

Deed

Tallawang Solar Farm Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Mid-Western Regional Council

**Tallawang Solar Hybrid Pty Ltd as trustee for Tallawang
Solar Hybrid Trust**

Date: 12 March 2026

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Summary Sheet

Council:

Name: Mid-Western Regional Council ABN 96 149 391 332

Address: 86 Market Street, Mudgee NSW 2850

Telephone: 02 63782850

Email: council@midwestern.nsw.gov.au

Representative: Bradley Cam

Developer:

Name: Tallawang Solar Farm Project Co Pty Ltd ACN 677 216 036, as trustee for the Tallawang Solar Farm Project Trust ABN 35 124 830 475

Address: L23 100 Barangaroo Ave, Barangaroo NSW 2000

Telephone: 0401 617 576

Email: manfred.fahr@potentiaenergy.com.au

Representative: Manfred Fahr

Land:

See definition of *Land* in clause 1.1.

Development:

See definition of *Development* in clause 1.1.

Development Contributions:

See Part 2 and Schedule 1.

Application of s7.11, s7.12 and Division 7.1, Subdivision 4 of the Act of the Act:

See clause 8.

Security:

See Part 4.

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Registration:

See clause 20.

Restriction on dealings:

See Part 5.

Dispute Resolution:

See Part 3.

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Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Mid-Western Regional Council ABN 96 149 391 332 of 86 Market Street,
Mudgee NSW 2850 (**Council**)

and

Tallawang Solar Farm Project Co Pty Ltd ACN 677 216 036, as trustee
for the Tallawang Solar Farm Project Trust ABN 35 124 830 475 of L23 100 Barangaroo Ave,
Barangaroo NSW 2000 (**Developer**)

Background

- A The Developer has made a Development Application with reference number SSD-23700028 for consent under the *Environmental Planning and Assessment Act 1979* (**Act**) and *Environment Protection and Biodiversity Conservation Act 1999* to carry out construction, operation and decommissioning of a large scale solar photovoltaic electricity generation facility (500 megawatts) along with battery storage (500 megawatts/1000 megawatt hours) and associated infrastructure as described in the Development Application for the Development (as modified from time to time) (**Tallawang Solar Farm**).
- B The Tallawang Solar Farm will be carried out on land within the Council's local government area.
- C Pursuant to s7.4 of the Act the Developer and the Council have agreed to enter into this Deed in connection with the Tallawang Solar Farm.
- D The purpose of this Deed is for the Developer to provide monetary contributions to the Council to be applied towards projects producing a material public benefit as identified in the Mid-Western Regional Council Community Plan and Delivery Program.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

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Approval includes approval, consent, licence, permission or the like.

Annual Development Contribution means the annual amount of the Development Contribution to be paid by the Developer to the Council in accordance with this Deed.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,
 - (ii) Commonwealth Bank of Australia,
 - (iii) Macquarie Bank Limited,
 - (iv) National Australia Bank Limited,
 - (iv) St George Bank Limited,
 - (v) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council in its absolute discretion.

Bond means a documentary performance bond which must be denominated in Australian dollars and be an unconditional undertaking issued by an Australian Prudential Regulation Authority (APRA) regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia that has at all times an investment grade security rating from an industry recognised rating agency.

Claim includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

Cost means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

CPI means the *Consumer Price Index (All Groups – Sydney)* published by the Australian Bureau of Statistics.

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Development means development for the purposes of the Tallawang Solar Farm comprising the construction, operation and eventual decommissioning of a large scale solar photovoltaic electricity generation facility along with battery storage and associated infrastructure on the Land described in Development Application SSD-23700028 for which Development Consent is granted, as modified from time to time (whether pursuant to s4.55, 4.56 of the Act or a Development Consent to a new Development Application).

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means a monetary contribution, the dedication of land free of cost, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose but does not include any Security or other benefit provided by the Developer to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s7.4(3)(g) of the Act.

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Dispute means a dispute or difference between the Parties under or in relation to this Deed.

First Operational Day means the first day that the Development generates, stores, or transmits electricity (except any generation, storage, or transmission for the sole purpose of testing or commissioning the Development). At the time of this Deed being entered, the First Operational Day is anticipated by the Developer to be in Q1 2030.

GST has the same meaning as in the GST Law.

