

DATE OF DETERMINATION	Tuesday, 14 August 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow, Stephen Ritchie and Sue Price
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Moree Plains Shire Council on 14 August 2018, opened at 4.20pm and closed at 4.53pm.

MATTER DETERMINED

2018NTH014 – Moree - DA2018/39 at Lot 21 DP 750514 "Kanowna" Gwydir Highway, Bullarah (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application pursuant to section 4.16 (previously section 80) of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

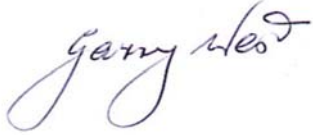


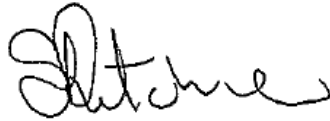

- The proposed development is considered to be generally compatible with its surrounds and would provide an additional revenue stream for the land owners to supplement their existing agricultural operations;
- The proposed levee (under flood work approval 90FW833397) will be 1 m in height above the natural surface and can be constructed higher if deemed necessary;
- All the solar farm infrastructure will be located within the levee;
- In the unlikely event that the levee is breached and solar farm infrastructure is affected, no safety hazard is anticipated due to standard cut-off switches; and
- SEPP 55 Remediation of Land – previous use of the site was for agricultural activities 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.

CONDITIONS

The development application was approved subject to the revised conditions supplied by Council on 10 August 2018 with the following amendments:

- Draft condition 13 was deleted as flood proofing of the equipment was not deemed necessary;

- Draft conditions 23 and 24 were deleted as it was deemed unnecessary to require flood management of the general and electrical utilities due to the intended construction of a levee; and
- Draft condition 27 was deleted as a remediation bond is unnecessary on private land.

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 Stephen Ritchie
 Sue Price	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018NTH014 – Moree - DA2018/39
2	PROPOSED DEVELOPMENT	Erection of a 4.99MW Solar Farm
3	STREET ADDRESS	Lot 21 DP 750514 "Kanowna" Gwydir Highway, Bullarah
4	APPLICANT/OWNER	Kinelli Pty Ltd Ms N L Dallimore, Miss M C Kendall & Mr G A Boland
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Rural Lands) 2008 State Environmental Planning Policy (State and Regional Development) 2011 New England North West Regional Plan 2036 Moree Plains Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Moree Plains Development Control Plan 2013 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 7 August 2018 Written submissions during public exhibition: Nil Verbal submissions at the public meeting: <ul style="list-style-type: none"> Support – NIL Object – Nil On behalf of the applicant – Peter Mailler, Applicant; Hayley Greenham, Planner (SMK Consultants)
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing meeting to discuss council's recommendation, 14 August 2018, on bus travelling from previous site inspection. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Garry West (Chair), Pamela Westing, Stephen Gow, Stephen Ritchie and Sue Price <u>Council assessment staff</u>: Murray Amos, Planner
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Revised conditions supplied by Council on 14 August 2018, as amended at the meeting and as attached.

SCHEDULE 2

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 April 2018 together with any associated documents submitted with the application; 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
		Site plan	

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.

SCHEDULE C

PERFORMANCE CONDITIONS

BEFORE COMMENCEMENT OF WORKS

Construction certificate required

5. 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

6. 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 7.12 Development Contributions

7. In accordance with Division 7.1 of Part 7 of the Act, the Applicant shall pay the following section 7.12 (formerly 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

8. In accordance with 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 National Construction Code,
 - 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

9. 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

10. The proposed vehicular access from the Gwydir Highway shall be constructed in accordance with Austroads Guide to Road Design: Part 4 Figure 7.4 'standard rural property access' and any relevant Roads and Maritime Services supplement. The vehicular access shall be sealed for a minimum of twenty (20) metres from the edge of the highway travel lane, match existing road levels and not interfere with existing road drainage.

The vehicular access shall be designed to accommodate the turning paths of the largest vehicle required to access the land.

Safe Intersection Sight Distance (SISD) requirements outlined in Part 4A Austroads Guide to Road Design shall be provided and maintained in both directions at the intersection of the vehicular access and the Gwydir Highway. For a 110km/h speed environment, SISD is 300 metres.

