

DATE OF DETERMINATION	6 May 2020
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Kellie Scholes and Derek Finnigan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held via teleconference on 6 May 2020, opened at 10:35am and closed at 11:40am.

MATTER DETERMINED

PPSHCC-23 – Muswellbrook Shire Council – DA 102/2019 at 1333 Merriwa Road, Denman – solar farm (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the amended set of conditions attached at Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

- The subject site is suitable for the proposed development having regard to environmental considerations including the visual impact of the proposal. Visual impacts associated with the proposed development would not have a significant adverse environmental impact where mitigated through vegetation screening set-out in the recommended conditions of consent.
- Traffic associated with the development would not have a significant impact on the road network where required road upgrades are implemented and where the requirements of the consent are adhered to in relation to the management of construction and operational traffic associated with the development.
- Measures are to be put in place through the preparation and implementation of an Operational Management Plan to ensure that the premises is operated in an environmentally sustainable manner.
- Measures are to be put in place through the preparation and implementation of a Decommissioning Plan to ensure that the site is rehabilitated and returned to a standard to support its pre-development agricultural status.
- The proposed development is in the public interest, as the proposal will support a renewable energy generating activity and provide employment opportunities.




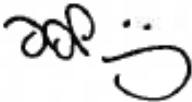

CONDITIONS

The development application was approved subject to the conditions in Schedule 2. The conditions were amended from the set contained in the report to:

- Specify requirements for landscape buffers and vegetation retention to mitigate visual impacts of the development and timing of implementation
- Specify preparation of a Decommissioning Plan and Operational Management Plan
- Require amendment to the extent of solar panels to accommodate landscape requirements
- Require separate approval for a permanent amenities building

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel noted that no written submissions made during public exhibition and no members of the public addressed the Panel during the public meeting.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Sandra Hutton	 Derek Finnigan
 Kellie Scholes	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-23 – Muswellbrook Shire Council – DA 102/2019
2	PROPOSED DEVELOPMENT	Electricity Generating Works (Solar Farm)
3	STREET ADDRESS	1333 Merriwa Road, Denman
4	APPLICANT OWNER	Vernon Trust C/- Andrew King Stroud Agricultural Company
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 No 33 Hazardous and Offensive Development State Environmental Planning Policy No 44 Koala Habitat Protection State Environmental Planning Policy No 55 Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 Draft State Environmental Planning Policy (Koala Habitat Protection) 2019 Biodiversity Conservation Act 2016 (Matter for consideration specified by S1.7 EP&A Act 1979) Muswellbrook Local Environmental Plan 2009 Draft environmental planning instruments Development control plans: <ul style="list-style-type: none"> Muswellbrook Development Control Plan Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> 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: 16 April 2020 Written submissions during public exhibition: nil Addendum to Council assessment report: 5 May 2020 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Council assessment officer - Hamish McTaggart and Ziggy Andersons On behalf of the applicant – Stephanie Anderson, Kevin Heydt and Thomas Parel
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspections: <ul style="list-style-type: none"> Alison McCabe: 3 May 2020 Juliet Grant: 19 April 2020 Sandra Hutton: 4 May 2020 Kellie Scholes: 25 April 2020 Final briefing to discuss council's recommendation, 6 May, 9:30am. Attendees:

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Kellie Scholes and Derek Finnigan ○ <u>Council assessment staff</u>: Hamish McTaggart, Ziggy Andersons, Peter Chambers and Sharon Pope
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

IDENTIFICATION OF APPROVED PLANS

(1) Development in Accordance with Plans

The development being carried out in accordance with the development application and the drawings referenced below, and endorsed with Council's approval stamp, except where amended by the following conditions.

