

DATE OF DETERMINATION	3 September 2021
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Kellie Scholes and Rod Scholes
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 August 2021.

MATTER DETERMINED

PPSHCC-46 – Muswellbrook – DA 2020/49 at 400 Denman 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 had the benefit of a Council, submitter, and applicant briefing prior to finally determining this matter. The Panel had also had the benefit of viewing the site from a number of submitters' properties in May 2021 to understand the potential visual impacts of the development.

The Panel had the benefit of a supplementary memo from Council that clarified s94A contributions and detailed the proposed external road works.

The Panel has considered the visual impacts of the development and considers that the visual impacts are not significant when viewed from those properties distant from the development site. For those properties immediately adjoining and proximate to the site, the impacts will be mitigated through the provision of landscape and vegetated screening set out in the landscape plans.

The applicant requested that conditions relating to:

- Section 94A contributions;
- Reflectivity and the requirement for external coating; and
- Construction noise condition be revisited.

The Panel has reviewed this request and has made changes to the reflectivity and construction noise conditions. In respect to the s94A contribution, this has now been calculated in accordance with the plan and has been imposed in accordance with the plan.

In the Panel's consideration of the matter, additional detail was required in respect to conditions relating to:

- Construction Traffic Management;

- Environmental and Operational Management Plan;
- Waste minimisation;
- Density of landscape;
- Access to the site;
- Battery capacity; and
- Ecological oversight of removal of hollow bearing trees.

The Panel has included additional and/or amended conditions to reflect these matters.

The Panel considered that the main traffic impacts of this development would occur during construction and that access to the site needed to be in place before work commenced – this is notwithstanding TfNSW’s position. It is understood that the roadworks external to the site are within the existing road reserve and do not result in any removal of vegetation.

The plans have also been amended to provide greater separation between the potential noise source and the closest sensitive receiver.

A revised landscape plan detailing density of landscaping is required.

The Panel considers that the site is suitable for the development subject to specific conditions that mitigate impacts.

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 conditions in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council assessment report and the following reasons:

- The site is suitable for the development;
- Construction Traffic impacts can be suitably managed; and
- The proposed development is in the public interest as the proposal will support a renewable energy generating activity.

CONDITIONS

The development application was approved subject to the conditions in Schedule 2. The conditions have been amended from those in the Council report to address the following and include new/amended conditions:

- Construction Traffic Management Plan – condition B4;
- Operational Environmental Management Plan – condition E1;
- Waste Management Plan – condition B5;
- Reflectivity – condition B12;
- Ecological – condition D11;
- Noise – condition D8;
- Access – condition C6;
- Landscape Plan – amended condition A7;
- Battery Capacity – condition A2; and
- Delete conditions relating to Safety of Aerodrome, Carparking and Demolition Work and renumber generally.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Noise impacts
- Visual impacts
- Notification process
- Conflict with existing land uses (dust and agricultural management)

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that in addressing these issues plans were amended to provide separation from noise sources. Additional conditions have been imposed regarding landscaping and maintenance and construction management.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-46 – Muswellbrook – DA 2020/49
2	PROPOSED DEVELOPMENT	Electricity generating works (solar farm)
3	STREET ADDRESS	400 Denman Road, Denman
4	APPLICANT OWNER	Denman Road Solar Park PTY Ltd Pukara Estate Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: - o State Environmental Planning Policy (Infrastructure) 2007 - o State Environmental Planning Policy No 33 – Hazardous and Offensive Development - o State Environmental Planning Policy No 55 – Remediation of Land - o State Environmental Planning Policy (State and Regional Development) 2011 - o State Environmental Planning Policy (Primary Production and Rural Development) 2009 - o State Environmental Planning Policy (Koala Habitat Protection) 2019 - o Muswellbrook Local Environmental Plan 2009 • Draft environmental planning instruments: Nil • Development control plans: - o Muswellbrook Development Control Plan 2009 • 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	• Council assessment report: 11 August 2021 • Supplementary memo received 26 August 2021 • Written submissions during public exhibition: six (6)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing: 11 February 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant and Rod Scholes - o <u>Council assessment staff</u>: Alisa Evans, Sharon Pope, Peter Chamber and Anup Halder - o <u>Department staff</u>: Leanne Harns and Carolyn Hunt • Site inspection: 12 May 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Kellie Scholes and Rod Scholes - o <u>Council assessment staff</u>: Alisa Evans

