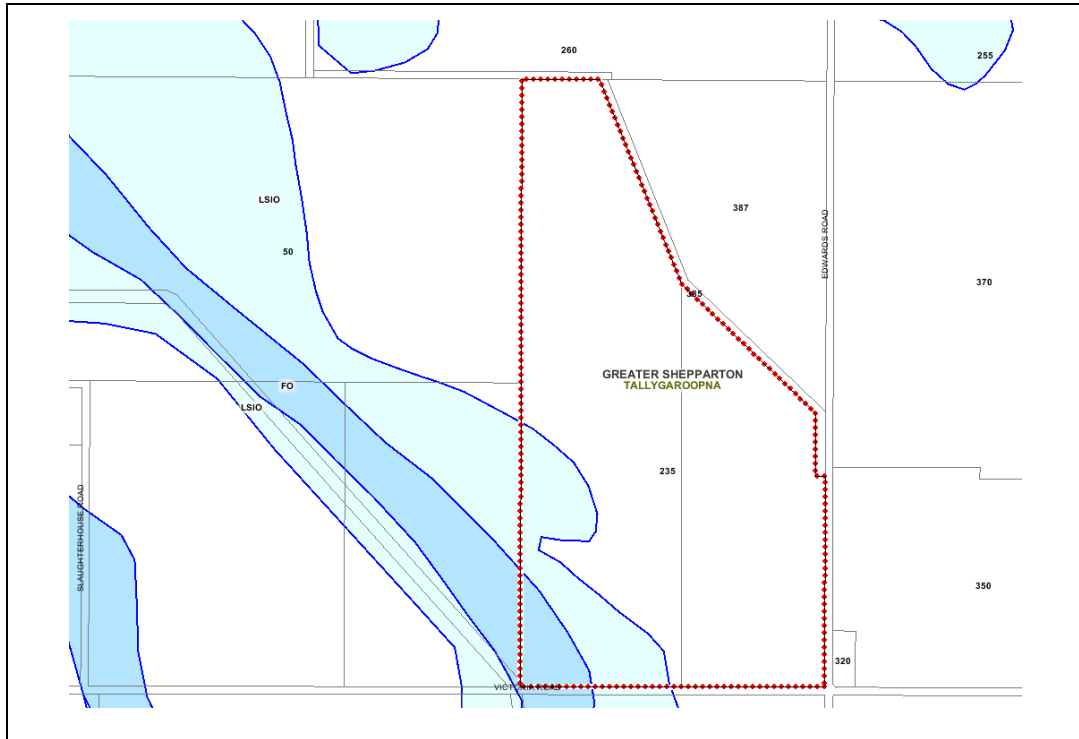


Figure 12 Overlays Map 235 Victoria Road, Tallygaropna (source Planning Maps Online)

