

## JOINT REGIONAL PLANNING PANEL (Northern)

JRPP No	<b>2016NTH021</b>
DA Number	<b>DA2016/44</b>
Local Government Area	<b>Moree Plains Shire Council</b>
Proposed Development	<b>Erection of a 3.6mw Solar Farm and Subdivision</b>
Street Address	<b>Lot 103, Kentucky Lane Boggabilla</b>
Applicant/Owner	Michael Mailler / Michael and Barbara Mailler
Number of Submissions	<b>Two(2)</b>
Regional Development Criteria (Schedule 4A of the Act)	<b>Private infrastructure and community facilities over \$5 million</b>  <b>(Electricity generating works)</b>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 44</li> <li>• State Environmental Planning Policy No. 55</li> <li>• State Environmental Planning Policy - (Infrastructure) 2007</li> <li>• State Environmental Planning Policy – (State and Regional Development) 2011</li> <li>• Moree Plains Local Environmental Plan 2011</li> <li>• Moree Plains Development Control Plan 2013</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development.</li> <li>• Any submissions made in accordance with the EP&amp;A Act or EP&amp;A Regulation.</li> </ul>
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> <li>• <b>Development Application Assessment Report</b></li> <li>• <b>Draft Conditions of Consent</b></li> <li>• <b>Submissions</b></li> </ul>

Recommendation	That DA No 2016/44] be approved subject to the imposition of conditions contained in Attachment 1.
Report by	<b>Leanne Ivanov, (Urban Planner)</b>
Report date	<b>22 August 2016</b>

# PLANNING REPORT

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## Preamble

### 1. Description of proposal

The proposal is to subdivide approximately 4 ha (proposed lot 3) from Lot 103 which has a current area of 16 ha and will remain for agricultural use; and develop a 3.6mw solar farm on proposed lot 3. The Solar farm component will consist of:

- Two solar arrays, 4 blocks wide (east-west) and 8 blocks high (north-south). Each block is made up of 180 PV modules arranged 10 PV modules high (north-south) and 24 PV modules wide (east-west),
- 4 Inverter Stations (15 inverters each x 60kVA = 1.8MVA total)
- 2 MVS Sub-Station (1 x Eastern Array, 1 x Western Array)
- Overhead 22kV Feeder line with MV pole mounted recloser; and
- 1.8 m high surrounding chain wire fence with 2 x 6 m double leaf gates.

The development includes infrastructure provided by a private company and has a capital investment value of \$6 million. Consequently the Development Application is required to be determined by the Joint Regional Planning Panel (JRPP) as the development will be for infrastructure undertaken by a private authority with a capital investment value over \$5 million, as per Schedule 4A, Part 6 of the *Environmental planning and Assessment Act 1979*.

### 2. Site Characteristics

The subject property (Lot 103 DP755980) is located on the southern side of Kentucky Lane.

The site is flat with no vegetation other than cropping stubble.

Adjoining land uses consist of primary production and rural-residential type development, with residential development over the river / border.