		• Final briefing to discuss Council's recommendation: 18 August 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Kellie Scholes and Rod Scholes - o <u>Council assessment staff</u>: Alisa Evans and Sharon Pope - o <u>Department representatives</u>: Leanne Harris, Carolyn Hunt and Sharon Edwards • Submitter Briefing: 18 August 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Kellie Scholes and Rod Scholes - o <u>Council assessment staff</u>: Alisa Evans and Sharon Pope - o <u>Department representatives</u>: Leanne Harris, Carolyn Hunt and Sharon Edwards, Holly McCann - o <u>Submitters</u>: Kylie Lawson <u>Note</u>: Submitter briefing was requested to respond to the recommendation in the Council assessment report • Applicant Briefing: 18 August 2021 - o <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant, Kellie Scholes and Rod Scholes - o <u>Council assessment staff</u>: Alisa Evans and Sharon Pope - o <u>Department representatives</u>: Leanne Harris, Carolyn Hunt and Sharon Edwards, Holly McCann - o <u>Applicant representatives</u>: Alfonso Vega de Seoane, Lluís Torrent, Roberto Cebrian and Kaneto Kazuomi <u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

SCHEDULE 2**Consent Conditions – PPHCC-46 – DA 2020-49****PART A: GENERAL****A1 Approved Plans and Supporting Documentation**

The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

Plan/Report Title	Reference No	Revision	Prepared by	Date
Concept Development Plans	Denman Solar Park	-	ASLAT Consulting	09/07/2021
Denman Road Solar Park – Statement of Environmental Effects	-	-	ASLAT Consulting	19/05/2020
Landscape Development Application Document (DA)	1954	C	Moir Landscape Architecture	10/05/2021
Denman Road Solar Landscape Maintenance Plan	1954	B	Moir Landscape Architecture	22/04/2021
Construction and Operational Noise Assessment	21GCA0031 R01_0	A	Ttm	10/06/2021
Decommissioning Plan	-	-	Aslat Consulting	23/11/2020
Denman Road Solar Park – Traffic Impact Assessment	P4480	001	BITZIOS Consulting	18/03/2020
Eco Logical Australia 2020 - Denman Road Solar Park Preliminary Flora and Fauna Assessment	19MUD/14425	V3	Eco Logical Australia Pty Ltd	20/11/2020
Denman Road Solar Park Flood Study & Stormwater Management Plan	9-0155/R1155	B	TOPO	06/04/2021

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail. In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

Reason: To ensure the development proceeds in the manner assessed by Council and all parties are aware of the approved plans and supporting documentation that applies to the development.

A2 Electricity Generating Works (Solar farm) and Battery Capacity

The maximum capacity of the Electricity Generating works (Solar farm) is 22MWac. Battery storage and locations are limited to approved plans, specifications and supporting documentation.

A3 Signage

A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

Reason: To ensure any signage is assessed in accordance with the planning controls.

A4 Compliance with the Building Code of Australia

All building work shall be carried out in accordance with the provisions of the Building Code of Australia. A reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

Reason: Prescribed Condition under Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

A5 Lapsing of consent

This consent is limited to a period of 5 years from the date of the Notice of Determination unless the works associated with the development have physically commenced.

Reason: To ensure compliance with Section 4.53 of the *Environmental Planning and Assessment Act 1979*.

A6 Decommission Management Plan

An updated Decommission Management Plan is required to be submitted to Council twelve (12) months prior to decommissioning occurring.

All decommissioning works, including site rehabilitation are to be undertaken in accordance with the approved Decommissioning Plan. Waste from solar panels must be recycled where possible.

Reason: To ensure the decommissioning of the solar farm occurs in an orderly and sustainable manner, that the amenity of the area is maintained while the solar farm is being decommissioned and to ensure the site can be returned to its original condition.