Drawing No.	Revision	Drawn by	Drawing Date	Received
80219037-CI-1001	3	Cardno	14/6/2019	20/11/2019
80219037-CI-1011	2	Cardno	14/6/2019	20/11/2019
80219037-CI-1031	3	Cardno	14/6/2019	20/11/2019
80219037-CI-1101	3	Cardno	14/6/2019	20/11/2019
80219037-CI-1131	2	Cardno	14/6/2019	20/11/2019
80219037-CI-1201	3	Cardno	14/6/2019	20/11/2019
80219037-CI-1251	2	Cardno	14/6/2019	20/11/2019
80219037-CI-1301	2	Cardno	14/6/2019	20/11/2019
80219037-CI-1601	3	Cardno	14/6/2019	20/11/2019
80219037-CI-1651	1	Cardno	14/6/2019	20/11/2019
80219037-CI-2101	2	Cardno	14/6/2019	20/11/2019
Siteworks Plan	-	HLD	07/11/2019	20/11/2019

(2) Development in Accordance with Documentation

The development is to be carried out generally in accordance with the documents referenced below, endorsed with Council's approval stamp, except where amended by the conditions:

Title	Written by	Date
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Statement of Environmental Effects (Appendix A, B, D, E, F, G, H I inclusive)	NGH Environment	November 2019
Biodiversity Assessment Report	NGH Environment	February 2020

Note: Nothing in this consent authorises any site activities or civil works including, but not limited to earthworks, the installation of any utility service, excavation, filling of land, construction of any roads, pathways or retaining walls, undertaking landscaping works or riparian corridor rehabilitation, bushfire hazard management works, clearing of vegetation or the removal of topsoil, before a construction certificate has been issued for the development.

(3) Compliance with Ausgrid Advice

The letter issued by Ausgrid dated 14 January 2020 shall be complied with prior, during and at the completion of the development, as required.

(4) Amenities Building Requirement

An amenities building providing hand washing and toilet facilities, and a place to eat meals, is to be provided on the site for the construction, operation and decommissioning phases of the development. The amenities building is to be installed within the area identified for temporary construction buildings.

A separate development application is to be lodged with Council to obtain approval for the installation of the amenities building.

(5) Solar Panel Construction requirements

In accordance with the details set-out in this development application, the design and location of the solar panel array is to comply with the following:

- a) The maximum height of any solar panel installed at the premises is to be 2.3m.
- b) The minimum spacing between the solar panels, when in a horizontal position, is to be 3m.

(6) An amended plan being submitted with the Construction Certificate that shows:

- a) 10 metre landscape strip along the western boundary in addition to the APZ
- b) 5 metre landscape strip along the Golden Highway frontage
- c) All vegetation required to be kept as shown on Site Works DWG No. 80219037-CI-1201 Revision 3
- d) Vegetation requirement along the western side of the access road, between the northern boundary of the panels as required by Condition 17
- e) Reduction in panels to accommodate the above - a to d

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

(7) Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

ANCILLARY MATTERS TO BE COMPLETED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

(8) Construction Certificate Requirement

No works shall commence on site until such time as a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works it must cover the works being undertaken onsite.

(9) Vehicle Access Design and Construction Requirements

Vehicular access to the site is to be designed in accordance with the following requirements:

- a) Vehicle access between the site boundary and Golden Highway road pavement should be bitumen sealed as a minimum construction standard.
- b) An Auxiliary left-turn treatment is to be provided to the development to allow for the safe movement of vehicles into and out of the development site.
- c) A protective safety barrier is required to be installed on the southbound approach to the proposed switching station.
- d) No temporary barriers are to be installed on the Golden Highway (over size, over mass vehicles regularly use the Golden Highway and a median barrier is not appropriate).

Prior to the issue of a Construction Certificate, the person acting on this consent is to provide suitable documentary evidence to the Certifying Authority, demonstrating that the vehicular access design prepared in relation to the development and the requirements referenced above, has been accepted by Transport for NSW, as the Roads Authority for the carrying out of works in relation to the Golden Highway (a classified State Road).

Council would consider either of the following to comprise suitable documentary evidence:

- a) A Works Authorisation Deed (WAD) entered into between the developer and Transport for NSW for the carrying out of the work referenced by this condition.
- b) Written correspondence from Transport for NSW approving the design plans prepared in relation to the work referenced by this condition.