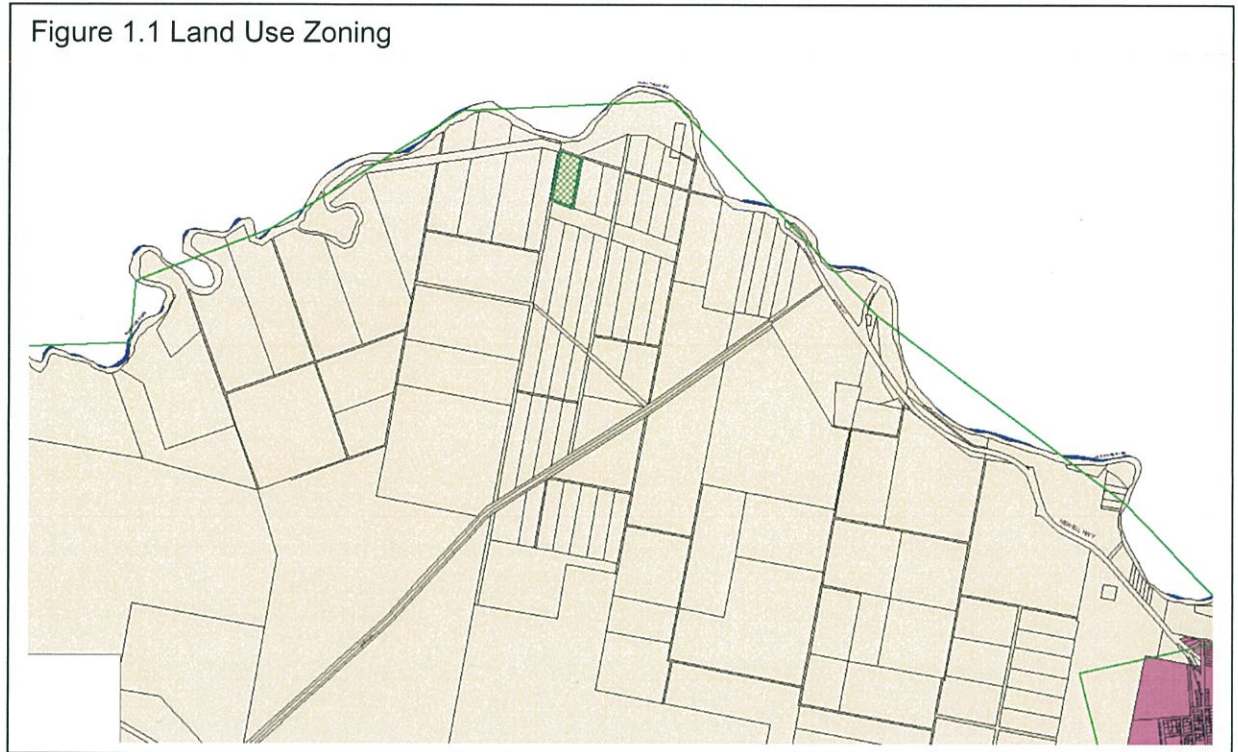
The site is approximately 200m south of the Macintyre River, which forms the shire and state border, and 330m from the nearest dwelling.



### 3. Statutory development assessment framework

#### 3.1. Permissibility

As can be seen in the figure below, the site is zoned **RU1 – Primary Production** under *Moree Plains Local Environmental Plan 2011 (LEP)*. The development proposal is permissible development pursuant to Clause 34 (1) and (7) of *State Environmental Planning Policy (Infrastructure) 2007*.



### 3.2. Public Participation

Pursuant to s79A of the *Environmental Planning and Assessment Act 1979 (EPA Act)*, the development application (**DA**) was publicly notified and advertised.

The DA was notified for a period of 14 days commencing 8 July 2016 and closing 22 July 2016 and then publicly re-notified for a period of 14 days commencing 4 August and closing 19 August 2016. The re-notification included an advertisement appearing in the local papers, being Goondiwindi Argus and the Moree Champion and letters to property owners/occupiers who, in the opinion of Council's Planning and Development Department, may be affected by the proposed development. Those properties that were notified are indicated in the figure below. Goondiwindi Regional Council was also notified of the development

Figure 1.2 Notification plan



During the notification period two submissions were received and are detailed as follows:

Issue	Comment
Put high pressure on the existing levee bank.	The proposed earthworks on site only involve levelling the surface with a maximum of 60mm of fill added to the south eastern corner and a maximum of 250mm to the south western corner. There is no proposed flood mound. SMK Consultants have considered the impact on the Goondiwindi levee and have concluded that the proposed development will have negligible impact on the flow of water and impact on the levee.
Solar Panels will reflect the western sun	The amount of reflection off the panels from the sun is not expected to be significant. The solar farm will utilise the latest solar panels and inverter technologies to ensure maximum efficiency and energy generation. The proposed panel will be made of tempered glass with an anti-reflective coating. Certain design attributes of PV panels increase the absorption of light by reducing



	reflection.
The development will lower the value of property on the northern side of the river	There is no evidence that a development of this type will reduce the value of properties in the vicinity including those on the opposite side of the river. The solar farm will be separated from these dwellings by the river and large established trees on both sides of the river. There is a separation distance of at least 330m between the solar farm and the nearest dwelling.
Glare from the panels	As discussed above in regards to reflection of the sun the same applies to glare. In addition the PV panels are roughened, a process call "stippling" which diffuse reflection and thus eliminate glare.