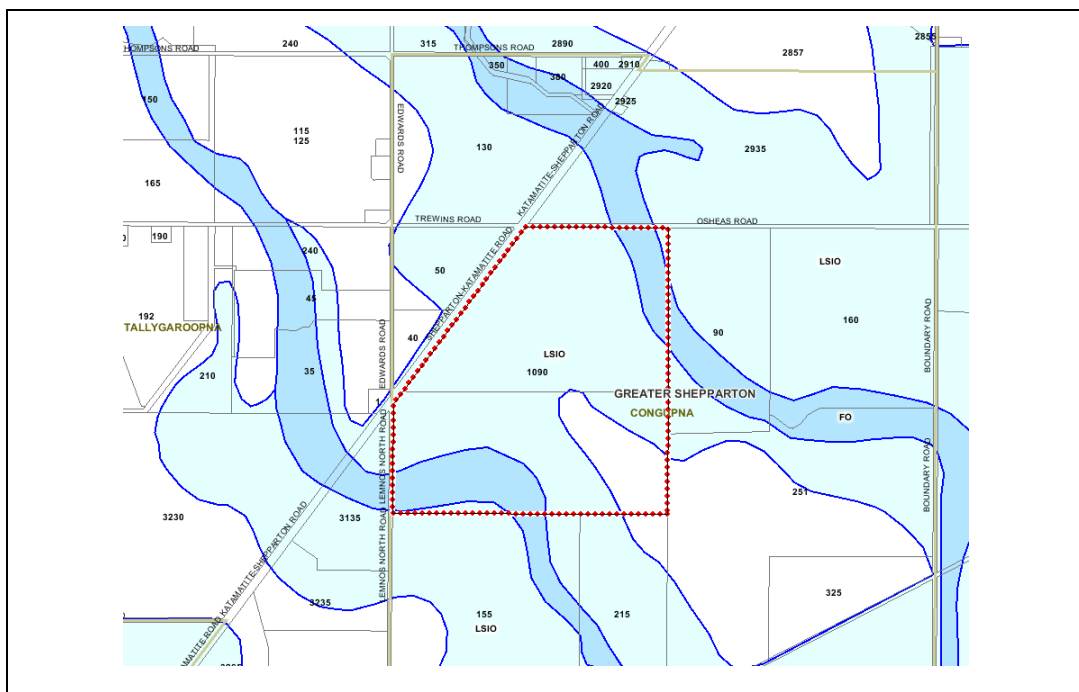


Figure 13 Overlays Map 1090 Lemnos Road North, Congupna (source Planning Maps Online)



Part of 1090 Lemnos Road North, Congupna is within an area of Aboriginal Cultural Heritage Sensitivity.

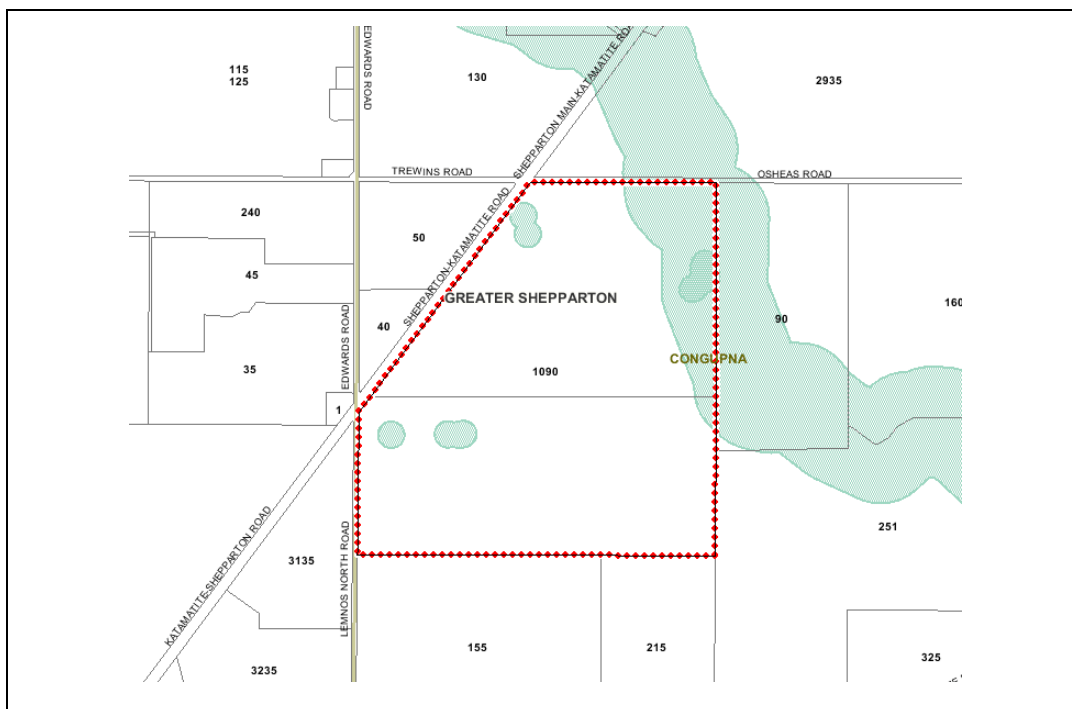


Figure 14 Area of Cultural Heritage Sensitivity Map 1090 Lemnos Road North, Congupna (source Planning Maps Online)

