

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision No.	Plan Title/Description	Prepared by	Dated
J6558-0020	C	General Arrangement Plan	Planit Consulting	11/01/2022
J6558-0100	B	Erosion And Sediment Control Plan	Planit Consulting	11/01/2022
J6558-0020	B	Erosion And Sediment Control Notes and Details	Planit Consulting	11/01/2022
H19-1331-ASS-R		Acid Sulfate Soil Investigation	Australian Soil and Concrete Testing	10/01/2020
19010		Glare Impact Assessment	Environmental Ethos	10/08/2020
	01	Statement of Landscape Intent	Planit Consulting	Not dated

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Landscaping and Maintenance Plan**

A detailed Landscaping and Maintenance Plan is to be prepared by an appropriately qualified professional and approved by Byron Shire Council prior to commencement of the buffer planting, or issuing a Construction Certificate, whichever occurs first.

This Plan is to be in accordance with the principals and layout contained in the Statement of Landscape Intent.

The Plan is to contain a commitment to commence planting and to achieve maximum growth prior to the installation of the solar array.

Planting in accordance with the approved Landscaping and Maintenance Plan may occur prior to the Construction Certificate being issued.

3. **Solar Panel Type**

The solar panels may be either a 'fixed' or 'single axis tracking' format as detailed on the approved plans. The Construction Certificate application is to detail the type of panel to be used.

If fixed panels are to be used, they are not to be installed until the buffer planting is of a sufficient height and density to ensure that glare from the panels does not pose a safety risk to drivers. Certification of the suitability of the buffer and compliance with this condition is to be provided by a suitably qualified professional prior to the panels being installed.

4. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

5. **Decommissioning**

In the event that the Solar Farm is decommissioned, a Decommissioning Plan is to be prepared prior to the decommissioning occurring that includes the following commitments:

- Complete removal of all infrastructure including underground cabling and piping, but excluding the access driveway.
- Returning the land to its pre-existing (2022) or improved condition for agriculture, as guided by soil survey, agricultural land assessment or like specialist assessment.

6. **Signage**

Separate development consent is required for any signage that does not fall within the 'Exempt Development' criteria of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

7. **Sediment and Erosion Control Management Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

8. **Stormwater Drainage – Connection to Existing Drainage System**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with AS/NZS 3500.3:2003, *Plumbing and drainage, Part 3: Stormwater drainage*. All stormwater drainage for the development must be conveyed by a gravity system to the existing stormwater drainage system within the site. Such plans and specifications must be approved as part of the Construction Certificate.

9. **Consent required for works within the road reserve**

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway in Dingo Lane

A driveway in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

The detailed design to address sight distance requirements for the designed speed of the road including measures to achieve the requirement.

10. **Traffic Guidance Scheme (TGS)**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Guidance Scheme (TGS) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction. The TGS is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TGS must be prepared by a suitably qualified Transport for NSW accredited person.

11. **Access & Parking**

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include, but not be limited to, the following items:

- a) minimum 150mm compacted pavement, sealed for grades greater than 12%;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal and cross sections; and
- e) drainage details;

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

12. Flood Planning Level

The flood planning level for this development is R.L. 5.19 to 5.97m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

13. Bond required to guarantee against damage to public land

A bond of \$3,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repared to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

14. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information
www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-.doc

15. Trees to be retained and protected

Trees to be retained are to be protected by a Tree Protection Zone (TPZ) exclusion fence. The fence is to be constructed in accordance with Sections 3.2 and 4.3 of AS 4970-2009 *Protection of trees on development sites*. The fence must:

- a) Be located outside the dripline of the tree so as to minimise disturbance to tree roots;
- b) have a minimum height of 1.8 metres;
- c) be constructed of wire mesh panels, plywood, steel star pickets or similar, with a maximum distance of 2metres between star pickets;
- d) have a minimum of 3 strands of steel wire or similar;

- e) have high visibility barrier mesh (eg orange), shade cloth or similar, attached to the outside of the fence and continuing around its perimeter;
- f) include at least one Tree Protection Zone (TPZ) sign in accordance with Section 4.4 of AS4970-2009.

Activities that are excluded within the TPZ (as per section 4.2 of AS4970-2009) include excavation, construction activity, grade changes, surface treatment and storage of material. If these activities are required within the TPZ they may only occur under the supervision of the project arborist (minimum AQF level 5 qualified arborist). The Tree Protection Zone (TPZ) exclusion fence is to be maintained for the duration of the site clearing, preparation, construction and landscaping works.

16. Retained Trees

No trees are to be removed. Pruning of vegetation along Dingo Lane to provide satisfactory sight distance is however permitted.

All trees to be retained in accordance with this development consent must be illustrated on any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with *AS 4970-2009 – Protection of Trees on Development Sites*.