Note: A WAD must be entered into between the developer and Transport for NSW prior to the commencement of the works related to the Golden Highway improvements required by this condition related requirements of this approval. The WAD process, including acceptance of design documentation and construction, can take time. The developer should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is therefore suggested that the developer work through this process as soon as possible with the Traffic for NSW.

(10) Construction Traffic Management Plan

Prior to the issue of a Construction Certificate, a Construction Traffic Management Plan is to be prepared in relation to construction of the development. Documentary evidence is to be provided to the Certifying Authority demonstrating that this plan has been submitted and approved by Council in writing prior to the issue of a Construction Certificate. Construction works associated with this development should be carried out generally in accordance with the requirements of this plan except as otherwise directed by Traffic for NSW.

The Construction Traffic Management Plan should:

- Identify the type and volume of vehicles anticipated to access the site during the carrying out of construction works.
- Anticipated paths of travel for construction vehicles accessing the site.
- Detail how vehicles will enter and exit the site. For safety purposes it is recommended that wherever possible vehicles enter and exit the site in accordance with the left in, left out Transport for NSW requirement. Where this cannot be practically achieved, due to the size or point of origin of construction vehicles, the traffic management plan must outline additional traffic control measures to be implemented to support the safety of construction vehicles entering and exiting the site. Traffic control measures along the Golden Highway will require approval from Transport for NSW prior to their implementation.
- Identify a 80km/h temporary work zone adjacent the site along the Golden Highway to be provided during the carrying out of construction works in accordance with the requirements of Transport for NSW's correspondence dated 19 February 2020. The establishment of this temporary work zone would be subject to the requirements of any Road Occupancy License issued by Transport for NSW.
- Identify and detail any further traffic/road impact mitigation measures deemed necessary to manage the impact of construction vehicles on the road network.

(11) Ecosystem Credit Retirement Conditions

- (10.1)** Prior to issue of construction certificate, the class and number of ecosystem credits in Table.1 must be retired to offset the residual biodiversity impacts of the development.
- (10.2)** The requirement to retire credits in condition 10.1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

- (10.3) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 10.1 must be provided to the consent authority prior to issue of construction certification.

Table.1 Ecosystem credits required to be retired – like for like

Impacted plant community type	Number of ecosystem credits	IBRA sub-region
Narrow-leaved Ironbark – Grey Gum – Native Olive Woodland of Central Hunter (PCT 1612)	4	Hunter, Ellerton, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.

(12) Species Credit Retirement Conditions

- (11.1) Prior to issue of construction certificate, the class and number of species credits in Table.2 must be retired to offset the residual biodiversity impacts of the development.
- (11.2) The requirement to retire credits outlined in condition 11.1 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.
- (11.3) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of Table.2 requirements must be provided to the consent authority prior to issue of construction certification.

Table.2 Species credits required to be retired – like for like

Impacted species credit species	Number of species credits	IBRA sub-region
<i>Diuris Tricolor</i>	4	Anywhere in NSW
<i>Prasophyllum petilum</i>	5	Anywhere in NSW

(13) Section 7.12 Contributions

Pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$61,147.57 shall be paid to Muswellbrook Shire Council.

The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010. The contribution is to be paid prior to the issue of the Construction Certificate.

(14) Construction Environmental Management Plan

A Construction Environmental Management Plan will be provided to Council for approval and will include but not be limited to:

- Identifying critical life cycle events of target species and detail timing of vegetation clearing to ensure minimal impacts to these target fauna.
- measures to avoid noise encroachment on adjacent habitats, such as avoiding night works as much as possible and directing lights away from vegetation.
- Identify tree protection zones (TPZ) around retained trees for management for the duration of construction in accordance within *Australian Standard 4970-2009 – Protection of trees on development site*.
- sediment and dust control measures to prevent indirect impacts to retained vegetation, including an adaptive dust monitoring program to control air quality, and daily monitoring of dust generated by construction activities, with all activities relating to the proposal being undertaken with the objective of preventing visible dust emissions from the development site.
- vehicle hygiene protocols.