150. For both sites, a permit is required under the following clauses:

- **Clause 35.07-1** Table of Uses. Within the Framing Zone a 'Renewable energy facility (other than Wind energy facility)' is listed as section 2 use. The condition that applies is 'Must meet the requirements of Clause 52.42'. A permit is required under clause 35.07 (Farming Zone) for the use of the land for a renewable energy facility.
- **Clause 35.07-4** Buildings and works. Within the Farming Zone
A permit is required to construct or carry out any of the following:
 - *A building or works associated with a use in Section 2 of Clause 35.07-1....*

None of the exemptions in this clause apply and permit is required under clause 35.07 (Farming Zone) for buildings and works.

- **Clause 44.03-1** Buildings and works. Under Clause 44.04 (Flood Overlay):
A permit is required to construct a building or to construct or carry out works, including...



None of the exemptions in this clause or the schedule apply and a permit is required under clause 44.03 for buildings and works.⁴⁸

- **Clause 44.04-1** Buildings and works. Under Clause 44.04 (Land Subject to Inundation Overlay):

A permit is required to construct a building or to construct or carry out works, including...

None of the exemptions in this clause apply and a permit is required under clause 44.04 for buildings and works.

- **Clause 52.05-10** Category 4 - Sensitive areas. In Clause 52.05 (Advertising Signs), the Farming Zone is in Category 4 'sensitive areas'. Under clause 52.05-10, a 'Business identification sign' is a sign listed in section 2. The condition that applies is 'The total advertisement area to each premises must not exceed 3 m²'. The applications meet this requirement and a permit is required under clause 52.05-10 (Advertising signs) for a business identification sign.
- **Clause 52.17-1** Permit requirement. Under Clause 57.17 (Native Vegetation):

A permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

None of the exemptions in this clause apply and a permit is required under clause 52.17 for the removal of native vegetation.

Particular and General Provisions

151. In relation to the Particular and General Provisions, I note:

- **Clause 52.05 Advertising Signs.** The Farming Zone is in Category 4 is for the purposes of advertising signage. For both applications, a business identification sign is proposed. This requires a permit, and the relevant condition (less than 3sqm) is met.
- **Clause 52.17 Native Vegetation.** Both applications require a planning permit for the removal of native vegetation under this clause.

⁴⁸ I note that this permit trigger was not listed in the Minutes – Ordinary Council Meeting 20 February 2018 Council minutes in relation to item 10.4 Use and Develop 235 Victoria Road, Tallygaroopna for a Solar Farm.



- **Clause 52.42 - Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction).** This clause applies to land used and developed or proposed to be used and developed for a renewable energy facility. It also includes decision guidelines.
- **Clause 65.01 - Decision Guidelines** apply including the matters at Section 60 of the *Planning and Environment Act 1987*.

State Planning Policy Framework

152. Within the State Planning Policy Framework (SPPF), the following policies are relevant to these applications:

- Clause 10 'Operation of the State Planning Policy Framework';
- Clause 11.01 'Victoria';
- Clause 11.07 'Regional Victoria';
- Clause 11.12 'Hume';
- Clause 12.01 'Biodiversity';
- Clause 13.02 'Floodplains';
- Clause 13.04 'Noise and Air';
- Clause 13.05 'Bushfire';
- Clause 14.01 'Agriculture';
- Clause 15.03-2 'Aboriginal Cultural Heritage';
- Clause 17 'Economic Development'; and
- Clause 19.01 'Renewable Energy'.

153. My assessment of the proposal in relation to these Clauses is provided in Section 2 of this statement.

Local Planning Policy Framework

154. The following Clauses within the Local Planning Policy Framework (LPPF) are relevant to these applications:

- Clause 21.02 'Key Influences and Issues';
- Clause 21.03 'Vision, Sustainability Principles and Strategic Directions';

p.46



- Clause 21.05 'Environment';
- Clause 21.06 'Economic Development' (including Clause 21.06-1 Agriculture);
- Clause 21.07 'Infrastructure'; and
- Clause 21.09 'Reference Documents'⁴⁹.