### 3.3. Referrals

#### External

The application was referred to Goondiwindi Regional Council with no comments submitted.

#### Internal

Moree Plains Shire Council Engineering Design Department

### 3.4. Section 79C assessment

In determining a DA, a consent authority is to take into consideration matters referred to in s79C(1) of the *EP&A Act* as are of relevance to the development the subject of the application. The relevant matters for this application are detailed below:

- a) **Section 79C (1) (a)(i)(ii)(iii)(iiia)(iv)(v) - environmental planning instruments; any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority, any development control plan, and any planning agreement entered into under Section 93F or any draft planning agreement that a developer has offered to enter into under Section 93F, the Regulations, any coastal zone management plan;**

#### **State Environmental Planning Policy No 44—Koala Habitat Protection**

The aim of SEPP 44 is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The DCP contains an "Overview Map of Potential Koala Habitat" and indicates that the subject site is not mapped as potential koala habitat. No further investigation was required as this site has been used for cultivation and there are no trees on the site.

#### **State Environmental Planning Policy No. 55 – Remediation of Land**

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment and requiring that any remediation work meet certain standards and notification requirements. The previous use of the site was for agricultural activities such as cropping and there is no evidence to suggest that the site is or might be contaminated to a level that would impact on the proposed use.

## **State Environmental Planning Policy (Infrastructure) 2007**

Clause 33-39 of the SEPP relates to development for the purpose of electricity generating infrastructure including 'Solar Energy Systems'.

Clause 34(1) states *development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone*. The subject property, being zoned RU1 – Primary Production, is a prescribed rural zone.

The proposed solar energy generation facility is consistent with this clause.

## **State Environmental Planning Policy (State and Regional Development) 2011**

Pursuant to clause 20 of *State Environmental Planning Policy (State and Regional Development) 2011* the development, being electricity generating works with a capital investment value of more than \$5 million, is included in Schedule 4A to the the EPA Act. Consequently, pursuant to clause 21 of *State Environmental Planning Policy (State and Regional Development) 2011*, certain council consent functions, including determination of the DA, are exercised by the regional panel.

## **Moree Plains Local Environmental Plan 2011 (LEP)**

### Land Use Table

The land is zoned RU1 – Primary Production under the LEP. The zone objectives as provided in the Land Use Table are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*  
Comments: This objective is complied with as the proposal will allow primary production to continue on the remaining land whilst utilising the high solar radiance to generate electricity to be used in the area.
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*  
Comments: This objective is complied with as the proposed Solar Farm provides diversity from the surrounding primary production.
- *To minimise the fragmentation and alienation of resource lands.*  
Comments: This objective is complied with as the proposed Solar is located along the road and will not interfere with the continuing primary production on adjoining land.
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*  
Comments: This objective is complied with as the surrounding land is zoned RU1 – Primary Production and will continue to be used for those purposes without conflict with the proposed Solar Farm.
- *To permit development for certain purposes if it can be demonstrated that suitable land or premises are not available elsewhere.*  
Comments: This objective is believed to be complied with as the subject size meets the requirements for solar farms; being flat land with access to solar radiance.

Under clause 2.3(2) of the LEP, the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. It is considered that the proposed Solar Farm and subdivision is consistent with the objectives of the land use zone for the following reasons.



The development is defined Electricity Generating works and is permissible with consent in the zone under Clause 34(1) of State Environmental Planning Policy (Infrastructure) 2007.

#### Clause 4.1 – Minimum subdivision lot size

The minimum lot size on the lot size map in relation to this land is 100ha.

#### Clause 4.2 – Rural subdivision

The objective of this clause is to provide flexibility in the standards for subdivision in rural zones and allows for the land to be subdivided for the purpose of primary production to create a lot of a size less than the minimum size shown of the 'Lot Size Map' providing there is no dwelling existing on the lot nor one be erected. In this regard proposed lot 1 is permissible with consent under this clause. This lot will continue to be used for primary production and consolidated with other adjoining lots under a separate application.