The requirements in this condition shall be satisfied and endorsed by Roads & Maritime Services prior to the issue of a Construction Certificate.

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

Footing System Requirements - General

11. 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

12. **The Applicant shall provide the Certifying Authority with certification from a practicing structural or civil engineer with experience in flooding that the proposed development 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)

Requirements for Electrical Utilities – flood hazard areas

13. **Construction methods and flood-proofing shall be to the satisfaction of the electrical utility. Documentary evidence of this shall be provided prior to issue of the Construction Certificate.**

(Reason: Floodplain risk management)

Site Environmental Management Plan

14. **A site environmental management plan (SEMP) shall be submitted to Council for endorsement prior to the issue of a Construction Certificate. The SEMP shall address, at minimum, the following issues:**

a) Construction:

- i) **Disposal of wastes (noting any potential limitations on cross-border waste disposal)**
- ii) **Source and type of any imported fill**
- iii) **Dust management**
- iv) **Erosion and sedimentation controls**

b) Operation:

- i) **Noise management**
- ii) **Dust management**
- iii) **Weed and vermin management**
- iv) **Land management including vegetation management**
- v) **Flooding and debris issues**
- vi) **Proposed methods of remediation at the cessation of the development**
- vii) **Levee management**

c) Post-Development

- i) **Monitoring and mitigation measures for future rehabilitation remedial actions**

(Reason: Environmental protection)

Stormwater and Drainage Works Design

15. **Final design plans of the stormwater drainage system within the proposed levee, prepared by a qualified practicing professional and in accordance with the requirements of council shall be submitted to the certifier prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.**

(Reason: Adequate stormwater management)

DURING CONSTRUCTION

Erosion and Sediment Control

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

(Reason: Environmental protection)

Toilet facilities

17. Toilet facilities must be provided on the work site during construction 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

18. 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

19. 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

- 20.
- 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

21. 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)*

BEFORE OCCUPATION CERTIFICATE

Occupation certificate required

22. 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

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

(Reason: Statutory requirement)

ONGOING USE OF THE DEVELOPMENT / LAND

Loading and Unloading

24. 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)

Obligation to minimise harm to the environment

25. 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

26. 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

27. The Applicant shall carry out all reasonable and feasible measures to minimise dust generated during the construction, operation and decommissioning of the Development.

(Reason: Environmental protection and neighbourhood amenity)

Pest, Vermin & Noxious Weed Management

28. The Applicant shall:

- a) Implement suitable measures to manage pests, vermin and declared noxious weeds on the site of the development; 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)

Overland water flows

29. The applicant shall ensure that the development will not result in the diversion of overland surface waters onto adjoining properties or the Gwydir Highway and where necessary shall construct appropriate surface drainage systems.

(Reason: Health and amenity)

Bushfire Protection

30. The development shall maintain a 10m APZ, which will comprise of 10m of Inner Protection Area (IPA). The APZ shall be maintained to ensure fuel load is minimised, through measures such as mowing and spraying of grasses and weeds. The APZ must be maintained within the boundaries of the development property (i.e. within Lot 21, DP 750514) in accordance with the NSW Rural Fire Service document 'Planning for Bush Fire Protection 2006'.
- (Reason: Protection from bushfire)*

AT COMPLETION OF USE OF THE DEVELOPMENT / LAND

Post-development remediation

31. As part of the Site Environmental Management Plan (SEMP), a Rehabilitation and Decommissioning/Closure Plan must be prepared and submitted for approval by Council. The plan must include rehabilitation objectives and strategies, including:
- a) Description of the design criteria of the final landuse and landform;
 - b) Indicators to guide the return of the land back to agricultural production;
 - c) Expected timeline for the rehabilitation program;
 - d) Management controls regarding decommissioning and removal of all solar arrays,
 - e) Above and below ground infrastructure and any structures or infrastructure relating to the solar energy works, upon cease of solar energy works;
 - f) A commitment to remove all solar farm infrastructure including materials located below the land surface.
- All works shall follow the same management principles outlined in the SEMP.
- (Reason: Site remediation)*