155. Some of the key policies outlined in the LPPF are summarised below.

- Clause 21.05 Environment.

Both proposed developments respond to this clause through careful site selection, both sites are largely cleared, and native vegetation removal has been minimised.

At 235 Victoria Road, Tallygaroopna an 8ha patch of native vegetation will be retained as part of this application.

- Clause 21.06 Economic Development.

The proposed solar farms are consistent with this clause and will make a significant contribution to the local economy. The proposed development will not result in the subdivision, or permanent loss of agricultural land.

156. My assessment of the proposal in relation to these Clauses is provided in Section 2 of this statement.

Reference Documents

157. My evidence has been informed by a review of the following reference documents:

- *Hume Regional Growth Plan (2014)*; and
- *Campaspe, Greater Shepparton and Moira Regional Rural Land Use Strategy, 2008*.

⁴⁹ I have considered all these clauses in my evidence. I have not undertaken a written assessment against each clause but have instead concentrated on those sections that I consider to be most relevant to the Panel.



APPENDIX D: ASSESSMENT

Clause 35.07 (Farming Zone) Decision Guidelines

Clause 35.07 Farming Zone	
<i>35.07-6 Decision guidelines</i> <i>Before deciding on an application to use or subdivide land, construct a building or construct or carry out works, in addition to the decision guidelines in Clause 65, the responsible authority must consider, as appropriate:</i>	
General Issues	
<i>The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i>	My assessment against the State and Local Policy Framework is set out in Section 2 of this report.
<i>Any Regional Catchment Strategy and associated plan applying to the land.</i>	Not relevant.
<i>The capability of the land to accommodate the proposed use or development, including the disposal of effluent.</i>	The land is well located to harvest the sun's energy. The proposed solar farms will not result in an increased need for the disposal of effluent.
<i>How the use or development relates to sustainable land management.</i>	The practice of harvesting the sun's energy is a very sustainable land management practice.
<i>Whether the site is suitable for the use or development and whether the proposal is compatible with adjoining and nearby land uses.</i>	My detailed assessment against the State and Local Policy Framework is set out in Section 2 of this report.



Clause 35.07 Farming Zone	
<i>How the use and development makes use of existing infrastructure and services.</i>	According to the Town Planning Reports the proposed solar farms will connect into and enhance electrical infrastructure.
Agricultural issues and the impacts from non-agricultural uses	
<i>Whether the use or development will support and enhance agricultural production.</i>	The impact of the proposal on agricultural production falls outside of my field of expertise.
<i>Whether the use or development will adversely affect soil quality or permanently remove land from agricultural production.</i>	The impact of the proposal on soil and water quality falls outside of my field of expertise. The proposed solar farms will not permanently remove land from agricultural production.
<i>The potential for the use or development to limit the operation and expansion of adjoining and nearby agricultural uses.</i>	The potential for the proposed solar farms to limit the operation and expansion of adjoining and nearby agricultural uses falls outside of my field of expertise.
<i>The capacity of the site to sustain the agricultural use.</i>	Not relevant, the proposed use is not agricultural.
<i>The agricultural qualities of the land, such as soil quality, access to water and access to rural infrastructure.</i>	Not relevant, the proposed use does not depend on the agricultural qualities of the land.
<i>Any integrated land management plan prepared for the site.</i>	Not applicable.