Documentary evidence demonstrating that this plan has been approved by Council is to be submitted to the Principle certifying Authority. The requirements of this Plan are to be adhered to during the carrying out of the development.

(15) Stormwater Management Adjacent the Rail Corridor

Prior to the issue of a Construction Certificate, documentary evidence is to be provided to the Certifying Authority demonstrating that the flow of stormwater toward the rail corridor will not be increased as a result of the carrying out of the development.

(16) ARTC Engagement Regarding the Carrying out of Earthworks Adjacent a Rail Corridor

Prior to the issue of a Construction Certificate, the person acting on this consent shall provide documentary evidence to the Certifying Authority demonstrate that they have engaged with or taken reasonable steps to engage with the Australian Rail Track Corporation (ARTC) in relation to the carrying out of any excavation works adjacent to and within 25 metres of the rail corridor, including the establishment of the set-down area. The applicant shall comply with any requirements for the carrying out of these works put forward by the ARTC subject to any dispute resolution set out in the paragraphs below.

Council would view the taking of reasonable steps to engage with the ARTC to include contacting the ARTC Property Services Team via the provided email address of HVpropertyservices@artc.com.au, and ensuring the work is carried out in accordance any relevant requirements of that Team or that their concurrence is obtained. Where the ARTC does not engage with the person acting on this consent within 21 days of being issued a notice, and reasonable attempts have been made to follow up any correspondence issued to the above address, Council should be contacted to request that the requirement to engage with the ARTC has been completed and the development may proceed.

Where there is a dispute between the applicant and ARTC in relation to measures to be put in place to comply with this condition, Council should be contacted. Council will review the matter being disputed and stipulate how the development is to proceed in relation to the matter of concern.

(17) Landscape Design Plan

A landscape plan is to be prepared in relation to the proposed development in accordance with the mitigation measure recommendations of the Visual Impact Assessment. The plan should:

- a) Identify the existing vegetation to be retained on the site. Wherever possible existing vegetation should be retained, and all vegetation identified as being retained by the BDAR and approved plans is to be retained on-site.
- b) Identify a 10m wide landscape screen planting adjacent the western site boundary, separate to the 10m wide asset protection zone (APZ). The landscape screen planting is to be planted with both shrub and tree species to achieve screening from the ground level to a minimum height of 8m. Where there is a conflict between this landscaping requirement and the location of solar panels marked on the approved plans, the landscape plan is to take precedence.
- c) Identify landscape screen planting along the Golden Highway frontage with a minimum width of 5m. The landscape screen planting is to be planted with both shrub and tree species to achieve screening from the ground level to a minimum height of 8m.
- d) Identify tree planting on the western side of the internal access road, between its intersection with the Golden Highway and the northern boundary of the solar panel array.
- e) Locally indigenous plant species should be used wherever possible.
- f) The plan should include botanical names; planting quantities; planted state of maturity of all proposed trees, shrubs and ground covers; and should be prepared in accordance with Council's Landscaping Guidelines.
- g) Show all vegetation to be retained on the site and additional landscape buffers.
- h) No approval is granted to any other vegetation removal.

The Landscape Plan is to be submitted to and approved by Council in writing prior to the issue of a Construction Certificate. Written confirmation demonstrating that the Landscape Plan has been approved by Council should be provided to the Principle Certifying Authority with an application for a Construction Certificate.

(18) Site Waste Minimisation Management Plan

Prior to the issue of a Construction Certificate, a Site Waste Minimisation Management Plan is to be submitted to and approved by Council in relation to the operation of the site.

The Site Waste Minimisation Management Plan is to be prepared in accordance with the requirements of the Muswellbrook Development Control Plan 2009. The Site Waste Minimisation Management Plan is to separately address the construction, operation and decommissioning phases of the development. Reuse and/or recycling of solar panels and other best practice waste minimisation actions should be incorporated during all phases of the development.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT

(19) Ausgrid Connection Application

In accordance with the requirements of condition (3) of this Determination, and the Ausgrid letter dated 14 January 2020, a connection application is to be submitted to Ausgrid prior to the commencement of any construction works.