GST Law has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means lots listed in Schedule 2.

Last Operational Day means the last day that the Development generates, stores, or transmits electricity, before decommissioning of the Development commences.

Force Majeure Event means any of the following events:

- (a) war, terrorism, riot, insurrection;
- (b) law, rule or regulation of any government or governmental agency, and executive or administrative order or act of general or particular application;

which

- (c) is unforeseen by the Developer; and
- (d) is not within the reasonable control of the Developer; and
- (e) occurs without the fault or negligence of the Affected Party; and
- (f) the occurrence or effect of which the Developer could not have avoided through the exercise of Good Electricity Industry Practice as defined in the National Electricity Rules; and

includes, without limitation, any action taken by a Transmission Network Service Provider (as defined in the National Electricity Rules), the Australian Energy Regulator or the Australian Energy Market Operator, or market disruption.

Material Obligation means the obligation to provide the Development Contributions to Council under clause 10 and to comply with clauses 5, 9, 11, and 16 of this Deed.

Minimum Threshold Amount means 90% of the P99 forecast of monthly generation for the Tallawang Solar Farm.

Party means a party to this Deed.

Project Operational Life means the length of time from the First Operational Day until the Last Operational Day.

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Solar Energy Capacity Amount means the maximum generation capacity (in megawatts) of the Development.

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Security means a Bank Guarantee, or a Bond or other form of security to the satisfaction of the Council indexed in accordance with the CPI from the date of this Deed.

- 1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:
- 1.2.1 Headings are inserted for convenience only and do not affect the interpretation of this Deed.
 - 1.2.2 A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
 - 1.2.3 If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
 - 1.2.4 A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
 - 1.2.5 A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
 - 1.2.6 A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
 - 1.2.7 A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
 - 1.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
 - 1.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
 - 1.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
 - 1.2.11 A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
 - 1.2.12 References to the word 'include' or 'including' are to be construed without limitation.
 - 1.2.13 A reference to this Deed includes the agreement recorded in this Deed.
 - 1.2.14 A reference to a Party to this Deed includes a reference to the employees, agents and contractors of the Party, the Party's successors and assigns.
 - 1.2.15 A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
 - 1.2.16 Any schedules, appendices and attachments form part of this Deed.
 - 1.2.17 Notes appearing in this Deed are operative provisions of this Deed.

2 Status of this Deed

- 2.1 This Deed is a planning agreement within the meaning of s7.4(1) of the Act.

3 Operation of Deed

- 3.1 This Deed commences on and from the date when the Parties have:
- 3.1.1 both executed the same copy of this Deed, or
 - 3.1.2 each executed separate counterparts of this Deed and exchanged the counterparts.
- 3.2 The Parties are to insert the date when this Deed commences on the front page and on the execution page.
- 3.3 This Deed will not operate or bind the Parties unless and until the grant of Development Consent to Development Application SSD-23700028 (as modified from time to time).
- 3.4 This Deed terminates upon payment by the Developer of the final Annual Development Contribution in accordance with this Deed.

4 Application of this Deed

- 4.1 This Deed applies to the Land and to the Development.

5 Warranties

- 5.1 The Parties warrant to each other that they:
- 5.1.1 have full capacity to enter into this Deed, and
 - 5.1.2 are able to fully comply with their obligations under this Deed.

6 Further agreements

- 6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed.

7 Surrender of right of appeal, etc.

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development in so far as the subject-matter of the proceedings relates to this Deed.

8 Application of s7.11, s7.12 and s7.24 of the Act to the Development

- 8.1 This Deed does not exclude the application of s7.11 of the Act to the Development.
- 8.2 This Deed does not exclude the application of s7.12 of the Act to the Development.
- 8.3 The benefits under this Deed are to be taken into consideration when determining a development contribution under section 7.11 of the Act in relation to the Development.
- 8.4 This Deed does not exclude the application of Division 7.1, Subdivision 4 (Housing Productivity Contributions) of the Act to the Development.