A7 Landscaping and Tree Retention and Removal

- (a) A revised Landscape Plan is to be submitted to Council for approval detailing the density of landscape and species proposed.
- (b) Existing trees on the site are to be retained and protected from damage during work, with the exception of the trees outlined the approved Landscape Plan prepared by Moir Landscape Architecture and dated 10 May 2021. Approved tree removal shall be carried out by an appropriately qualified person to avoid any risk to life or damage to property and must have with adequate public liability insurance.

Reason: To protect trees on the site to be retained.

A8 Requirements of Concurrence, Integrated & Other Government Authorities

The following conditions have been imposed by concurrence/integrated authorities:

(a) Ausgrid

1. Heavy vehicle access to all pole locations must be maintained;
2. No structures are to be constructed within Ausgrid's easements;
3. No structures are to be constructed under or near Ausgrid poles and overhead/underground powerlines that are covered under Section 53 of the Electricity Supply Act 1995 No 94 in accordance with the Ausgrid's usual easements widths;
4. Existing ground levels under overhead powerlines are to be maintained; and
5. A Connection Application is to be submitted to Ausgrid for assessment prior to commencement of construction.

(b) NSW Rural Fire Service

General Conditions

1. A Fire Management Plan (FMP) shall be prepared in consultation with NSW RFS Upper Hunter Fire Control Centre. The FMP shall include:
 - 24-hour emergency contact details including alternative telephone contact;
 - Site infrastructure plan;
 - Firefighting 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 firefighting operations and procedures to manage identified hazards during firefighting operations;
 - Such additional matters as required by the NSW RFS District Office (FMP review and updates).

Asset Protection Zones

2. The entire solar array development footprint is 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'.
3. 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 each of the solar array development sites including associate infrastructure.

Water and Utility Services

4. A 20,000 litre water supply (tank) fitted with a 65mm storz fitting shall be located adjoining the internal property access road within the required APZ.

(c) Heritage NSW

APPROVED DEVELOPMENT

1. Development must be in accordance with:
 - a. Denman Solar Park, Denman Road, Muswellbrook Aboriginal Cultural Heritage Assessment Report by Everick Heritage (May 2021).
 - b. Denman Solar Park Statement of Environmental Effects by DPI Australia and ASLAT Consulting (May 2020).

Please note that any modification of the above development that will result in impacts to Aboriginal cultural heritage must be referred to Heritage NSW to determine whether changes to these general terms of approval are required.

EXCEPT AS AMENDED by the following general terms of approval:

2. A s.90 Aboriginal Heritage Impact Permit (AHIP) for the proposed works must be sought and granted prior to the commencement of works.
3. The AHIP application must be accompanied by appropriate documentation and mapping as outlined in Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (2011).
4. Consultation with the Aboriginal community undertaken as part of the AHIP application must be in accordance with the Aboriginal cultural heritage consultation requirements for proponents 2010 (2010).
5. The AHIP application must be completed with reference to the requirements of the Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW (2011).
6. The AHIP application must include complete records satisfying the requirements of the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (2010).
7. Long term management of Aboriginal objects must be considered as part of the AHIP application.

(d) Transport for NSW

1. As road and drainage works are required on Denman Road (MR209), TfNSW will require the developer to enter into a Works Authorisation Deed (WAD) with TfNSW. TfNSW will exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD (Attachment A).

Note:

Conditions of Consent do not guarantee TfNSW final consent to the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work. The WAD process, including acceptance of design documentation and construction, can take time.

2. All road works under the WAD shall be completed prior to issuing any Occupation Certificate for the development.
3. All works associated with the subject development shall be undertaken at full

cost to the developer and at no cost to TfNSW or Council, and to Council's requirements.

Reason: To ensure compliance with Section 4.47(3) of the *Environmental Planning and Assessment Act 1979* and the conditions of concurrence, integrated and other Government Authorities are complied with.