(20) Road Occupancy License/S138 Approval Requirement

Prior to the carrying out of any work or activities with the potential to impact on the operational efficiency of the road network the person acting with this consent must obtain a Road Occupancy License

(21) Clearing Management

Approved Clearing limits and Tree preservation zones are to be clearly delineated with temporary fencing or similar prior to construction commencing.

(22) Pre-clearing survey

An ecologist is to conduct a pre-clearing survey and pre-clearing checklist no more than 7 days prior to the commencement of tree clearing to identify and mark any hollow bearing trees.

(23) Sediment and Erosion Control

Prior to the commencement of works Sediment and erosion controls are to be installed at the site in accordance with the Erosion and Sediment Control Plan prepared in relation to the proposed development and referenced by this consent.

All required erosion and sedimentation techniques are to be maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

(24) Site Sign

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

(25) Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during the course of this development. The applicant shall submit in writing and/or photographic record any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damaged infrastructure at their expense.

(26) Site Facilities

- (a) Temporary security fence (or hoarding) is to be installed to reduce public access to construction and demolition activities during the construction and decommissioning phases.
- (b) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) 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.
- (f) Each toilet provided must:
 - be a standard flushing toilet, connected to a public sewer, or
 - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
 - an approved temporary chemical closet.
- (g) The provision of toilet facilities must be completed before any other work is commenced.
- (h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
 - protect and support the building from damage, and
 - If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.

- (i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.
- (j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

(27) Building materials

Non-reflective building materials in muted tones that match the natural landscape, not white or bright colours, are to be used in the carrying out of the development, in accordance with the provisions of the Muswellbrook Development Control Plan and the documentation accompanying this development application.

(28) Installation of lighting

All external lighting installed at the premises is to be installed in accordance with the provisions of AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.

(29) Cost of Work Affecting Public Infrastructure

The person acting with this consent shall be responsible for all costs incurred related to any works related to the relocation, alteration or improvement of public utility, infrastructure or service required as part of the carrying out of the development. All works affecting public infrastructure are to be carried out in accordance with the requirements of the relevant service provider.

(30) Restriction on the import of fill

Any fill imported to and used at the site is to be sourced from an approved quarry, landscaping supply business or reputable source.

All fill must be free of contaminants and the person operating with this consent is to provide details of the location or premises that any fill used at the site has been obtained from, including certification that the fill is free of contaminants, and provide these details to the Principle Certifying and Council.

(31) Discovery of Aboriginal Heritage

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 OEH is to be contacted. Aboriginal archaeological excavation must be co-ordinated with any proposed investigation of non-indigenous material.

(32) Clearing limits

During construction and decommissioning, the approved Clearing limits are to be clearly delineated with temporary fencing or similar.

(33) Hollow Bearing Tree felling and wildlife rehoming

Ecologist or trained wildlife handler would be present during the felling of all hollow-bearing trees.

Any fauna captured as part of this process are to be relocated into surrounding suitable habitat and any injured fauna are to be taken to the nearest veterinary hospital or wildlife carer.

(34) Storage of materials and equipment

During construction, operation and decommissioning phases of the development, stockpiling or storage of materials or equipment or parking of vehicles within the drip-line of any mature trees to be retained at the site, is not to occur.

(35) Management of weeds

Weed management is to occur on-site in the construction, operation and decommissioning phases in accordance with the following:

- Machinery would be cleaned prior to entering the site to ensure that weed seeds and propagules are not imported to the site.
- Weeds shall be managed according to the requirements of the Biosecurity Act; in that they are to be disposed of at a licenced waste management facility or similar. Weeds are not to be mulched and repurposed for any landscaping use.
- Any occurrences of pathogens such as Myrtle Rust and Phytophthora would be monitored, treated, and reported to council.

(36) Workforce Training

All staff and contractors will be given training and site briefing to communicate environmental features to be protected and measures to be implemented.

(37) Management of Dust

Construction or decommissioning works are to cease, if dust is observed being blown from site, until control measures were implemented.