#### Clause 4.2A – Exceptions to minimum lot sizes for certain rural subdivisions

- (1) *The objective of this clause is to enable the subdivision of land in rural areas to create lots of an appropriate size to meet the needs of permissible uses other than for the purpose of dwelling houses or dual occupancies.*

Comments: The proposed Solar Farm will be situated on this proposed lot having an area of 4ha and no dwellings are situated on the site.

- (2) *The consent authority is to be satisfied that the use of the land after the subdivision will be the same use permitted under the existing development consent for the land.*

Comments: In this regard this application includes both the land use and the subdivision and therefore complies with this clause.

- (3) *Development consent must not be granted for the subdivision of land to which this clause applies unless the consent authority is satisfied that:*

- a) The subdivision will not adversely affect the use of the surrounding land for agriculture, and*
- b) The subdivision is necessary for the ongoing operation of the permissible use, and*
- c) The subdivision will not increase rural land use conflict in the locality, and*
- d) The subdivision is appropriate having regard to the natural and physical constraints affect the land.*

Comments: The proposed subdivision to create lot 3 with an area of 4ha complies with this clause of the LEP as the solar farm to be developed on this lot will not adversely affect the use of surrounding land for agriculture. The funding to be used for the Solar Farm is dependent on it being on a separate title. There will be no increase in rural land use conflict in the locality and will not adversely affect the natural and physical constraints of the land.

#### Clause 5.10 – Heritage conservation

Heritage was considered during the assessment. In brief, it is concluded that the site does not contain any European heritage items, conservation areas or indigenous places or objects.



The site is not identified as or located near a known Aboriginal Place of Heritage Significance on the Aboriginal Cultural Significance map or in the Moree Plains Aboriginal Heritage Study and therefore no Aboriginal Heritage Impact Assessment is required.

#### Clause 7.6 Flood Planning

The natural ground level of the site at the proposed location of the solar farm is 215.9 m AHD which is below the flood planning level (the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard) and consequently the flood planning clause (Clause 7.6) of the LEP is applicable to the land.

1. *The objectives of this clause are as follows:*

- a) *To minimise the flood risk to life and property associated with the use of land,*

Comments: The proposed development does not contain any buildings however all sensitive infrastructure such as panels, inverters and transformers will be constructed at 217AHD which is 350 mm above the predicted Probable Maximum Flood.

- b) *To allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*

Comments: The proposed development does not contain any buildings however all sensitive infrastructure such as panels, inverters and transformers will be constructed at 217AHD which is 350 mm above the predicted Probable Maximum Flood.

- c) *To avoid significant adverse impacts on flood behaviour and the environment.*

Comments: The site will be levelled with a maximum of 60mm of fill added to the south-eastern corner and a maximum of 250mm to the south-western corner. This is not inconsistent with levelling works which may be undertaken for agricultural purposes. It is therefore not expected to cause any increased impact on adjoining properties and infrastructure by flood water as a result of this development. The applicant's consultants, SMK Consultants, have considered the impact on the Goondiwindi levee and have concluded that the proposed development will have negligible impact on the flow of water and impact on the levee.

2. *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

- a) *Is compatible with the flood hazard of the land, and*

Comments: The land's flood hazard in a PMF is likely to be low. Therefore, given that the premises are not residential in nature, would not be occupied for extended periods of times and have long flood warning times it is considered that the development is compatible with the flood hazard of the land

- b) *Is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*

Comments: Due to the use and design of the development and the extensive floodplain within which it sits the development is not likely to have an adverse effect on flood behaviour. Consequently it would not be expected to cause detrimental increases in the potential flood affectation of other development or properties.

c) *Incorporates appropriate measures to manage risk to life from flood, and*

Comments: The development will not be occupied for extended periods of time. It will be attended periodically for maintenance and cleaning activities. Given the long flood warning times experienced in the shire there is expected to be sufficient time to prepare for flood events) therefore it is not considered appropriate to incorporate any further measures to manage risk to life from flood.

d) *Is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*

Comments: The development is not likely to adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

e) *Is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Comments: Due to the use and design of the development is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

### ***Moree Plains Development Control Plan 2013 (DCP)***

The proposed development complies with the following relevant chapters of Moree Plains Development Control Plan 2013.