PART B: PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

B1 Construction Certificate

A Construction Certificate is required for the development in accordance with Section 6.7(1) of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

B2 Payment of Security Deposits, Levies and Contributions

The fees listed in the table below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment. Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

- (a) **Public liability insurance** - Prior to the commencement of any works on Council land including a public road, the applicant is to obtain Public Liability Insurance in the minimum amount of \$20 million. This insurance is to note Council's interest and is to remain current for at least the period from the issue of the Construction Certificate until the issue of a Compliance Certificate/Occupation Certificate for the works. Documentary evidence of the Certificate of Currency is to be provided to Council prior to the issuing of any Construction Certificate for access.

- (b) **Payment of development contributions** – The applicant must pay the following development 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 amount of \$266,035.00 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 the issue of the Construction Certificate.

Reason: To ensure relevant fees, levies and contributions are paid which address the increased demand for public amenities and services resulting from the approved development.

Reason: To ensure payments are made in accordance with legislative requirements.

B3 Construction Site Management Plan

Prior to the issue of a Construction Certificate, the applicant must prepare the following Construction Site Management Plan (incorporating the Sediment and Erosion Control Plan and Construction Traffic Management Plan).

Reason: To require details of measures that will protect the public and the surrounding environment during site works and construction.

B4 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.
- Identify 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 Denman Road will require approval from Transport for NSW prior to their implementation.
- Identify and detail any further traffic/road impact mitigation measures deemed necessary to manage the impact of construction vehicles on the road network.

B5 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.

B6 Other Approvals

The following approvals are required where relevant:

- (a) **Roads Act 1993 approval** - The applicant is to submit an application to Council for any work within the road reserve (e.g. vehicular footpath crossings, utilities including stormwater, footpath paving, kerb and gutter etc) for local and regional roads or Transport for NSW for state roads, pursuant to Section 138 of the *Roads Act 1993*. Details must be provided with the Construction Certificate application.
- (b) **Section 68 of the Local Government Act 1993** – Any approvals required under Section 68, Parts A to F, including (but not limited to), any use of public property for crane operation, waste management or installation of a moveable dwelling. Applications are to be made to Council a minimum of six (6) weeks prior to the proposed activity being undertaken.

Reason: To ensure all work complies with relevant legislation.

B7 Servicing

In relation to services, the following must be undertaken by the applicant where relevant:

- (a) **Letter of consent from electricity authority** - a letter of consent from Ausgrid demonstrating that satisfactory arrangements can be made for the installation and supply of electricity,
- (b) **Adequate services** – the applicant must demonstrate that adequate services for water, electricity and wastewater are available to the site, Prior to occupation.

Note: A private drinking water supply is required for staff. The Public Health Act 2010 and the Public Health Regulation 2012 require drinking water suppliers to have a quality assurance program (QAP) that complies with the Regulation and comply with the approved QAP. You are required to develop and submit a copy of the QAP to NSW Health (Hunter New England Public Health Unit) prior to occupation of the site.

- (c) **Other relevant utilities or services** - that the development as proposed to be carried out is satisfactory to those other service providers, or if it is not, what changes are required to make the development satisfactory to them,
- (d) **Dial before your dig** - the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

Details shall be provided with the Construction Certificate application.

Reason: To ensure work is carried out having regard to existing services and underground infrastructure for safety and efficiency.

B8 On-site Sewage Management

The development will require On-Site Sewage Management System. Such a system requires approval from Council to install, construct or modify under s68 Local Government Act. A current Approval to Operate will also be required before an Occupation Certificate can be provided. Applications to install a system must be accompanied with a Wastewater Management Plan including Site and Soil Assessment by a suitably qualified person.

Reason: To ensure that wastewater is disposed of in an appropriate manner.

B9 Substation to be bunded

The substation shall be provided with appropriate bunding or similar containment systems with a capacity that will exceed the oil storage volume of the transformers and must be demonstrated on the Construction Certificate plans.

Reason: To prevent water or land contamination from potential spills or leaks from the transformers within the substation from polluting the site and surrounding areas.

B10 Stormwater Management

Stormwater management shall be constructed in accordance with the approved stormwater plan prepared by TOPO dated 6 April 2021.

A Section 68 approval under *Local Government Act 1993* will be required to be lodged and approved by Council prior to the issue of a construction certificate.