Part 2 – Development Contributions

9 Notification to Council

- 9.1 The Developer is to notify the Council in writing of:
 - 9.1.1 the Developer's receipt of all Approvals required to commence the Development promptly and no later than 5 business days after receipt of the last of such Approvals,
 - 9.1.2 the Minimum Threshold Amount and date of the First Operational Day, once that date is known by the Developer, and no later than 5 business days after the First Operational Day, and
 - 9.1.3 the date of the Last Operational Day, once that date is known by the Developer, and no later than 5 business days after the Last Operational Day, and
 - 9.1.4 any matters that will likely result in the Project Operational Life changing by more than one (1) year, including because Development Consent to Development Application SSD-23700028 is modified, or a new Development Consent is granted in respect of the Development, as soon as reasonably possible.
- 9.2 Nothing in this clause 9 impacts, detracts from, or otherwise affects the Developer's obligation to make Development Contributions to the Council under this Deed.

10 Provision of Development Contributions

- 10.1 The Developer is to make Development Contributions to the Council in accordance with Schedule 1 and any other provision of this Deed relating to the making of Development Contributions.
- 10.2 Each Development Contribution under this Deed is to be paid by means of electronic funds transfer of cleared funds into the bank account nominated in writing by the General Manager of the Council.

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- 10.3 The Council is to apply each Development Contribution made by the Developer under this Deed towards the public purpose for which it is made and otherwise in accordance with this Deed.
- 10.4 Despite clause 10.3, the Council may apply a Development Contribution made under this Deed towards a public purpose other than the public purpose specified in this Deed if the Council reasonably considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.

Final Annual Development Contribution

- 10.5 As set out in Schedule 1, the final Annual Development Contribution is to be pro-rated.
- 10.6 If the Last Operational Day is not known by the Developer before the date the final Annual Development Contribution is due:
- 10.6.1 the Developer is to pay the full amount of Annual Development Contribution in accordance with Schedule 1, and
- 10.6.2 if the Council receives a written request from the Developer, the Council will pay to the Developer the **Final Excess Amount** within 30 days of that written request.
- 10.7 The Final Excess Amount is to be calculated as follows::

$$A = B - C$$

Where

A is the Final Excess Amount

B is the final Annual Development Contribution paid by the Developer

C is the pro-rated amount of Annual Development Contribution for the period from the last anniversary of the First Operational Day until the Last Operational Day.

For example, if during the last year of operation (taken from the First Operational Day) the Development is operational for 6 months, the Final Excess Amount to be paid to the Developer by Council will be 50% of the Development Contributions paid for that year.

- 10.8 If the output of the Tallawang Solar Farm falls below the Minimum Threshold Amount during any month as a result of a Force Majeure Event then the Annual Development Contribution will be reduced on a proportional basis to reflect the number of months during which the output of the Tallawang Solar Farm fell below the Minimum Threshold Amount.

For example:

- *if an event involving an act of war damages 50% of the solar panels (but the remaining 50% of the solar panels are able to keep generating output notwithstanding this); and*
- *it takes 6 months to repair or replace the damaged solar panels so that the Tallawang Solar Farm can result generating at the Minimum Threshold Amount,*
- *this will result in the Tallawang Solar Farm operating 50% below the Minimum Threshold Amount for 6 months of the relevant year; and*

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- *the Annual Development Contribution will accordingly be reduced by 25% to reflect this.*

11 Modification to Development and amended Development Contribution

- 11.1 This clause applies on and from the date after the Development Consent is granted to Development Application SSD-23700028.
- 11.2 Each time an application to modify the Development Consent to Development Application SSD-23700028 is made, or a new Development Application is made in respect of the Development which will change the Solar Energy Capacity Amount if granted, the Developer is to notify the Council in writing of such application and the Solar Energy Capacity Amount of the Development as modified.
- 11.3 Each time:
- 11.3.1 the Development Consent to Development Application SSD-23700028 is modified, or
- 11.3.2 a new Development Consent is granted in respect of the Development,
- (Subject Modification)**
- and there is a change to the Solar Energy Capacity Amount, the Developer is to pay a revised amount of monetary Development Contribution calculated as follows:
- $A = \$850 \times M$**
- Where
- A** is the new amount of Development Contribution to be paid by the Developer in accordance with Schedule 1.
- M** is the Solar Energy Capacity Amount (in megawatts) of the Development after the Subject Modification.
- 11.4 The Parties agree that:
- 11.4.1 the amount calculated as 'A' in the formula in clause 11.3 is payable to the Council on the next payment date (as outlined in Schedule 1) and for every remaining year of the Project Operational Life (unless the Development Consent is further modified), and
- 11.4.2 if the Project Operational Life is extended beyond 35 years, and the NSW Government has, as at that date, published a guideline or other document that is in force and which nominates a different contribution rate for solar farm developments, then that rate will replace '\$850' specified in the formula in clause 11.3.