(38) Construction Hours

(1) Unless otherwise approved by Council in writing, or authorised by a Section 10.17 COVID-19 pandemic Ministerial Order, construction or decommissioning work is to be carried out during the following hours:

- (a) between Monday to Friday (inclusive)—7.00am to 6.00pm,**
- (b) on a Saturday—8.00am to 1.00pm.**

- (2) Building construction must not be carried out on a Sunday or a public holiday.
- (3) Demolition works and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.
- (4) The builder and excavator must display, on-site, their 24 hour contact telephone numbers, which are to be clearly visible and legible from any public place adjoining the site.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

(39) Occupation

The building is not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

(40) Vehicle Access Construction

Prior to the issue of an Occupation Certificate, an auxiliary left turn treatment and vehicle access to the site is to be constructed in accordance with the requirements of this consent, approved design plans and any Works Authorisation Deed (WAD) entered into between Transport for NSW and the developer.

In addition to the above, the person completing these works is to ensure that they are carried out in accordance with the provisions of any related Road Occupancy License/Section 138 Permit.

(41) Fire Management Plan

Prior to the issue of an Occupation Certificate, a Fire Management Plan (FMP) shall be prepared in relation to the development. The FMP is to be prepared in consultation with the NSW RFS Hunter Valley Fire Control Centre and Council. The FMP shall include:

- 24 hour emergency contact details including alternative telephone contact;
- Site infrastructure plan;
- Fire fighting water supply plan;
- Site access and internal road plan;
- Construction of Asset Protection Zones (APZ) and their continued maintenance;
- Location of hazards (Physical, Chemical and Electrical) that will impact on fire fighting operations and procedures to manage identified hazards during fire fighting operations;
- Such additional matters as required by the NSW RFS District Office (FMP review and updates).

The final FMP is to be provided to the NSW RFS Hunter Valley Fire Control Centre and Council and documentary evidence provided to the certifying authority demonstrating that this condition has been complied with prior to the issue of an Occupation Certificate.

(42) Fire fighting water supply

Prior to the issue of an Occupation Certificate, a 20,000 litre water supply (tank) fitted with a 65mm storz fitting shall be located adjacent to the internal property access road and within the required APZ.

(43) Habitat Management

Prior to the issue of an Occupation Certificate, all habitat features (fallen timber, hollow logs) are to be relocated from within the development site to adjacent areas of Zone 2 for habitat enhancement.

A brief report is to be provided to Council to demonstrate that all habitat features have been relocated to Zone 2 and details of hollow bearing tree removal including fauna species observed, their health on relocation, and any other relevant details.

(44) Installation of landscaping

Prior to the issue of any Occupation Certificate, landscaping and landscape screen planting is to be installed on the site in accordance with the approved Landscape Plan, the requirements of this consent or as otherwise directed by Council in writing.

(45) Permanent Amenities Building

A permanent amenities building as required by Condition 4 must be approved and constructed prior to the issue of any Occupation Certificate or commencement of operations.

(46) Construction of bunded storage areas

Prior to the issue of any Occupation Certificate involving elements of the approved development, where chemicals or dangerous goods would be stored, or used, impervious bunded areas are to be constructed in accordance with the requirements of this consent, the approved plans and Preliminary hazard Analysis.

(47) Operational Management Plan Requirement

Prior to the issue of any Occupation Certificate, an Operational Management Plan is to be prepared and submitted to Council for approval. The Operational Management Plan is to outline site management practices for implementation to support the safe and environmentally sustainable operation of the site including in relation to the following:

- a) General maintenance and operation of the site requirements and protocols.
- b) Emergency and safety management procedures.
- c) The making available of contact details for the site Manager/Operator to the occupants of neighbouring properties and the public.
- d) Outline a process for the making of any complaints by members of the public in relation to the operation of the premises and a procedure for any such complaints to be investigated and addressed by operational personal.
- e) Reference the bushfire management plan and a protocol for ensuring bushfire mitigation measures are effectively maintained during the operational lifetime of the development and reviewed/updated where required to ensure compliance with industry best practice and legislation changes.
- f) Reference the operational requirements of the Waste Minimisation Management Plan and include provisions for the review/update of waste management requirements related to any changes to industry best practice and the operational requirements of the premises.
- g) Management of stormwater run-off and erosion.
- h) Maintenance and inspection of groundcover.
- i) The management and ongoing maintenance of landscaped areas
- j) Dust mitigation and erosion and sediment control measures, including maintenance of groundcover below the panels.
- k) Weed management.
- l) Establish a protocol for the carrying out of reviews and updates to the plan.

