

Development Assessment Report

Panel Reference	2019NTH008
DA Number	DA2019-0304
LGA	Tamworth Regional Council
Proposed Development	Construction and use of a 9MW solar farm and associated infrastructure
Street Address	Lot 1 DP 1234850, 72 Wallamore Road, Taminda
Applicant/Owner	Elton Consulting/Mr HD Stearman
Date of Lodgement	4 February 2019
No. of Submissions	1 submission of objection.
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Private infrastructure for the purpose of electricity generating works with a capital investment value of more than \$5 million

List of all relevant 4.15 (1) matters	Environmental Planning Instruments: s4.15(1)(a)(i) <ul style="list-style-type: none"> • State Environmental Planning Policy No.55 – Remediation of Land; • 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; and • Tamworth Regional Local Environmental Plan 2010.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Annexure A – Associated Plans including Architectural Design, Landscape Master Plan and Stormwater Design; • Annexure B – Recommended Conditions of Consent; • Annexure C – Reflective and Illumination Glare Report prepared by SLR Consulting Australia Pty Ltd; • Annexure D – Agency Responses; and • Annexure E – Submission and the Applicant's response to the submission.
Report prepared by	Amanda Faulkner – Senior Development Assessment Planner
Report date	24 July 2019

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarised, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **N/A**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the Applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the Applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY:**Reason for consideration by the Joint Regional Planning Panel:**

The application must be determined by the Regional Planning Panel pursuant to Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011*, as the proposal is for electricity generating infrastructure by a private developer and has a capital investment value of \$8.4 million.

Description of Proposal:

The proposed development involves the construction and operation of a 9 Mega Watt (MW) solar farm covering approximately 7.7 hectares. The project is proposed to consist of:

- 32 modules, each module comprises 864 photovoltaic (PV) panels. Each module is 24 PV panels wide (east-west) and 36 PV panels long (north-south). PV panels are paired and are mounted on an alternate height framing system. A total of 27,648 PV panels are proposed. Each panel is 2 metres x 1 metre.
- The PV panels will be mounted on steel pegs and will have a maximum height of 1.05 metres.
- Two combined inverter/transformer stations and eight battery storage containers within a combined storage capacity of 20 MWh (2.5 MWh per container).

- The provision of 1.8 metre high chain wire fence around the solar modules to provide a compound. Pedestrian and vehicle access to the compound will be from a set of double leaf gates located adjacent to the south-east corner of the compound. Low scale security lighting will be provided within the compound.
- Earthworks (cut and fill) within the 7.7 hectare compound, to provide a pad for the infrastructure, are required to provide a safe operating zone for the solar farm. The proposed cut is 7,302 cubic metres and the proposed fill is 4,876 cubic metres. A net result is a cut of 2,426 cubic metres. Fill will not be imported to the site. The proposed finished ground level (371RL) is approximately 1 metre below the 1 in 100 year flood level (372RL). The solar farm steel peg support system will provide a 1-1.2 metre clearance from the proposed finished ground level. This places the solar panel infrastructure approximately 200mm above the 1 in 100 year flood level.
- The construction of a vehicle access road and parking area adjacent to the south-eastern corner of the compound. The vehicle access road is to be compacted 200mm densely graded gravel and will be 4 metres in width. The vehicle access road will connect to Dampier Street.

The Applicant has advised that the construction programme for the solar farm project is 12 weeks and that no heavy machinery is proposed for the installation of the solar panels. Heavy machinery would be used for the completion of the earthworks.

The solar farm will provide renewable energy to the grid from an existing Essential Energy 11kv substation feeder line that is located to the south of the development site in Wallamore Road and to a padmount substation to be located on Lot 2 DP 1234850 (see Figure 1). The cable will be provided both above and below ground.

advertised in the local newspaper, the Northern Daily Leader on 13 April 2019 and notification letters were sent to all adjoining property owners. One submission of objection was received during the exhibition period and has been addressed in this report.

Planning Proposal:

Council has received a Planning Proposal for lands located to the south of the site. The Planning Proposal relates to 55 Dampier Street (Lot 3 DP 1234850), 21 Wallamore Road (Lot 2 DP 1234850) and a paper road that traverses Lots 2 and 3 DP 1234850.

The Planning Proposal aims to facilitate industrial and business development on the lots and relates to zoning, minimum lot size, floor space ratio and flood planning and is independent to the subject development proposal, other than the objective of the solar farm is to provide renewable energy for future development on the subject lots.