12 Payment of monetary Development Contributions

- 12.1 A monetary Development Contribution required by this Deed is to be indexed annually from the date of this Deed until the date of payment in accordance with the CPI.

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- 12.2 A monetary Development Contribution is made for the purposes of this Deed when the Council receives the full amount of the contribution payable under this Deed by the deposit by means of electronic funds transfer of cleared funds into a bank account nominated by the Council.

13 Public Recognition

- 13.1 Subject to clause 13.2 and clause 13.3, the Council must publicly and positively acknowledge:
- 13.1.1 the payment of the Development Contribution by the Developer; and
 - 13.1.2 the Developer's role in funding any projects as identified in the Mid-Western Regional Council Community Plan and Delivery Program (**Local Funded Projects**).
- 13.2 The form of public acknowledgment required by clause 13.1 is to be agreed by the Council and the Developer (acting reasonably) but must include:
- 13.2.1 The prominent inclusion of the Developer's logo in any announcement made in relation to the Local Funded Projects to which funds provided by Developer are used; and
 - 13.2.2 where appropriate for, a permanent sign recognising that the Local Funded Project was funded by the Developer.
- 13.3 The Council is not required to make any public acknowledgement under clause 13 if the Developer is in breach of a Material Obligation, and for such period that breach persists.

Part 3 – Dispute Resolution

14 Dispute resolution – expert determination

- 14.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- 14.1.1 the Parties to the Dispute agree that it can be so determined, or
 - 14.1.2 the Chief Executive Officer of the professional body that represents persons who appear to have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 14.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 14.3 If a notice is given under clause 14.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 14.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.

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- 14.5 The expert determination is binding on the Parties except in the case of fraud or misfeasance by the expert.
- 14.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 14.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

15 Dispute Resolution - mediation

- 15.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 14 applies.
- 15.2 Such a Dispute is taken to arise:
 - 15.2.1 if one Party gives another Party a notice in writing specifying particulars of the Dispute; or
 - 15.2.2 if the Chief Executive Officer of the professional body referred to at clause 14.1.2 gives a written opinion under clause 14.1.2 that the Dispute cannot be determined by a member of that body.
- 15.3 If a notice or written opinion is given under clause 15.2, the Parties are to meet within 14 days of the notice or written opinion in an attempt to resolve the Dispute.
- 15.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 15.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.
- 15.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 15.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

Part 4 - Enforcement

16 Security for performance of obligations

- 16.1 The Developer is to provide to Council a Security in the amount of \$AUD100,000 in relation to the performance of its Material Obligations under this Deed.
- 16.2 The Developer is to provide the Security to the Council before it commences any part of the Development.
- 16.3 The Council is to hold the Security as security for the Developer performing its Material Obligations under this Deed.

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- 16.4 If the Developer does not comply with its Material Obligations under this Deed, Council may issue the Developer with a notice requiring the Developer to rectify the relevant default in accordance with clause 17.1 of the Deed.
- 16.5 If the Developer fails to comply with a notice referred to in clause 16.4, Council may, without limiting any other avenues available to it, call on the Security to rectify the relevant default of the Developer.
- 16.6 The Council is to release and return the Security or any unused part of it to the Developer within 14 days of completion of all the Developer's obligations under this Deed.
- 16.7 The Developer may at any time provide the Council with a replacement Security.
- 16.8 On receipt of a replacement Security, the Council is to release and return the Security that has been replaced to the Developer.
- 16.9 If the Council calls-up the Security or any portion of it under clause 16.5 of this Deed, Council may, by written notice to the Developer, require the Developer to provide a further or replacement Security to ensure that the amount of Security held by the Council equals the amount it is entitled to hold under this Deed.
- 16.10 The Developer and Council agree that the provision of the Security under this clause constitutes a suitable means of enforcement for the purposes of section 7.4(3)(g) of the Act.
- 16.11 The amount of Security provided to the Council may, at the written request of Council no more than once every 5 years, be indexed in accordance with the CPI.