The development must not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems that connect to Council's stormwater system.

Reason: To ensure stormwater is appropriately managed on the site.

B11 Vehicle Access Requirements

The following vehicle access arrangements must be provided to the site:

- (a) Rural (BAL) turn treatment or as required by Transport for NSW

Entry and exit points are to be clearly signposted and visible from both the street and the site at all times. All required works are to be completed in accordance with Council/Transport for NSW standards prior to the commencement of construction works on the site. Details must be provided on the Construction Certificate plans.

Reason: To ensure safe, practical and legal vehicle access is provided to the site.

B12 Reflection Mitigation Measures

To ensure reflection and glare from the solar panels is minimised, the following shall be implemented:

- (a) Planting and maintenance of a vegetation screen along the all boundary of the site to reduce the impact of the solar panels on the adjoining properties/road;
- (b) The solar panels installation are to contain an anti-reflective treatment. Evidence shall be provided to the Certifying Authority.

Details are to be shown on the Construction Certificate plans.

Reason: To ensure the solar panels do not cause a nuisance, disturbance or hazard to adjoining properties, nearby aircraft and the public using nearby public roads from glint and glare.

B13 Structural Engineers Certification

Certification from an appropriately qualified and practicing structural engineer is to be provided to the Certifying Authority, certifying the structural adequacy in accordance with the relevant Australian Standards of all reinforced concrete work, structural beams, columns & other structural members including structural drawings. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

Reason: To ensure structural works are safe and built to the relevant specifications.

PART C: PRIOR TO WORKS COMMENCING

C1 Appointment of Principal Certifying Authority

Prior to the commencement of work, the person having the benefit of the development consent and a Construction Certificate shall:

- (a) Appoint a Principal Certifying Authority and notify the Council of the appointment (if Council is not appointed); and
- (b) Notify Council of their intention to commence building work (at least 2 days' notice is required).

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

C2 Signs on site

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

- (a) showing the name, address and telephone number of the principal certifier 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 or demolition work is being carried out but must be removed when the work has been completed.

Reason: Prescribed Condition under Clause 98A(2) and (3) of the Regulation.

C3 Tree Protection Measures

Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the Construction Site Management Plan are in place.

Reason: To protect trees which are to be retained prior to work commencing on the site.

C4 Toilet facilities

Toilet facilities are to be provided at, or in the vicinity of the site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the Council or some other sewage management facility approved by the Council.

Reason: To provide appropriate on-site amenities during demolition and construction work.

C5 Implementation of the Construction Site Management Plan and Waste Management Plan

The approved Construction Site Management Plan (incorporating the Sediment and Erosion Control Plan and Construction Traffic Management Plan) and the Waste Management Plan must be implemented and maintained prior to, and during, the construction works on the site until works are completed and all exposed surfaces are landscaped/sealed.

Reason: To ensure measures that will protect the public, and the surrounding environment, during site works and construction are implemented prior to works commencing on the site.

C6 Vehicular Access

Vehicular Access must be constructed in accordance with condition B11.

PART D: DURING WORKS

D1 Construction Hours

The hours of demolition and/or building work shall be limited to the following hours:

- (a) Monday to Friday: 07:00 am to 05:00 pm;
- (b) Saturday: 08:00 am to 01:00 pm;
- (c) No Construction on Sundays or Public Holidays.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works. Note: Any variation to the hours of work requires Council's approval.

Reason: To ensure the amenity of the area is maintained during construction.

D2 Compliance with Construction Management Plan

The requirements of the approved Construction Site Management Plan must be complied with and maintained for the duration of the construction works. This includes, but is not limited to, the following:

- All practicable measures shall be undertaken to prevent and minimise harm to the environment and the amenity of the area as a result of the construction and operation of the development, particularly from wind-blown dust, debris, noise and the like.
- All building materials and equipment must be stored wholly within the site unless an approval to store them elsewhere has been granted.
- During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc.
- Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition.
- The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times.

The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

Reason: To ensure the required site management measures are implemented during construction.