Recommendation:

It is recommended that DA2019-0304 be approved subject to the conditions contained in **ANNEXURE B**.

Annexures:

- **Annexure A – Associated Plans including Architectural Design, Landscape Master Plan and Stormwater Design**
 - **Annexure B – Recommended Conditions of Consent**
 - **Annexure C – Reflective and Illumination Glare Report prepared by SLR Consulting Australia Pty Ltd**
 - **Annexure D – Agency Responses**
 - **Annexure E – Submission and the Applicant's response to the Submission**
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Subject Site and Locality:

The subject land has a total area of 91.2 hectares and comprises Lot 1 DP 1234850. The subject site is used for extensive agriculture (cropping) and does not contain any habitable structures or farm buildings.

The surrounding locality is characterised by a mix of agricultural, industrial and recreational land uses. The site is bounded to the south by light industrial lands that are accessed from Dampier Street and Kingsford Smith Street. Agricultural lands are located to the north and west, with the Peel River also being located to the north. The Tamworth Jockey Club adjoins the site to the east. The subject site has a narrow direct frontage to Dampier Street. See Figure 2.

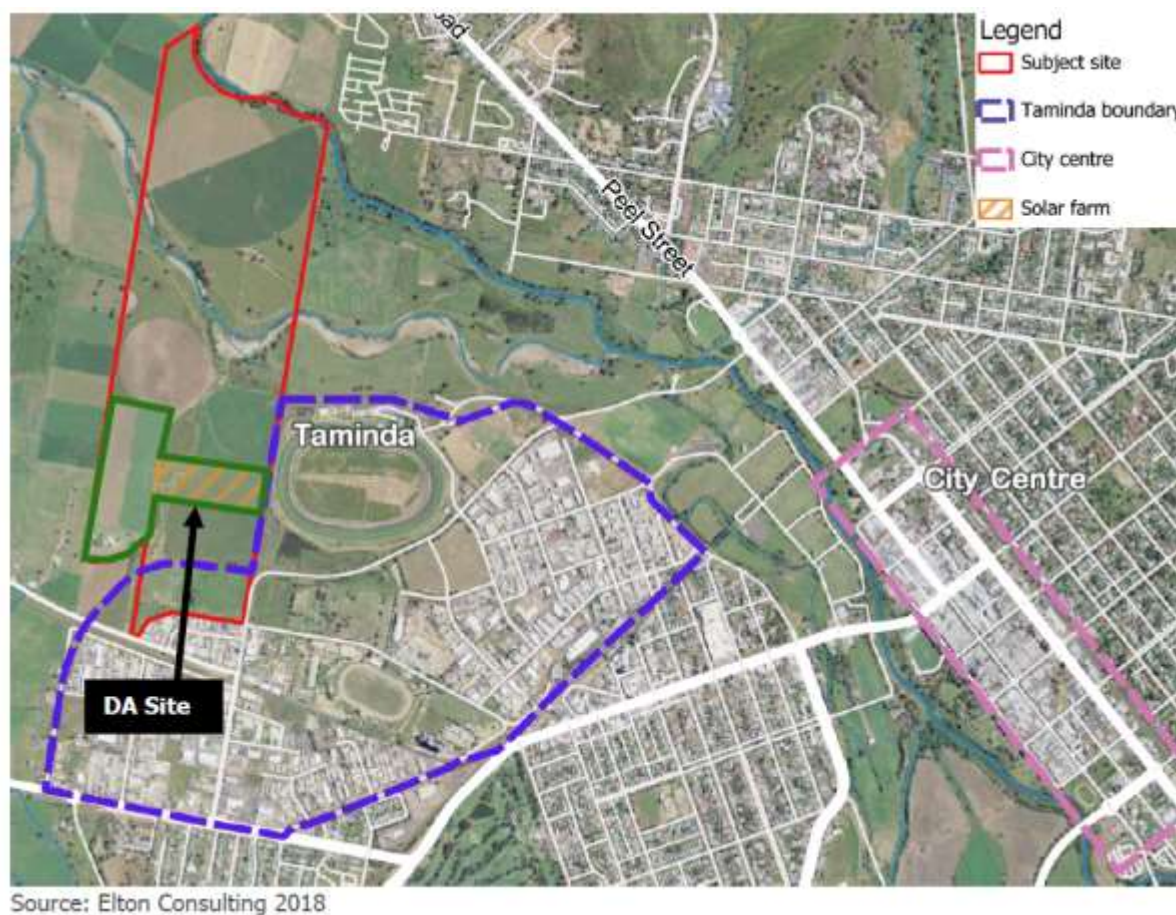


Figure 2: Aerial Image of Site and Surrounding Land

External Referrals:

Civil Aviation Safety Authority (CASA)

The application was referred to CASA who recommended that a glare analysis of the solar farm along the runway alignment and within 2nm of the runway end be undertaken. They also identify

that at the closest point the panels are located 1.96nm from the runway end and not runway aligned. Therefore the likelihood the panels will impact on the aerodrome is low and are unlikely to present a hazard to air navigation. A Reflective and Illumination Glare Report has been prepared by SLR Global to accompany the application and is discussed later in the report. The report is **ATTACHED**, refer **ANNEXURE C**.