17 Breach of obligations

- 17.1 If the Council reasonably considers that the Developer is in breach of any Material Obligation under this Deed, it may give a written notice to the Developer:
 - 17.1.1 specifying the nature and extent of the breach,
 - 17.1.2 requiring the Developer to:
 - (a) rectify the breach if it reasonably considers it is capable of rectification, or
 - (b) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if it reasonably considers the breach is not capable of rectification,
 - 17.1.3 specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances and which must not be a period of less than seven (7) days.
- 17.2 Any costs incurred by the Council in remedying a breach in accordance with clause 17.1 may be recovered by the Council as a debt due in a court of competent jurisdiction.
- 17.3 For the purpose of clause 17.2, the Council's costs of remedying a breach the subject of a notice given under clause 17.1 include, but are not limited to:

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- 17.3.1 the costs of the Council's employees, agents and contractors reasonably incurred for that purpose,
- 17.3.2 all fees and charges necessarily or reasonably incurred by the Council in remedying the breach, and
- 17.3.3 all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 17.4 Nothing in this clause 16 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

18 Enforcement in a court of competent jurisdiction

- 18.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 18.2 For the avoidance of doubt, nothing in this Deed prevents:
 - 18.2.1 a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates, or
 - 18.2.2 the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

Part 5 – Registration & Restriction on Dealings

19 Registration of this Deed

- 19.1 The Parties agree not to register this Deed for the purposes of section 7.6(1) of the Act.

20 Restriction on dealings

- 20.1 The Developer is not to:
 - 20.1.1 if it is the owner of the Land, sell or transfer the Land, or
 - 20.1.2 assign the Developer's rights or obligations under this Deed, or novate this Deed,to any person unless:
 - 20.1.3 the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms substantially similar to this Deed and requiring the provision of the Development Contributions as per this Deed, and
 - 20.1.4 the Developer is not in breach of a Material Obligation.

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- 20.2 Subject to clause 20.3, the Developer acknowledges and agrees that it remains liable to fully perform its obligations under this Deed unless and until it has complied with its obligations under clause 20.1.
- 20.3 Clause 20.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale.

Part 6 – Indemnities & Insurance

21 Risk

- 21.1 The Developer performs this Deed at its own risk and its own cost.

22 Release

- 22.1 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

23 Indemnity

- 23.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

Part 7 – Other Provisions

24 Review of this Deed

- 24.1 The Parties agree that this Deed may be reviewed or modified and that any review or modification of this Deed will be conducted in the circumstances and in the manner determined by the Parties.
- 24.2 No modification or review of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed.
- 24.3 If this Deed becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties agree to do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

25 Notices

- 25.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Deed is only given or made if it is in writing and sent in one of the following ways:
- 25.1.1 delivered or posted to that Party at its address set out in the Summary Sheet, or
 - 25.1.2 emailed to that Party at its email address set out in the Summary Sheet.
- 25.2 If a Party gives the other Party 3 business days' notice of a change of its address or email, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or emailed to the latest address.
- 25.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- 25.3.1 delivered, when it is left at the relevant address,
 - 25.3.2 sent by post, 2 business days after it is posted, or
 - 25.3.3 sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 25.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

26 Approvals and Consent

- 26.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 26.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

27 Costs

- 27.1 The Developer is to pay to the Council \$5,000.00+GST for preparing, negotiating and executing this Deed within 30 days of the date of this Deed.

28 Entire Deed

- 28.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 28.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

29 Further Acts

- 29.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

30 Governing Law and Jurisdiction

- 30.1 This Deed is governed by the law of New South Wales.
- 30.2 The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.
- 30.3 The Parties are not to object to the exercise of jurisdiction by those courts on any basis.

31 Joint and Individual Liability and Benefits

- 31.1 Except as otherwise set out in this Deed:
- 31.1.1 any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually, and
- 31.1.2 any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

32 No Fetter

- 32.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

33 Illegality

- 33.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

34 Severability

- 34.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 34.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

35 Amendment

- 35.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with section 203(5) of the Regulation.