Written confirmation demonstrating that the Operational Management Plan has been approved by Council should be provided to the Principle Certifying Authority with a request for an Occupation Certificate.

The Operational Management Plan, or any updated version prepared to supersede a former version of the plan and approved by Council in writing, is to be implemented for the lifetime of the development.

(48) Decommissioning Plan

Prior to the issue of any Occupation Certificate, a Decommissioning Plan is to be prepared and submitted to Council for approval. The plan must outline measures to ensure that the decommissioning of all solar panels and the rehabilitation of the site is completed in accordance with the particulars set-out in this development application and requirements of this consent. The plan is to include details in relation to the following:

- a) A program for the decommissioning of all solar panels, above and below ground infrastructure, inverter stations, storage batteries, redundant buildings and other infrastructure related to the approved development.
- b) A strategy for the rehabilitation of the site to return it to a standard that would support

the agricultural use of the land to a standard consistent with its standing pre-development.

- c) Establish a timeline for the completion of decommissioning and rehabilitation works within 12 months of the conclusion of the premises operational lifetime.

Written confirmation demonstrating that the Decommissioning Plan has been approved by Council should be provided to the Principle Certifying Authority with a request for an Occupation Certificate.

(49) Rehabilitation of set-down area

Prior to the issue of any Occupation Certificate, the 'temporary set-down area' shown on the plans is to be rehabilitated and made good.

The 200mm thick gravel pavement installed is to be removed to the satisfaction of the Certifying Authority and grass cover re-established. The person acting with this consent is to monitor the grass cover re-established in this area and ensure that it is maintained in a manner consistent with the provisions of the premises Operational Management Plan.

CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

(50) Site Access Requirement

At all times in accordance with the requirement of Transport for NSW outlined in their letter dated 19 February 2020, or as otherwise authorised by the Roads Authority in writing. Access to the site is restricted to be left in and left out only.

(51) Asset Protection Zone Development Area

At all times the entire solar array development footprint to be managed as an Asset Protection Zone as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones'.

(52) Asset Protection Zone Perimeter Area

At all times to allow for emergency service personnel to undertake property protection activities, a 10 metre defendable space (APZ) that permits unobstructed vehicle access is to be provided around the perimeter of the solar array development site, including associated infrastructure.

(53) Amenities Building Requirement

At all times the premises is in operation an amenities building is to be provided on-site for use by Staff in accordance with the requirements of this consent.

(54) Storage of any Chemicals or Dangerous Goods

Where chemicals or dangerous goods are to be stored on-site during the construction or operation of the facility, these materials are to be stored in an impervious bunded area.

(55) Rail Corridor Fencing

At all times, unless otherwise agreed by Council or the ARTC in writing, secure fencing is to be maintained adjacent the solar farms boundary with the Muswellbrook-Merriwa rail corridor.

(56) Landscaping and Vegetation

The landscaping and vegetation must be maintained and retained in accordance with the approved landscape plan.

(57) Ongoing Operation

The development shall at all times be operated in accordance with the approved Operational Management Plan.

**CONDITIONS THAT MUST BE COMPLIED WITH AT THE CONCLUSION OF THE DEVELOPMENTS
OPERATIONAL LIFETIME**

(58) Decommissioning

At the conclusion of the developments operational lifetime, decommissioning of the site is to be carried in accordance with the Decommissioning Plan approved by Council or an updated version of that plan approved by Council in writing.

Documentary evidence is to be provided to Council, from a suitably qualified person, to confirm that the development has been successfully decommissioned to a standard to support the agricultural use of the land in accordance with this requirement.