National Resources Access Regulator (NSW DPI Water)

The application was referred to NSW DPI Water who advised that for the purposes of the Water Management Act 2000, a controlled activity approval is not required and no further assessment is necessary.

The agency responses are **ATTACHED**, refer **ANNEXURE D**.

Internal Referrals:

Development Engineering

The requirements with respect to roads, drainage and flooding are discussed under the relevant sections of the report, and conditions are recommended with respect to these matters.

Neither reticulated water nor sewer are connected to the site, and will not be required for the project.

Environmental Health

Environmental matters including noise, pest and weed management, contamination and dust mitigation are addressed under the relevant sections of the report, and conditions are recommended with respect to these matters.

NSW Environmental Planning and Assessment Act 1979

In determining a Development Application, the consent authority must take into consideration matters referred to in Section 4.15 of the *Environmental Planning and Assessment Act 1979* as are of relevance to the development. The following section of this report summarises the relevant matters for consideration and provides a planning response.

4.15 (1)(a)(i) the provisions of any environmental planning instrument

Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* requires any “electricity generating station”, such as a solar farm, that generates more than 30MW of electrical power to be designated development. As the proposed solar farm is expected to generate a maximum of 9MW, the project is not designated development.

Further, the proposed solar farm is not integrated development under Division 4.8 of the *Environmental Planning and Assessment Act 1979*.

Biodiversity Conservation Act 2017

The *Biodiversity Conservation Act 2017* provides a basis for the Biodiversity Offset Scheme (BOS). Development that is subject to the BOS scheme includes development that needs consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (excluding complying development), activities under Part 5 of the *Environmental Planning and Assessment Act 1979*, State significant development and State significant infrastructure.

Where development or an activity is, “likely to significantly affect threatened species”, a Biodiversity Development Assessment Report (BDAR) must be prepared and the consent authority is required to consider the likely impact of the proposed development on biodiversity values before granting approval.

The threshold test of whether development or an activity is “likely to significantly affect threatened species” (and therefore whether a BDAR is required) is reached if:

- The test in section 7.3 of the BC Act is met;
- The BOS Threshold is met;
- The development is carried out in a declared area of outstanding biodiversity value.

A flora and fauna assessment was prepared by Travers Bushfire and Ecology to accompany the Development Application. The report includes an assessment using the online Biodiversity Offsets Scheme Entry Tool, which determines whether any proposed clearing would be above or below the area thresholds or lies within an area mapped as having high biodiversity value.

The report concludes that the proposed development site is not located within a declared area of outstanding biodiversity value, and the proposal does not involve any clearing of vegetation that would exceed the BOS Threshold. A test of significance also determined that the proposal is not likely to significantly affect threatened species, and that further assessment under the BAM and the preparation of a BDAR is not required.

State Environmental Planning Policy (State and Regional Development) 2011

Schedule 7 of *State Environmental Planning Policy (State and Regional Development) (2011)* identifies that “electricity generating works” carried out by a private developer, with a Capital Investment Value (CIV) of more than \$5 million to be Regionally Significant Development. The proposed development has a CIV of \$8.4 million and is being carried out by a private developer. Therefore, the proposal is Regionally Significant Development.

State Environmental Planning Policy No. 55 - Remediation of Land

In accordance with *State Environmental Planning Policy No. 55 - Remediation of Land*, a consent authority must not consent to the carrying out of any development on land unless:

- i) It has considered whether the land is contaminated, and
- ii) If the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and iii) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The aim of *State Environmental Planning Policy No. 55 - Remediation of Land* 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.

A Preliminary Site Investigation was undertaken by eiaustralia to accompany the Development Application. The report characterises the environmental conditions of the site based on historical land uses and is supplemented by anecdotal and documentary evidence of possible pollutant sources.

The report concludes that widespread contamination is unlikely to be present, that further investigation is not warranted and the site is suitable for the proposed solar farm use.