36 Waiver

- 36.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 36.2 A waiver by a Party is only effective if it:
- 36.2.1 is in writing,
 - 36.2.2 is addressed to the Party whose obligation or breach of obligation is the subject of the waiver,
 - 36.2.3 specifies the obligation or breach of obligation the subject of the waiver and the conditions, if any, of the waiver,
 - 36.2.4 is signed and dated by the Party giving the waiver.
- 36.3 Without limitation, a waiver may be expressed to be conditional on the happening of an event, including the doing of a thing by the Party to whom the waiver is given.
- 36.4 A waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given, and is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.
- 36.5 For the purposes of this Deed, an obligation or breach of obligation the subject of a waiver is taken not to have been imposed on, or required to be complied with by, the Party to whom the waiver is given.

37 GST

- 37.1 In this clause:

Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice have the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

Taxable Supply has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

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- 37.2 Subject to clause 37.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- 37.3 Clause 37.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 37.4 No additional amount shall be payable by the Council under clause 37.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 37.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the *A New Tax System (Goods and Services Tax) Act 1999*, the Parties agree:
- 37.5.1 to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies;
- 37.5.2 that any amounts payable by the Parties in accordance with clause 37.2 (as limited by clause 37.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 37.6 No payment of any amount pursuant to this clause 37, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 37.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 37.8 This clause continues to apply after expiration or termination of this Deed.

38 Explanatory Note

- 38.1 The Appendix contains the Explanatory Note relating to this Deed required by section 205 of the Regulation.
- 38.2 Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Planning Deed.

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Schedule 1

(Clause 10)

Development Contributions

Tallawang Solar Farm**Mid-Western Regional Council****Tallawang Solar Hybrid Pty Ltd as trustee for Tallawang Solar Hybrid Trust**

Column 1	Column 2	Column 3	Column 4
Contribution	Public Purpose	Manner & Extent	Timing
A. Monetary Contributions			
1. \$850 per megawatt of the Solar Energy Capacity Amount per annum, as amended in accordance with Clause 10.8 of this Deed, for up to and including the first 35 years of the Project Operational Life, subject to any adjustments required by clause 11. At the time of this Deed, the amount is \$425,000 per annum.	Monetary contributions to be applied towards the following public purposes: • projects as identified in the Mid-Western Regional Council Community Plan and Delivery Program.	Monetary Development Contributions to be paid in accordance with Column 4 of this table and clause 12.	Monetary Development Contributions to be paid in arrears on each anniversary of the First Operational Day, each year of the Project Operational Life. Where necessary, the final payment will be pro-rated from the anniversary of the First Operational Day to the Last Operational Day and

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2. If the Project Operational Life is extended beyond 35 years, the Annual Development Contribution will be paid at a rate of \$850 per megawatt of the Solar Energy Capacity Amount per annum, unless the NSW Government has, as at that date, published a guideline or other document that is in force and which nominates a different contribution rate for solar farm developments. If such a guideline has been published, then the Annual Development Contribution Amount will adopt the rate nominated in that document. No Monetary Contributions will be payable in relation to any period after the Last Operational Day.			paid on the Last Operational Day in accordance with clause 10.
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Schedule 2

(Definition of Land (Clause 1.1))

Relevant Lots

Lot	Deposited Plan
1	DP332044
68	DP750762
74	DP750762
78	DP750762
89	DP750762
90	DP750762
96	DP750762
97	DP750762
98	DP750762
101	DP1079036
105	DP750762
112	DP750762
113	DP750762
114	DP750762
120	DP750762
147	DP750762
148	DP750762
150	DP750762
152	DP750762

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Execution

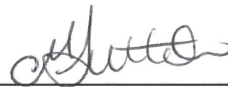
Executed as a Deed

Dated:

Executed on behalf of the Council pursuant to a resolution of the Council passed at a duly convened meeting held on: 16 July 2025



General Manager



Witness

Brad Cam

Name of General Manager

Mette Sutton

Name of Witness

86 Market St, Mudgee

Address of Witness

Executed on behalf of the Developer in accordance with s127(1) of the Corporations Act 2001 (Cth)

Director

Director / Secretary

Name

Name


Werther Esposito (Mar 13, 2026 15:14:40 GMT+11)

Werther Esposito

Tallawang Solar Farm

Mid-Western Regional Council

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Appendix

Environmental Planning and Assessment Regulation 2021

(Section 205)

Explanatory Note

Draft Planning Agreement

Under s7.4 of the *Environmental Planning and Assessment Act 1979*

Parties

Mid-Western Regional Council ABN 96 149 391 332 of 86 Market Street, Mudgee NSW 2850 (Council)