#### Flooding

The proposed development meets the 'Performance Outcomes' of the DCP and is consistent with the principles of the NSW Flood Plain Development Manual, 2005. The development does not involve any habitable buildings and therefore will not materially increase the risk to life. Risk to property is managed by the sensitive infrastructure (panels, inverters and transformers) being 350mm above the predicted Probable Maximum Flood.

#### Carparking

The 'Performance Outcomes' of the DCP requires new car parks to be sufficient in number and design to provide appropriately for the needs of new developments. Once the infrastructure is installed and operational the only access to the site will be for maintenance and cleaning purposes. In this regard no designated parking is required.

#### Notification

The application was notified as discussed earlier in this report.

**b) *Section 79C (1)(b) – the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality:***



### Context & Setting

As discussed earlier the proposed development is located in rural area with surrounding uses consisting of primary production, rural-residential type development and residential development on the northern side of the river. The development will have some impact in terms of context and setting visually. The panels are low set with a maximum height of 1.05m and the other structures (substation and inverter station) a maximum of 3.7m. Due to the existing mature trees on either side of the river and the nature of the surrounding development on the southern side of the river this impact is acceptable subject to compliance with conditions of consent.

### Noise

The development will produce noise during operation however this would be limited to daylight hours and is required to meet relevant standards. Construction noise will be managed through conditions to limit the timing of construction to approved construction hours.

It is considered that the likely impacts of the development including design, height, overshadowing, privacy, car parking, traffic and drainage have been satisfactorily addressed.

The proposed development has been designed in compliance with the 'Performance Outcomes' of the DCP and it is believed that the proposed development will not have any unfavourable social or environmental impacts.

**c) *Section 79C (1)(c) - the suitability of the site for development;***

The subject site is zoned RU1 – Primary Production and 'Electricity Generating activities' are permitted with consent under State Environmental Planning Policy (Infrastructure). The proposed development is on a Flood Control Lot however the character of the development and the submitted design measures address this issue. The site is therefore considered suitable for the proposed development subject to the imposition of the conditions contained in Attachment 1.

**d) *Section 79C (1) (d) – any submissions made in accordance with the Act or the Regulations;***

As discussed earlier.

**e) *Section 79C (1) (e) – the public interest.***

The proposal has been designed in line with the adopted standards of the DCP and as such, development consent of this proposal will not undermine the public interest.

## **5. Recommendation**

It is recommended that DA2016/44, for the erection of a Solar Energy System (Electricity Generating Works) and subdivision be approved subject to the draft conditions contained in Attachment 1.

Attachment 1 – Draft conditions of consent

SCHEDULE B  
ADMINISTRATIVE CONDITIONS



Development Description

1. Except as amended by the conditions of this consent, development consent is granted only to carrying out the development as described in Schedule A.

Development in Accordance with Plans

2. The Applicant shall carry out the development generally in accordance with the:
- a) Statement of Environment Effects dated June 2016; and
  - b) Environmental Planning and Assessment Act and Environmental Planning Instruments (where applicable), the Local Government Act, the Plumbing and Drainage Act and other applicable statutory codes or legislation
  - c) Following drawings, except for:
    - i) Any modifications which are Exempt' or Complying Development;
    - ii) Otherwise provided by the conditions of this consent.

Drawings prepared by SMK Consultants			
Drawing No.	Revision	Name of Plan	Date
	A	Proposed Subdivision	17-06-2016

Inconsistency Between Documents

3. If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

Limits of Approval

4. This consent will lapse five years from the date of consent unless the works associated with the development have physically commenced.

Prescribed Conditions

5. The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.



## SCHEDULE C PERFORMANCE CONDITIONS

### **BEFORE COMMENCEMENT OF WORKS**

#### **Notification to neighbours**

6. The person having the benefit of this development consent must give at least two days' notice in writing of the intention to commence the works to the owner or occupier of each dwelling that is situated within 20m of the lot on which the works will be carried out.

*(Reason: To notify the surrounding residences of the approved development)*

#### **Construction certificate required**

7. Prior to commencement of any works, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the development consent. A Construction Certificate issued by a Private Accredited Certifier is to be deposited with Council at least 48 hours prior to the commencement of any works.

*(Reason: Statutory requirement)*

#### **Utility Services**

8. Prior to the commencement of work the Applicant is to negotiate with the utility authorities in connection with the relocation and/or adjustment of the services affected by the development. Any necessary alterations to, or relocations of, utility services must be carried out at no cost to the council.