Although the land has been identified as suitable for the proposed use, measures to manage the risk of potential contamination as a consequence of the project will need to be implemented. Therefore, conditions are recommended to require that the Applicant store and handle all dangerous goods (as defined by the Australian Dangerous Goods Code) correctly and that combustible liquids and dielectric fluid is properly managed.

State Environmental Planning Policy (Rural Lands) 2008

The aims of the *State Environmental Planning Policy (Rural Lands) 2008* are to:

- a) *To facilitate the orderly and economic use and development of rural lands for rural and related purposes.*

Comment: The development proposal is for the use of 7.7 hectares of an existing 91.2 hectares agricultural property for the purpose of renewable energy generation purposes and it is considered that the proposed development and continuation of extensive agriculture on the remaining portion of the land satisfies this aim.

- b) *To identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State.*

Comment: The Rural Planning Principles are reproduced below and where relevant, the proposed solar farm is consistent.

- c) *To implement measures designed to reduce land use conflicts.*

Comment: As discussed in this report, the proposal is considered to be compatible with adjacent land uses which are predominately agricultural, light industrial and recreational.

- d) *To identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations.*

Comment: The site is not mapped as being Biophysical Strategic Agricultural Land in the New England North West Regional Plan 2036. The proposed solar farm will complement the agricultural use of the balance of the property.

- e) *To amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.*

Comment: Not relevant.

The Rural Planning Principles *State Environmental Planning Policy (Rural Lands) 2008* are as follows:

- a) *The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;*
- b) *Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State;*
- c) *Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development;*
- d) *In planning for rural lands, to balance the social, economic and environmental interests of the community;*
- e) *The identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;*
- f) *The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;*
- g) *The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing; and*
- h) *Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The Agricultural Report prepared to accompany the Development Application concludes that the land contains medium to good agricultural land characteristics. However, given it is a flood planning area, it is in close proximity to urbanisation and it is isolated from other lands, the proposed small scale solar farm will not remove significant agricultural land from the Local Government Area. It is also considered that the operations are compatible with the continuation of extensive agriculture on the balance of the property.

New England North West Regional Plan 2036

The *New England North West Regional Plan 2036* prioritises solar renewable energy production opportunities within the Tamworth Regional Council area and the surrounding region.

The site is not mapped as comprising Biophysical Strategic Agricultural Land.

The Plan outlines 9 Strategic Directions for the North West Slopes and Plains region in NSW. Strategic Direction Number 5 is to “Grow New England North West as the renewable energy hub of NSW”. The Plan encourages the following actions to be taken to achieve this goal:

- a) Diversify the energy sector by identifying renewable energy resource precincts and infrastructure corridors with access to the electricity network; and
- b) Facilitate appropriate smaller-scale renewable energy projects using biowaste, solar, wind, hydro, geothermal or other innovative storage technologies.

The proposed small scale solar farm will contribute to achieving the Strategic Direction Number 5 actions, as it will capitalise on the existing high rates of regional solar penetration to expend and provide diversity in electricity generation.

Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010)

Permissibility

The land is zoned RU4 Primary Production Small Lots pursuant to the *Tamworth Regional Local Environmental Plan 2010*. The proposed solar farm is defined as “electricity generating works”.

“Electricity generating works” is defined as:

“... a building or place used for the purpose of making or generating electricity.”

“Electricity generating works” are permissible development with consent in zone RU4.

The objectives of zone RU4 zone are:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposed development is consistent with the objectives of the zone. In this regard, the land contains medium to good agricultural land characteristics. However, given it is flood planning area, it is within close proximity to urbanisation and it is isolated from other lands, it is considered that the proposed small scale solar farm project is compatible with zone RU4 and will not impact on agricultural lands within the Local Government Area or result in land use conflict.

Clause 7.2 Flood Planning

The subject land is identified as a “flood planning area” on the Flood Planning Map.

A Flood Impact and Riparian Land Assessment Report was undertaken by Tooker and Associates to accompany the Development Application. The report considers the potential impacts of flooding behaviour and the impacts on waterfront land as defined by the Water Management Act 2000.

The report concludes that the proposed solar farm will have no significant impacts on the flooding behaviours on adjacent properties and no adverse impacts on the development by floods up to the 100 year flood.

A condition is recommended to require that any electrical infrastructures including the solar panels are set above the 1:100 ARI (average recurrent interval) flood level. For clarification, this recommended condition does not relate to underground power reticulation where cables are housed in conduits.