Dwelling issues (<i>not applicable</i>)	
Environmental issues	
<i>The impact of the proposal on the natural physical features and resources of the area, in particular on soil and water quality.</i>	The impact of the proposal on soil and water quality falls outside of my field of expertise, but I do note that the proposal harvests the sun's resources in the form of solar energy.
<i>The impact of the use or development on the flora and fauna on the site and its surrounds.</i>	<p>The environmental impact of the proposed solar farms on the flora and fauna on the site and its surrounds falls outside of my field of expertise.</p> <p>From a town planning perspective, I make the following observations about the impact of proposed development on flora on site: the extent of native vegetation proposed to be removed has been minimised; the application at 1090 Lemnos Road North, Congupna proposes the retention of an 8-ha patch of native vegetation and the application at 235 Victoria Road, Tallygaroopna proposes to retain approximately 9-ha of native vegetation.</p>



<p><i>The need to protect and enhance the biodiversity of the area, including the retention of vegetation and faunal habitat and the need to revegetate land including riparian buffers along waterways, gullies, ridgelines, property boundaries and saline discharge and recharge area.</i></p>	<p>The proposed solar farms respond to this in two ways. Firstly, the design and layout of the solar farms considered the impact on existing native vegetation, and the removal of native vegetation was minimised where possible. Secondly, a 10-metre landscape buffer is proposed along all site boundaries for both sites. This will include existing native vegetation and planting of new vegetation.</p> <p>For the application at 1090 Lemnos North Road, Congupna development is proposed to be set back approximately 200 metres from Congupna Creek.</p>
<p><i>The location of on-site effluent disposal areas to minimise the impact of nutrient loads on waterways and native vegetation.</i></p>	<p>Not applicable. No new on-site effluent disposal areas are proposed.</p>
<p>Design and siting issues</p>	
<p><i>The need to locate buildings in one area to avoid any adverse impacts on surrounding agricultural uses and to minimise the loss of productive agricultural land.</i></p>	<p>Not relevant.</p>
<p><i>The impact of the siting, design, height, bulk, colours and materials to be used, on the natural environment, major roads, vistas and water features and the measures to be undertaken to minimise any adverse impacts.</i></p>	<p>According to the submitted Town Planning Reports, the proposed solar farm will be 3 metres high at its highest point and screened by a landscape buffer. This will limit the impact of the development on the surrounding area.</p>



<p><i>The impact on the character and appearance of the area or features of architectural, historic or scientific significance or of natural scenic beauty or importance.</i></p>	<p>According to the submitted Town Planning Reports, the proposed solar farm will be 3 metres high at its highest point and screened by a landscape buffer. This will limit the visual impact on the surrounding area.</p> <p>There are no identified features of architectural, historic or scientific significance or of natural scenic beauty or importance in this area.</p>
<p><i>The location and design of existing and proposed infrastructure including roads, gas, water, drainage, telecommunications and sewerage facilities.</i></p>	<p>According to the submitted Town Planning Reports, the proposed solar farms will utilise existing infrastructure. New access roads are proposed within each site.</p>
<p><i>Whether the use and development will require traffic management measures.</i></p>	<p>Once operational traffic management measures will not be required.</p>

Clause 52.42 (Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction) Decision Guidelines

<p>Clause 52.42 Renewable Energy Facility (Other Than Wind Energy Facility and Geothermal Energy Extraction)</p>	
<p><i>52.42-3 Decision guidelines</i></p> <p><i>Before deciding on an application, in addition to the decision guidelines of Clause 65, the responsible authority must consider, as appropriate:</i></p>	
<p><i>The effect of the proposal on the surrounding area in terms of noise, glint, light spill, vibration, smell and electromagnetic interference.</i></p>	<p>My detailed assessment against the State and Local Policy Framework is set out in Section 2 of this report.</p>



<p><i>The impact of the proposal on significant views, including visual corridors and sightlines.</i></p>	<p>There are no identified significant views near either site.</p> <p>According to the submitted Town Planning Reports, the proposed solar farm will be 3 metres high at its highest point and screened by a landscape buffer. This will limit the visual impact on the surrounding area.</p>
<p><i>The impact of the proposal on the natural environment and natural systems⁵⁰.</i></p>	<p>The environmental impact of the proposed solar farms on the natural environment and natural systems fall outside of my field of expertise.</p> <p>However, from a town planning perspective, I make the following observations: the extent of native vegetation proposed to be removed has been minimised, and the application at 1090 Lemnos Road North, Congupna proposes the retention of an 8-ha patch of native vegetation. The application at 235 Victoria Road, Tallygaroopna proposes to retain approximately 9-ha of native vegetation.</p>
<p><i>Whether the proposal will require traffic management measures.</i></p>	<p>Once operational traffic management measures will not be required.</p>