*(Reason: Protection of infrastructure)*

### **BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **Section 94A Development Contributions**

9. In accordance with Division 6 of Part 4 of the Act, the Applicant shall pay the following section 94A monetary contributions:
- a) \$60,000.00, being 1% of the cost of carrying out the development as determined by the Council in accordance with Act and Regulations
  - b) The contribution shall be paid in the form of cash or bank cheque, made out to Moree Plains Shire Council. Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate.
  - c) The contributions will be adjusted in accordance with the requirements of the Moree Plains Development Contributions Plan 2006.

*(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)*

### **Prescribed conditions of development consent**

10. In accordance with Division 8A of Part 6 of the Act, the following conditions are prescribed for development that involves building work:
- a) That the work must be carried out in accordance with the requirements of the Building Code of Australia,
  - b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

*(Reason: Statutory requirement)*

### **Long Service Levy**

11. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

*(Reason: Statutory requirement)*

### **Driveway Access Application**

12. The Applicant shall lodge a Driveway Access Application with Council prior to the issue of a Construction Certificate. The design and construction of the driveway access shall comply with Council's specification in the Driveway Access Policy.

*(Reason: To ensure appropriate access to the site can be achieved)*

### **Appropriate building work plans and specifications**

13. The Applicant shall provide the Certifying Authority with specifications for the development:
- a) That describe the construction and materials of which the building is to be built and the method of drainage, sewerage and water supply, and
  - b) Design drawings for all structural elements of the building including connection details and member specifications, and
  - c) Design drawings for the roof and wall frames, including a bracing and tie down schedule showing all calculations, kN ratings and wind classification., and
  - d) Copies of any compliance certificate to be relied on.

*(Reason: Structural safety)*

### **Footing System Requirements - General**

14. The Applicant shall provide the Certifying Authority with detailed design drawings for the footing system certified by a practising structural engineer as compliant with the relevant sections of Part 3.2 'Footings and Slabs' of the BCA prior to the issue of a Construction Certificate.

The footing system shall be designed for an 'E-D' (Extremely reactive clay sites which can experience extreme deep-seated ground movement from moisture changes) class site in accordance with Part 3.2.4 'Site classification' of the BCA unless accompanied by a detailed Site Classification Report from an appropriately qualified and accredited professional.

*(Reason: Structural safety)*



### **Structural Adequacy Certificate – high hazard flood liable land**

15. The Applicant shall provide the Certifying Authority with certification from a practicing structural or civil engineer with experience in flooding that the proposed development (other than for Class 10 structures under the BCA) can withstand the expected flood velocities, including scour, debris and buoyancy forces prior to the issue of a Construction Certificate.

*(Reason: Structural safety and floodplain risk management)*

### **Flood compatible materials**

16. Materials used for structural purposes and located below the FHL must be capable of resisting damage, deterioration, corrosion or decay taking into account the likely time the material would be in contact with flood water and the likely time it would take for the material to subsequently dry out.

*(Reason: Floodplain risk management)*

*Note: Materials used for structural purposes include loadbearing columns, bracing members, structural connections, fasteners, wall framing members and the like.*

## **DURING CONSTRUCTION**

### **Erosion and Sediment Control**

17. Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

*(Reason: Environmental protection)*

### **Hours of work**

18. The hours of construction, including the delivery of materials to and from the Subject Site, shall be restricted as follows:

- a) Between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- b) Between 8:00 am and 1:00 pm, Saturdays;
- c) No work on Sundays and public holidays.
- d) Works may be undertaken outside these hours where:
  - i) The delivery of materials is required outside these hours by the Police or other authorities;
  - ii) It is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
  - iii) Variation is approved in advance in writing by Council.