D3 Waste Management

While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan. Upon disposal of waste, the applicant is to compile and provide records of the disposal to the Principal Certifier, detailing the following:

- (a) The contact details of the person(s) who removed the waste
- (b) The waste carrier vehicle registration
- (c) The date and time of waste collection

- (d) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- (e) The address of the disposal location(s) where the waste was taken
- (f) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.

D4 Responsibility for Changes to Public Infrastructure

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

Reason: To ensure payment of approved changes to public infrastructure.

D5 Discovery of Aboriginal Objects

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Reason: To ensure the protection of objects of potential significance during works.

D6 Discovery of Contamination

Should any contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the applicant and contractor shall ensure the appropriate regulatory authority is notified and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority.

Reason: To ensure contamination discovered during construction is dealt with as quickly as possible and to protect the health of the community and the environment.

D7 Identification Survey

An identification survey prepared by a Registered Surveyor is to be prepared at set out stage of the construction works to ensure that the solar panels and fencing is generally sited in accordance with the approved site plan.

Reason: To ensure buildings are sited and positioned in the approved location.

D8 Construction Noise

While construction work is being carried out, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Where construction noise is identified within '*Construction and Operational Noise Assessment*' 21GCA0031 R01_0 to exceed this threshold notice is to be given in writing to adjoining receptors affected and Council with a minimum of 48 hours prior to it being undertaken.

Reason: To protect the amenity of the neighbourhood.

D9 Imported Fill

While construction work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's *Waste Classification Guidelines* before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier,
- (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

D10 Critical Stage Inspections

Building work must be inspected on the occasions set out in clause 162A (Critical stage inspections for building work) under the *Environmental Planning and Assessment Regulation 2000*.

Reason: To require approval to proceed with building work following each critical stage inspection and comply with the Regulation.

D11 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

D12 Tree Protection

While site or building work is being carried out, the applicant must maintain all required tree protection measures in good condition in accordance with the Construction Site Management Plan required under this consent, the relevant requirements of *AS 4970-2009 Protection of Trees on Development Sites* and any Arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

Reason: To protect trees during construction.

D13 Native Vegetation

There must be no removal or disturbance of native vegetation except as authorised by this consent, including canopy trees, understorey and ground cover vegetation without the prior written consent of Council.

Reason: To ensure vegetation is maintained on the site.

D14 Clearing for Asset Protection Zones (APZ)

While building work is being carried out, the applicant must ensure the clearance of vegetation to establish the APZ is confined to within the marked APZ boundary, to the satisfaction of the principal certifier.

Reason: To ensure vegetation clearance during construction is confined within the APZ.

PART E: PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

E1 Occupation Certificate

Occupation and operation of the solar farm is not to occur until all work has been completed, all of the conditions of consent have been satisfied and an Occupation Certificate has been issued by the Principal Certifying Authority pursuant to Section 6.10 of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

E2 Works-as-executed plans and any other documentary evidence

Before the issue of the relevant Occupation Certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:

- (a) All stormwater drainage systems and storage systems,

The Principal Certifier must provide a copy of the plans to Council with the Occupation Certificate.

Reason: To confirm the location of works once constructed that will become Council assets.

E3 Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, and is completed to the satisfaction of the relevant authority. Before the issue of the Occupation Certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements before occupation.

E4 Repair of Infrastructure

Before the issue of an Occupation Certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council. Note: If the Council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

Reason: To ensure any damage to public infrastructure is rectified.

E5 Removal of Waste upon Completion

Before the issue of an Occupation Certificate, the Principal Certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the Principal Certifier. Before the issue of a partial Occupation Certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved Waste Management Plan to the Principal Certifier's satisfaction.

Reason: To ensure waste material is appropriately disposed or satisfactorily stored

E6 Completion of Landscaping

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 *Pruning of Amenity Trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s)

E7 Operations Environment Management Plan

Prior to the issue of an Occupation Certificate, the applicant prepares and submit must Operations Environment Management Plan (OEMP).

Reason: To ensure environmental protection throughout the operation of the development.

E8 Landscaping

All landscaping required by the approved Landscape Plan must be completed prior to the issue of an Occupation Certificate.