17. Care to be taken when placing services near trees

To minimise root disturbance where services are to be laid in close proximity to trees, any excavation within the Tree Protection Zone (TPZ) for installation of underground services is to be done by directional drilling or in manually excavated trenches in accordance with Section 4.5.5 of *AS 4970-2009 – Protection of Trees on Development Sites*. Works must be conducted under the supervision of the project arborist (minimum AQF level 5 qualified arborist), and may include the use of pneumatic or hydraulic tools such as air knives.

18. Landscaping

All landscaping on any part of the site must accord with the requirement to plant only appropriate local native species as marked on the stamped plans.

19. Bush fire

A Bush Fire Emergency Management and Operations Plan is to be prepared by a suitably qualified professional. This Plan is to identify all relevant risks and mitigation measures associated with the construction and operation of the solar farm, detailing measures to:

- prevent or mitigate fires igniting
- ensure work is not carried out during total fire bans
- ensure suitable fire-suppression equipment, access and water is available
- safely store and maintain any flammable materials onsite
- notify the local NSW RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation, proposed to be carried out during a bush-fire fire danger period to ensure weather conditions are appropriate

The following conditions are to be complied with prior to any building or construction works commencing

20. **Erosion and Sediment Control Management Plan required**

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

Note: Council may impose on-the-spot fines for non-compliance with this condition.

The following conditions are to be complied with during any building or construction works

21. **Construction times**

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

22. **Construction Noise**

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

23. **Builders rubbish to be contained on site**

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

24. **Removal of demolition and other wastes**
All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>
25. **Excavated natural materials and demolition waste disposal**
Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a NSW Protection of The Environment Operations Act s143 Notice. Template s143 Notices are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>
26. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
27. **Prevention of water pollution**
Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.
28. **Cultural Site Monitors**
Arakwal Traditional Owners are to be engaged as Cultural Site Monitors for the site works to construct the car park and turnaround area.
- Consultation with Bundjalung of Byron Bay Aboriginal Corporation (BBBAC) is to occur prior to work commencing on all other areas of the site and the engagement of cultural site monitors where deemed necessary by BBBAC.
29. **Aboriginal Relics**
If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:
- immediately cease works;
 - notify the NSW National Parks and Wildlife Service (NPWS);
 - obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.
- The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.

The following conditions are to be complied with prior to issue of an Occupation Certificate

30. **Works to be completed prior to issue of a Final Occupation Certificate**

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

31. **Access and parking areas to be completed.**

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

32. **Stormwater disposal**

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a) Clear of buildings and infrastructure,
- b) Clear of effluent disposal areas,
- c) Not concentrated so as to cause soil erosion,
- d) Not directly to a watercourse, and
- e) Not onto adjoining land.

The following conditions are to be complied with at all times

33. **Must not interfere with the amenity of the neighbourhood**

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a. Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d. All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e. Goods deliveries shall be restricted to daytime operating hours.

34. **Site Waste Minimisation and Management**

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014.

35. **No native tree removal**

This development consent does not authorise any native tree to be cleared, pruned, lopped, removed or damaged in contravention of Byron Development Control Plan 2014 and Development Control Plan 2010 as applicable to the land.

Pruning of vegetation along Dingo Lane to provide satisfactory sight distance is however permitted.

36. **Native vegetation is not permitted to be cleared under Schedule 5A and/or Division 5 of the Local Land Services Act 2013**

Clearing of native vegetation that would be authorised under Schedule 5A and Division 5 of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is “to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats”.

Section 60Q(2) of the LLS Act provides that “Schedule 5A does not permit clearing or any other activity—

- a. without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
- b. in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.”

Similarly, Section 60S(4) of the LLS Act provides that “A land management (native vegetation) code does not permit clearing or any other activity—

- a. Without an approval or other authority required by or under another Act or another Part of this Act, or
- b. In contravention of any provision of or made under another Act or another Part of this Act”

As this condition is imposed under section 4.17 of the EP&A Act, sections 60Q and 60S of the LLS Act apply and the clearing of native vegetation under Schedule 5A and Division 5 of the LLS Act is not permitted.

37. **Bush fire**

The requirements of the Bush Fire Emergency Management and Operations Plan are to be complied with at all times.

38. **Landscaping**

The landscaping of the site is to be maintained at all times in accordance with the requirements of the approved Landscaping and Maintenance Plan.

39. **Land Use Conflict Risk Assessment**

Upon receipt of a complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Land Use Conflict Risk Assessment (LUCRA) carried out by a suitably qualified and practicing consultant. The LUCRA is to be submitted to the satisfaction of the General Manager or their delegate. It is to include recommendations for noise, dust, air quality mitigation, or the like to ensure the operation of the Solar Farm is compatible with the agricultural pursuits of the locality. The operator/owner is to implement the recommendations of the LUCRA within a timeframe specified by Council's authorised officer.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons
The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2021 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed
The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.
To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

SCHEDULE 4. NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

Essential Energy Advice

If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).

Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.