Clause 65 (Approval of an Application or Plan) Decision Guidelines

<p>Clause 65 Approval of an Application or Plan</p>	
<p><i>Before deciding on an application or approval of a plan, the responsible authority must consider, as appropriate:</i></p>	
<p><i>The matters set out in Section 60 of the</i></p>	<p>I have reviewed section 60 of the Act and I</p>

⁵⁰ Defined in Clause 74 (Definitions) as: *Land in substantially its natural state which is used to maintain ecological systems, or to preserve an area of historic, scientific, aesthetic, or cultural significance*



Clause 65 Approval of an Application or Plan	
<i>Act.</i>	<p>am confident that these matters have been considered.</p> <p>Within the limits of my expertise, I do not believe there are any significant effects the proposed solar farms may have on the environment or the environment may have on the solar farms other than the positive benefits associated with greenhouse gas reductions.</p>
<i>The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.</i>	My assessment against the State and Local Policy Framework is set out in Section 2 of this report.
<i>The purpose of the zone, overlay or other provision</i>	My assessment against the State and Local Policy Framework is set out in Section 2 of this report.
<i>Any matter required to be considered in the zone, overlay or other provision.</i>	My assessment against the State and Local Policy Framework is set out in Section 2 of this report.
<i>The orderly planning of the area.</i>	<p>The proposed development of the solar farms supports orderly planning though the provision of electricity infrastructure.</p> <p>Relevantly, neither location is proposed in an area identified as an urban growth front.</p>
<i>The effect on the amenity of the area.</i>	<p>There are no identified significant views near either site.</p> <p>According to the submitted Town Planning Reports, the proposed solar farm will be 3 metres high at its highest point and screened by a landscape buffer. This will</p>



Clause 65 Approval of an Application or Plan	
	limit the visual impact on the surrounding area.
<i>The proximity of the land to any public land.</i>	Not relevant, neither site is located near public land.
<i>Factors likely to cause or contribute to land degradation, salinity or reduce water quality.</i>	This fall outside of my field of expertise, however I note that none of these factors were identified within the submitted Town Planning Reports or Council officers' assessment of the proposed solar farms.
<i>Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.</i>	Not relevant. According to the submitted Town Planning Reports, it is not anticipated that the development will result in a change to stormwater run-off.
<i>The extent and character of native vegetation and the likelihood of its destruction.</i>	Identification of the extent and character of native vegetation fall outside of my field of expertise. However, from a town planning perspective, I make the following observations: the extent of native vegetation proposed to be removed has been minimised, and the application at 1090 Lemnos Road North, Congupna proposes the retention of an 8-ha patch of native vegetation. The application at 235 Victoria Road, Tallygaroopna proposes to retain approximately 9-ha of native vegetation.
<i>Whether native vegetation is to be or can be protected, planted or allowed to regenerate.</i>	The proposed solar farms respond to this in two ways. Firstly, the design and layout of the solar farms considered the impact on existing native vegetation, and



Clause 65 Approval of an Application or Plan

	<p>the removal of native vegetation was minimised where possible. Secondly, a 10-metre landscape buffer is proposed along all site boundaries for both sites. This will include existing native vegetation and planting of new vegetation.</p> <p>Additionally, the application at 1090 Lemnos Road North, Congupna proposes the retention of an 8-ha patch of native vegetation.</p>
<p><i>The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.</i></p>	<p>The degree to which erosion and fire hazard are associated with the proposed solar farms fall outside of my field of expertise.</p> <p>The proposed solar farms are located within a FO and LSIO and the application responds to this primarily by minimising development within the FO.</p>
<p><i>The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.</i></p>	<p>Not relevant to the operation of the proposed solar farms.</p>