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*

Comment: The proposal is for the construction of solar farm infrastructure and is considered to be compatible with the flood hazard of the land, being characterised as a flood storage area. The site is subject to relatively low flood heights and velocities. The construction materials are required to be compatible with flooding.

- 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*

Comment: As the site is a flood storage area, the potential for any adverse impacts on flood behaviour are unlikely.

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

Comment: Upon becoming operational the proposed solar farm would not be occupied by workers apart from periodical servicing and maintenance. Nonetheless, a condition of consent has been recommended to require the submission of an Construction Environmental Management Plan for the site, which includes evacuation measures in the event of flooding.

- 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,*

Comment: The development is not likely to adversely affect the environment or cause erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. This is due to the nature of the development, its proposed location and mitigation measures.

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

Comment: The proposed solar farm would not likely result in unsustainable social and economic costs to the community as a consequence of flooding. Potential impacts on the

flood planning area have been a key consideration in the design and assessment of the proposal. It is considered that the proposal is able to be developed with minimal impact on the flood planning area. The development is considered to have a low level of susceptibility to flood impacts due to its location, the type of construction proposed and the presence of standard cut-offs switches for the development.

Clause 7.6 Development in flight path

Clause 7.6 aims to ensure developments do not impact on the ongoing operation of the Tamworth Regional Airport. The subject site has a maximum Obstacle Height Limit of 45 metres above ground level. The proposed development does not penetrate the 45 metre limit.

The application was referred to the CASA and their comments are **ATTACHED**, refer to **ANNEXURE D**. A Reflective and Illumination Glare Analysis Report has been prepared by SLR Global to accompany the Development Application. The potential glare conditions considered by the report were:

- Daytime – Reflective glare (and glint) arising from the solar PV panels within the facility; and
- Night-time – Illumination glare from 24/7 operational security lighting within the facility.

With respect to the potential glare conditions, the Report considered the following:

- Aviation Sector Reflective Glare;
- Motorist “Disability” Reflective Glare and Pedestrian “Discomfort” Reflective Glare;
- Tail Operator Reflective Glare;
- Industrial (Critical Machinery) Operator (heavy vehicles etc) Reflective Glare; and
- Residential “Nuisance” Glare from daytime reflections or night time illumination.

In all cases it was found that the potential for adverse glare from the proposed facility will be minimal, with one potential exception which relates to the operation of the Tamworth Racecourse. This is discussed later in the report.

4.15 (1)(a)(ii) 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

Nil applicable.

4.15 (1)(a)(iii) any development control plan

Tamworth Regional Development Control Plan 2010 (TRDCP 2010)

The *Tamworth Regional Development Control Plan 2010 (TRDCP 2010)* does not contain controls that are applicable to the proposed use of the land for “electricity generating works”.

4.15 (1)(a)(iia) any planning agreement that has been entered into under section 7.4 or any draft planning agreement

The proposal and the site are not subject to a planning agreement.

4.15 (1)(a)(iv) the regulations

The proposed development will require a Construction Certificate and will be required to be constructed in accordance with the Building Code of Australia.

4.15 (1)(b) the likely impacts of that development

Technological Hazards

A Reflective and Illumination Glare Analysis Report has been prepared by SLR Global to accompany the application. The report concludes that the lack of glare potential is due to a number of factors including the distances of receivers (aviation, motorist, rail, residential) from the solar farm and their respective line of sight relative to solar reflections from the facility, as well as the presence of intervening building, vegetation etc.

As noted previously in the report, in all cases it was found that the potential for adverse glare from the proposed facility will be minimal, with one potential exception which relates to the operation of the Tamworth Racecourse.

Although not required by any published criteria, the report recommends that to protect the Tamworth Racecourse operations, either a solid or plant barrier (ranging in height from 0.5 metre to 1.5 metres above ground level) running along the eastern perimeter of the site should be provided.

A plan is included on page 29 of the report illustrating the recommended location of a barrier. This barrier does not extend to the 1000 metre holding and start chute for the Tamworth Racecourse which is located adjacent to the south east corner of the site. This has been raised as a concern by the Tamworth Racecourse. As the report has specifically considered the proximity of the chute to the proposed development and concluded that the magnitude of the glare will not impact operations, it is not considered necessary to request that the barrier be extended. However, to maintain a consistent appearance along the boundary, it is recommended that the barrier height is 1.5 metres for the entire distance shown in Figure 16 of the Reflective and Illumination Glare Analysis Report. This requirement is included in the recommended conditions of consent.