*(Reason: Safety and amenity)*

### **Toilet facilities**

19. Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site. Each toilet provided must:
- a) Be a standard flushing toilet, connected to a public sewer, or
  - b) If connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
  - c) A portable toilet.
- (Reason: Health and amenity)*

### **Approved Plans to be on-site**

20. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Subject Site at all times and shall be readily available for perusal by any officer of Council or the PCA.
- (Reason: To ensure compliance with approved plans)*

### **Site Notice**

21. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- a) Showing the name, address and telephone number of the principal certifying authority for the work, and
  - b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c) Stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed
- (Reason: Statutory requirement)*

### **Maintenance of site**

- 22.
- a) Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
  - b) Waste materials must be disposed of at a waste management facility.
  - c) The work site must be left clear of waste and debris at the completion of the works.
- (Reason: To ensure that building and any other site works are undertaken in a manner which will be non-disruptive to the local area.)*



### **Source and content of imported fill**

23. The person responsible for importing fill to the site shall provide validation by way of a statutory declaration confirming the source and content of the fill to ensure that it is suitable for the proposed land use and free from contamination. Details are to be provided to Council prior to the pouring of any slab or footings.

*(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes)*

### **Flood compatible materials**

24. Materials used for structural purposes and located below the FHL must be capable of resisting damage, deterioration, corrosion or decay taking into account the likely time the material would be in contact with flood water and the likely time it would take for the material to subsequently dry out.

*(Reason: Floodplain risk management)*

*Note: Materials used for structural purposes include loadbearing columns, bracing members, structural connections, fasteners, wall framing members and the like.*

### **Requirements for General Utilities – flood hazard areas**

25.

- a) Utilities and related equipment, other than an electrical meter for the building, must not be placed below the flood hazard level (FHL) unless they have been designed specifically to cope with flood water inundation.
- b) Buried systems must be placed at a depth sufficient to prevent damage due to scour and erosion during the defined flood event (DFE).
- c) Exposed systems must be designed to withstand the flood related actions (buoyancy, flow, debris and wave).

*(Reason: Floodplain risk management)*

### **Requirements for Electrical Utilities – flood hazard areas**

26. Unless the electrical supply authority determines otherwise-

- a) Electrical switches must be placed above the flood hazard level (FHL).
- b) Electrical conduits and cables installed below the flood hazard level (FHL) must be waterproofed or placed in waterproofed enclosures.

*(Reason: Floodplain risk management)*

### **Requirements for Mechanical and HVAC systems, tanks and the like – flood hazard areas**

27. Ductwork, tanks, gas storage cylinders and the like must be placed above the flood hazard level (FHL) or designed, constructed, installed and anchored to resist all flood-related actions and other actions during the defined flood event (DFE) with appropriate load factors as given in the relevant sections of the ABCB 'Standard for Construction of Buildings in Flood Hazard Areas'. Potential buoyancy and other flood related actions on the empty tank during the defined flood event (DFE) condition must be considered.

*(Reason: Floodplain risk management)*

### **Traffic Control Plan**

28. Council's standard Traffic Control Plan (TCP) relating to construction work in the Road Reserve shall be adopted at all times during construction work in the Road Reserve.

*(Reason: To ensure safe vehicular and pedestrian access around the site)*

### **BEFORE OCCUPATION CERTIFICATE / COMMENCEMENT OF USE/ SUBDIVISION CERTIFICATE**

#### **Occupation certificate required**

29. Occupation or use of the whole or any part of a new building shall not commence unless an occupation certificate has been issued by the Certifying Authority. The final occupation certificate shall not be issued until such time as all relevant conditions of the development consent have been complied with.

*(Reason: Statutory requirement)*

#### **Road Addressing**

30. The applicant shall apply to Council for written confirmation of the allocated road address(s) for the development. These allocated road address(s) shall be displayed at the property in accordance with the requirements of AS/NZS 4819 - Geographic information - Rural and urban addressing.

*(Reason: Statutory requirement)*

#### **Driveway Access**

31. The constructed driveway(s) shall be inspected at the required intervals specified in Council's Driveway Access Policy and endorsed by Council's Engineering Department prior to the issue of a Final Occupation Certificate.

*(Reason: To ensure compliance with the approved design)*

### **ONGOING USE OF THE DEVELOPMENT / LAND**

#### **Loading and Unloading**

32. All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the Subject Site at all times.

*(Reason: Safety and amenity)*

#### **External Lighting**

33. External Lighting shall comply with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

*(Reason: Neighbourhood amenity)*

#### **Obligation to minimise harm to the environment**

34. The Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation or decommissioning of the Development.

*(Reason: Environmental protection)*

#### **Operation of plant and equipment**



35. The Applicant shall ensure that all plant and equipment used for the Development is:
- a) Maintained in a proper and efficient condition; and
  - b) Operated in a proper and efficient manner.