Reason: To ensure there is adequate landscaping undertaken on the site and an adequate visual screening buffer has been established on the site.

E9 Drainage works

All drainage works required to be undertaken in accordance with this consent shall be completed prior to the issue of an Occupation Certificate for the development.

Reason: To ensure adequate arrangements have been made for the collection, conveyance, storage and discharge of stormwater on the site.

E10 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.

G1 Emergency Management Plan

The approved Emergency Management Plan ('EMP') for the development shall be activated when required throughout the operation of the development and shall be updated if required.

Reason: To ensure the protection of human life, the environment and adjoining property in the event of fire or other emergency generated by the development.

G2 Operations Environmental Management Plan

The approved Operations Environmental Management Plan ('OEMP') for the development shall be complied with throughout the operation of the solar farm.

Reason: To ensure the solar farm is operated in accordance with relevant Australian Standards and best practice.

G3 Vehicle Management

All loading and unloading of vehicles must be undertaken wholly within the site and all vehicles must enter and leave the site a forward direction. Sufficient car parking is to be provided on the site, with no car parking to occur on the public road network in the vicinity of the site. The entry and exit points are to be clearly signposted and visible from both the street and the site at all times.

Reason: To ensure the operation of the solar farm does not adversely affect the surrounding road network.

G4 Landscape Screening

The planting associated with the landscape screen as outlined on the approved Landscape Plan must be maintained while the solar farm is in operation at the site. On-going monitoring of the health and performance of the visual plant screen during the life operation of the solar farm must be undertaken, including replacement of plant stock whenever necessary to ensure the screen continues to act as an effective visual buffer. Following construction, the applicant must restore the ground cover of the site as soon as practicable using suitable species and maintain ground cover.

Reason: To ensure the provision of a landscape screen to reduce the visual impact of the development.

G5 External lighting

Any lighting used on the site in connection with the development is to comply with AS 4282 – *Control of the obtrusive effects of Outdoor lighting*. The applicant must minimise off-site lighting impacts arising from the development and any external lighting is installed as low intensity lighting except where required for safety or emergency purposes.

Reason: To protect the amenity of the surrounding area.

G6 Minimise Harm to the Environment

The applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment or to the amenity of the area that may result from the construction, operation or decommissioning of the development, including weed control.

Reason: To minimise harm to the environment.

G7 Visual Impacts

The applicant must:

- a) Minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
- b) Ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
- c) Not mount any advertising signs or logos on site, except where this is required for safety purposes.

Reason: To minimise the visual impact of the development.

G8 Bushfire Protection Measures

During occupation of the development, the applicant must ensure the site is managed, in accordance with *Planning for Bushfire Protection 2019* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*. Any required bushfire protection measures are to be maintained throughout the operation of the solar farm at the site.

Reason: To reduce the impact of bushfires.

G9 Storage of hazardous materials

The applicant must store and handle all dangerous and hazardous materials on site in accordance with *AS 1940-2004: The storage and handling of flammable and combustible liquids*. The storage of any dangerous and hazardous materials must be provided in a suitably bunded and impervious area and in such a way as to minimise spills of hazardous materials or hydrocarbons. Clean up any spills must occur as soon as possible.

Reason: To minimise harm to the environment.

G10 Maintenance of Wastewater and Stormwater Treatment Device

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

Reason: To protect sewerage and stormwater systems.

G11 Noise Control During Operation

Any noise generated from the operation of the solar farm, including noise from any substation and associated infrastructure, must not be intrusive or constitute offensive noise as defined by the *Protection of the Environment Operations Act 1997* at any private residential receiver. The operation of the solar farm must satisfy the EPA maximum noise criteria pursuant to the EPA's *Noise Policy for Industry (2017)*. If, at any time, these levels are exceeded, operation of the solar farm shall immediately be modified, including suspension of operations if necessary, to ensure compliance.

Reason: To protect the amenity of the area while the solar farm is in operation.

G12 Waste materials

All solid waste from construction and operation of the development shall be assessed, classified and disposed of in accordance with the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste*, November 2014. All hazardous building materials must be disposed of in accordance with the relevant statutory requirements.

Reason: To protect the environment.