The report also concludes that there will be no negligible impacts from the 24/7 lighting on the basis that the design of the lighting comply with *AS4282-1997 Control of the Obtrusive Effect of Outdoor Lighting*. This requirement is reflected in the recommended conditions of consent.

Other Land Resources

Agriculture

An Agricultural Report was prepared by the Melaleuca Group Pty Ltd to accompany the Development Application. The report contains a desktop assessment of the agricultural impact of the proposed development, and specifically recognises the condition of the site is degraded given the ongoing drought conditions.

The report concludes that although the land contains medium to good agricultural land characteristics, the combination of flooding, proximity to urbanisation and isolation from other lands and the small scale project does not represent a significant impact on agricultural lands in the Local Government Area.

Conditions are recommended to require that the property be maintained to prevent the harbourage of pest and the risk of fire. This includes the implementation of measures to specifically manage pests, vermin and declared noxious weeds on site.

Landscaping

Landscaping works are not proposed for the majority of the solar farm area. The Reflective and Illumination Glare Analysis Report prepared by SLR Global recommends mitigative planting on the eastern boundary to minimise impacts on the Tamworth Racecourse. Therefore, a condition is

recommended to require that the Applicant implement a Landscape Management Plan, in consultation with Council prior to issue of any Construction Certificate. This Plan must:

- a) Provide continuous vegetative screening within the site, between the access road and the solar panel modules and the eastern boundary. The vegetative screening is to be provided for the length of the access road and the solar compound. The LMP is to describe in detail how the development site will be landscaped, including the location, species and maturity of all planting;
- b) Incorporate appropriate mounding and landforms to ensure adequate site screening; and
- c) Detail proposed irrigation systems.

Flora and Fauna

A Biodiversity Development Assessment Report was prepared to accompany the Development Application by Travers Bushfire and Ecology. The report concludes that with respect to the significance of impact test, that no threatened flora species were observed, nor considered likely to occur in a natural state within the site and that the direct impacts of the development are not considered to be serious or irreversible impacts.

The report also concludes that no offsets are applicable under the Biodiversity Offset Scheme because the study area is not mapped as Sensitive Biodiversity Values Land and the amount of native vegetation to be cleared is less than the applicable threshold.

Further, an Environment Protection and Biodiversity Conservation Act 1999 assessment found that the proposal will not have a significant impact on threatened or migratory fauna species.

The report includes the following recommendations and, with the exception of 1, will be included as draft conditions of consent.

To minimise adverse ecological impacts, the following mitigation measures are proposed:

1. *Diversion and revegetation of existing drainage line using locally-occurring native species commensurate with PCT 84 - River Oak, Rough-barked Apple, Red Gum, box riparian tall Woodland (wetland) of the Brigalow Belt South Bioregion and Nandewar South Bioregion including trees, shrubs and ground covers to encourage local fauna use, to consolidate remnant vegetation linkages and to provide 'island' refuges for native flora and fauna species within the locality.*

2. *Sediment and erosion control measures in accordance with Managing Urban Storm water: Soils and Construction (Landcom 2004) to minimise impact of possible sedimentation to local drainage lines.*
3. *Control and eradication of invasive ecological weeds should be undertaken to prevent further invasion by these species. High threat weed species listed within the NSW BC Act (2016) such as Canary Island Date Palm, White Poplar, Weeping Willow, Khaki Weed, Mediterranean Turnip, Saffron Thistle and Coolatai Grass were observed within the study area.*
4. *It is recommended that a Vegetation Management Plan (VMP) be produced to ensure that any proposed revegetation areas within the site address the potential to expand the extent of PCT 84 along drainage lines or within the riparian corridor associated with the Wallamore Anabranh and to control or eradicate high threat and environmental weeds which are required to be controlled in accordance with the NSW Biosecurity Act (2015).*

The report was prepared for the purposes of a planning proposal and the Development Application. As the proposed solar project does not require diversion of any existing drainage lines, it is not considered necessary to implement number 1.

Noise and Vibration

There are no adverse noise impacts anticipated as a result of the project. Noise will be generated during the construction phase, however in the long term it will be minimal. A condition is recommended to require that any noise generated from the operation of the development must not be intrusive or offensive as defined by the *Protection of the Environment Operations Act 1997*.

Air and Microclimate

In the current drought conditions, dust is a likely impact of the construction phase and also the ongoing operation of the project if there is limited ground cover. As a consequence, conditions have been recommended with respect to dust suppression and management.