*(Reason: Neighbourhood amenity)*

### **Dust Management**

36. The Applicant shall carry out all reasonable and feasible measures to minimise dust generated by the Development.

*(Reason: Environmental protection and neighbourhood amenity)*

### **Operational noise**

37. The Applicant shall ensure that the noise generated by the operations on-site does not constitute offensive noise (as defined by the *Protection of the Environment Operations Act 1997*) at any private residential receiver. If, at any time, these levels are exceeded, operation of the development shall immediately be modified, including suspension of operations if necessary, to ensure compliance with this condition.

Any construction noise emissions from the proposed facility during the recommended standard hours shall comply with the Environment Protection Authority's Interim Construction Noise Guideline (CNG).

*Note: Noise management should form part of the operational environmental management plan and would need to include information relating to the equipment to be used, its location, any necessary training of staff etc.*

*(Reason: Neighbourhood amenity)*

### **Pest, Vermin & Noxious Weed Management**

38. The Applicant shall:

- a) Implement suitable measures to manage pests, vermin and declared noxious weeds on site; and
- b) Inspect the site on a regular basis to ensure that these measures are working effectively, and that pests, vermin or noxious weeds are not present on site in sufficient numbers to pose an environmental hazard, or cause the loss of amenity in surrounding area.

*Note: For the purposes of this condition, noxious weeds are those species subject to an order declared under the Noxious Weed Act 1993.*

*(Reason: Environmental protection)*

39. The applicant shall ensure that the development will not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems that connect to Council's storm water system.

*(Reason: Health and amenity)*

**BEFORE SUBDIVISION CERTIFICATE**

39. A plan of survey and three (3) copies, prepared by a Registered Surveyor, are to be submitted for endorsement by Council with the application for a **Subdivision Certificate**.

*(Reason: To enable the linen plan to be legally made.)*

41. All work required by the conditions of this consent must be completed prior to issue of the Subdivision Certificate.

*(Reason: To ensure the requirements of the Environmental Planning & Assessment Act 1979 are satisfied.)*



## **ADVISORY NOTES**

### **Appeals**

1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

### **Other Approvals and Permits**

2. The Applicant is solely responsible for obtaining any necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the Local Government Act, 1993 or Section 138 of the Roads Act, 1993.

### **Responsibility for Other Consents / Agreements**

3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### **Disability Discrimination Act**

4. This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia.

### **Commonwealth Environment Protection and Biodiversity Conservation Act 1999**

5. The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister. This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

### **Site Contamination Issues During Construction**

6. Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Department.



### **Discovery of Aboriginal Heritage**

7. If Aboriginal objects are uncovered during work, excavation or disturbance of the area, work must stop immediately. The Environmental Protection and Regulation Group of the OEHL is to be contacted. Aboriginal archaeological excavation must be co-ordinated with any proposed investigation of non-indigenous material.

### **Insurance Requirements (not applicable to Crown Developments)**

8. No building works shall be commenced and no Council inspection will be carried out on the subject building works until evidence of compliance with Part 6 of the Home Building Act, 1989, has been provided to Council in the form of a Certificate of Insurance provided for by the above Act.

### **Covenants**

9. It is possible that a covenant may affect the land which is the subject of this consent. The grant of this consent does not necessarily override that covenant. You should seek legal advice regarding the effect of any covenants which affect the land.

### **Right of Review by Council (not applicable to Crown Developments)**

10. Under Section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the Council to review its determination except where it relates to a complying development certificate, designated development or integrated development.

### **Dial Before you Dig**

11. Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **Telecommunications Act 1997 (Commonwealth)**

12. Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.



### **General**

13. Development Consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the lapse date except where a condition specifies a limit to the duration of the consent.
14. Where construction work is proposed, the granting of development consent is the first step in the process. Before construction work may commence, a Construction Certificate must be obtained from Council or an accredited certifier.
15. Any alteration to the drawings and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act or a fresh development application. No works other than those approved under this consent shall be carried out without the prior approval of Council.