Tallawang Solar Farm Project Co Pty Ltd ACN 677 216 036, as trustee for the Tallawang Solar Farm Project Trust ABN 35 124 830 475 of L23 100 Barangaroo Ave, Barangaroo NSW 2000 (Developer)

Description of the Land to which the Draft Planning Agreement Applies

Lot	Deposited Plan
1	DP332044
68	DP750762
74	DP750762
78	DP750762
89	DP750762
90	DP750762
96	DP750762
97	DP750762

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98	DP750762
101	DP1079036
105	DP750762
112	DP750762
113	DP750762
114	DP750762
120	DP750762
147	DP750762
148	DP750762
150	DP750762
152	DP750762

Description of Proposed Development

Development as described in Development Application SSD-23700028 to carry out construction, operation and decommissioning of a large scale solar photovoltaic electricity generation facility along with battery storage and associated infrastructure as modified from time to time (whether pursuant to s4.55, 4.56 or a Development Consent to a new Development Application) (**Development**).

Description of Development Contributions

This planning agreement requires the Developer to pay monetary development contributions every year over the operational life of the Development, calculated with reference to the operational capacity of the Development, being \$850 per megawatt of capacity per annum. The amount of monetary development contributions will be indexed from the date of the finalised planning agreement until the date of payment.

Development contributions are to be paid annually in arrears on the anniversary of the first day the Development is operational (meaning that it generates, stores, or transmits electricity except for testing and commissioning).

If there is a modification to the Development that results in a change to the operational capacity of the development, the monetary development contributions are to be modified to reflect the changed operational capacity of the Development.

Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives, Nature and Effect of Draft Planning Agreement

The Draft Planning Agreement is a voluntary planning agreement pursuant to section 7.4 of the EPA Act under which monetary development contributions are made by the Developer to the Council to be applied towards public purposes.

The objective of the Draft Planning Agreement is to secure the provision of monetary development contributions which are to be applied by the Council towards projects as identified in the Mid-Western Regional Council Community Plan and Delivery Program.

The Draft Planning Agreement:

- relates to the carrying out of Tallawang Solar Farm development by the Developer,
- imposes obligations on the Developer to make monetary development contributions,
- excludes the application of sections 7.11 and 7.12 of the EPA Act to the Tallawang Solar Farm,
- requires the Developer to provide a bank guarantee, bond or other form of security to the satisfaction of Council to secure its obligations under the agreement,
- is not to be registered on the title of the Land,
- provides dispute resolution methods for any dispute under the agreement.

Assessment of the Merits of the Draft Planning Agreement

How the Draft Planning Agreement Promotes the Public Interest

Funds provided by this Planning Agreement will be utilised to deliver projects as identified in Mid-Western Regional Council's Community Plan and Delivery Program. The Community Plan is the highest level plan prepared by Council on behalf of the community. The plan was developed collaboratively with the community. The Mid-Western Region Community Plan sets out the community's vision for the future including current situation, future goals and actions to achieve goals.

Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

Where funding relates to projects that are capital works as identified in the Community Plan and Delivery Program, this agreement will conform to Mid-Western Regional Council's Capital Works Program.

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Whether the Draft Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

No. The obligations in the Draft Planning Agreement are not contingent on requirements being met before a construction certificate, occupation certificate or subdivision certificate is issued.

TALLAWANG VPA for Signing_Name Corrected_12.03.26

Final Audit Report

2026-03-13

Created:	2026-03-13
By:	manfred fahr (manfred.fahr@potentiaenergy.com.au)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyphtXHNbxmkSZh4a-zUZjVappxj9qZrl

"TALLAWANG VPA for Signing_Name Corrected_12.03.26" History

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-  Document emailed to Werther Esposito (werther.esposito@potentiaenergy.com.au) for signature
2026-03-13 - 2:07:47 AM GMT
-  Email viewed by Werther Esposito (werther.esposito@potentiaenergy.com.au)
2026-03-13 - 4:14:14 AM GMT
-  Document e-signed by Werther Esposito (werther.esposito@potentiaenergy.com.au)
Signature Date: 2026-03-13 - 4:14:40 AM GMT - Time Source: server
-  Agreement completed.
2026-03-13 - 4:14:40 AM GMT