These conditions require that the Applicant prepare a Site Environmental Management Plan and Construction Environmental Management Plan that specifically addresses dust. Conditions also

require that the development is constructed and operated in a manner that minimises dust generation from the site, including wind-blown and traffic-generated dust.

A condition has also been recommended that nominates that any product used for dust mitigation or cleaning of the solar panels must be declared to the Council prior to use to ensure that no soil or ground water contamination risks are associated with the product.

Heritage

An Aboriginal Cultural Heritage Due Diligence Assessment was undertaken by Kayandel Archaeological Services to accompany the Development Application. Following a desktop assessment, the report concludes that there are no Aboriginal sites within the development.

The report includes recommendations with respect to ensuring that contractors are aware of their obligations for heritage under the *National Parks and Wildlife Act 1974* and procedures should Aboriginal objects be found during construction.

A Statement of Heritage Impact was also undertaken by Kayandel Archaeological Services to accompany the Development Application and includes the same recommendations as noted above, but with specific reference to the *Heritage Act 1997*.

To address these recommendations, conditions are included to require that if during the course of construction the Applicant becomes aware of any previously unidentified heritage object(s) or unidentified significant Aboriginal object(s), all work must cease.

Utilities

Pursuant to section 68 of the *Local Government Act 1993*, an approval will be required from Council to carry out stormwater work. A condition is recommended which requires that this permit be obtained prior to the issue of a Construction Certificate, and must be accompanied by a stormwater servicing strategy prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments.

Access, Transport and Traffic

A Traffic Impact Assessment was prepared by Barnson to accompany the Development Application. The report considers the existing key transport network connections, calculation of

traffic generated by the proposed development, determination of key intersections and impacts on those intersections and surrounding networks.

The report concludes that the existing gravel driveway and access road will need to be upgraded and that all traffic access the site from the south and exit via the east i.e. left in left out.

A condition is recommended to be included with respect to the restrictions on movements and the standard of access construction.

Pursuant to Section 138 of the Roads Act 1993, an approval will be required from Council for all works carried out within the Dampier Street road reserve. A condition is recommended which requires this permit be obtained prior to issue of a Construction Certificate, and must be accompanied by engineering designs prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments and other information including a Safety in Design report, Traffic Control Plan, public liability insurance and a Traffic Management Plan.

Developer Contributions

Pursuant to the *Tamworth Regional Council Section 94A (Indirect) Contributions Plan 2013*, Council may levy contributions from a development for the provision of community infrastructure.

Development with a value of greater than \$200,000 is subject to a levy of 1%. A cost summary of works was prepared to accompany the Development Application and nominates a capital investment value of \$8,492,896. As such, the contribution payable is \$84,9828.96.

A condition is recommended to require that payment of this contribution is made prior to issue of any Construction Certificate.

4.15 (1)(c) the suitability of the site for the development

The subject site is considered suitable for the proposed development because it is located within a mixed rural/agricultural, industrial and recreational area, is compatible with existing land uses in the locality, will not contribute to or result in land use conflict; and when decommissioned, the area of the existing farm upon which the solar farm is to be located can be restored to its previous form.

4.15 (1)(d) any submissions made in accordance with this Act or the Regulations

The application was publicly exhibited in accordance with the Tamworth Regional Council Development Control Plan 2010 from the 15 April 2019 to the 6 May 2019. The application was advertised in the Northern Daily Leader on 13 April 2019 and notification letters were sent to all adjoining property owners. One submission of objection was received during the exhibition period and is **ATTACHED**, refer **ANNEXURE E**.

The points of objection are:

- **The existing “bend” in Dampier/Jewry Street will become an intersection which will increase vehicle movements (and stopping, starting and braking) which will affect the behaviour of race horses and acoustics for barrier staff, the race starter, stewards and jockeys when racing from the 1000 metre start mark, which is almost on the apex of the existing bend and within 30 metres of the apex. The sudden noise may startle horses behind or in the barriers which will affect the safety and welfare of the horses, jockeys and the integrity of the horse race. The safety and welfare concerns may invoke fears an impartial race could not be held or if held, could not be done safely.**

Comment: The proposed access road to the solar farm will not result in the bend of Dampier/Jewry Street becoming an intersection, as the access road to the solar farm will not be a public road and will not be used by the public.

The road will only be used by construction traffic for a period of approximately 12 weeks and for the occasional light maintenance vehicle. As such, considering the main impact would be during the construction phase which is a short period of time, the additional traffic during this time is not considered to be unreasonable.

With regard to concerns raised regarding noise impacts from traffic, due to the current bend in the road, cars and trucks brake when approaching the bend and the existing traffic creates continual noise all year round.

It should also be noted that Council intends to construct a new road within the road reserve located on the southern boundary of the site in the future. As a component of these works, a new intersection will be constructed at Jewry Street and Showground Road.

- **The proposed Dampier Street extension will be parallel to the 1000 metre start chute and the course proper. Traffic on this road may impact negatively on the performance and welfare of horses both training and racing at the racecourse.**

Comment: As previously noted, the access road to the solar farm will not be a public road and will not be used by the public. The greatest use of the road will be during the 12 week construction period..

- **The size and low height of the solar farm will reflect sunlight, in particular when the sun moves towards the west. Any reflection or glare from the solar farm will impact on the safety of the horses, jockeys and patrons of race meetings, which will result in a reduction in the patronage and use of the racecourse.**

Comment: The potential reflection and glare impacts of the solar farm have been discussed previously in this report and the mitigation measure recommended by the Reflective and Illumination Glare Report submitted by the Applicant is addressed in the recommended conditions of consent.

- **Temporary fencing should be provided during construction and a permanent sight barrier along the length of the roadworks and construction site on the eastern side of the open drainage should be provided (the easement is owned by Council and is located between the racecourse and the site).**

Comment: As discussed previously in this report, it is considered reasonable that a barrier with a minimum height of 1.5 metres be provided along the eastern boundary of the site.

- **Appropriate tree or shrub screen plantings along the eastern boundary of the solar farm site for the length of the solar farm compound and access road should be provided to minimise glare impacts in the racecourse and a maintenance fund be required to ensure the screening is maintained.**

Comment: As discussed previously in this report, it is considered reasonable that a barrier with a minimum height of 1.5 metres be provided along the eastern boundary of the site. The SLR report provides that this barrier may be solid or vegetative.

- **That permanent sight and sound barriers for a length of 50 metres along the southern boundary and 100 metres along the western boundary be provided within the south western corner of the Racecourse area – nominally called the 1000 metre chute or 1000 metre race start. This area of land is leased by the Tamworth Jockey Club from Tamworth Regional Council.**

Comment: As the solar farm is not an ongoing noise generating facility and that noise impacts will only occur during the 12 week construction period, the provision of a sound barrier is considered unnecessary. As discussed above, it is considered reasonable that a minimum 1.5 metre high vertical barrier be provided along the eastern boundary of the site.

- **Construction works should start no earlier than 7am, Monday to Saturday to minimise impacts on morning horse training activities (activities are between 2.30am and 9am, Monday to Saturday).**

Comment: A recommended condition of consent limits construction to be after 7am, Monday to Friday and after 8am on Saturday and no work on Sunday.

- **That Elton Consulting and its Associates be required to do all things necessary to mitigate against any other effects that the development might have on the Tamworth Jockey Club and its ongoing activities.**

Comment: As the recommended conditions of consent include requirements to minimise and mitigate against impacts, and if impacts occur, Council will be required to investigate and consider mitigation measures, this request is not considered to be reasonable or appropriate.

- **Mitigation measures should be imposed on the title of the land through a section 88B instrument to minimise impacts on the racecourse.**

Comment: Again, as the recommended conditions of consent include requirements to minimise and mitigate against impacts, and if impacts occur, Council will be required to investigate and consider mitigation measures, this request is not considered to be reasonable or appropriate.

4.15 (1)(e) the public interest

There are no further matters of public interest relating to the wider community. The proposal will contribute to the provision of renewable energy for the community. The proposal is consistent with the objectives of the *Tamworth Regional Local Environmental Plan 2010* and is not considered to be compatible with surrounding development and land use patterns.

Assessment – Key Issues:

The key issues identified in the assessment pertain to traffic, reflectivity, flooding and the likely impact on the adjoining racecourse. Subject to the mitigation measures described in this report, the proposal is unlikely to have any negative impacts.

Recommendation:

The application has been assessed in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*. The evaluation demonstrates that the proposal is satisfactory in terms of the matters for consideration identified in the legislation. It is recommended that the proposal be granted conditional development consent.

Annexures:

- **Annexure A – Associated Plans including Architectural Design, Landscape Master Plan and Stormwater Design**
- **Annexure B – Recommended Conditions of Consent**
- **Annexure C – Reflective and Illumination Glare Report prepared by SLR Consulting Australia Pty Ltd**
- **Annexure D – Agency Responses**
- **Annexure E – Submission and the Applicant's response to the Submission**

