

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	13 May 2022
DATE OF PANEL DECISION	12 May 2022
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Clare Brown, Anne Sander and Anthony Burke
APOLOGIES	Jay Suvaal
DECLARATIONS OF INTEREST	Juliet Grant declared a conflict of interest as one of her clients owns land adjoining the site of the proposed development.

Papers circulated electronically on 12 April 2022.

MATTER DETERMINED

PPSHCC-93 – Cessnock – 8/2021/21907 at 1026 Lovedale Rd, Allandale – 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 has had the benefit of a number of briefings and a site inspection. Prior to determining this matter, the Panel had the benefit of a further briefing from the applicant and Council. The submitter was provided an opportunity to address the Panel – but chose not to.

The Panel also had the benefit of a further supplementary report from Council addressing a number of matters raised in the Panel's deliberation, specifically:

- Landscape requirements;
- Flood free access and interpretation of DCP Chapter C.9 Development in flood prone land.

An amended set of conditions was also provided by Council.

The applicant requested in writing and verbally that the Panel amend Condition 11 – Detailed Landscape Plan as outlined in the email of 20 April 2020. The email also raised concern with the requirement for the construction of a culvert to obtain flood free access to the site.

The Panel considers that the landscape screening, planting and ongoing maintenance of the landscape screen planting is important to mitigate visual impacts to the proposal. The Panel does not support the applicant's changes to Condition 11 and in fact has included additional details and requirements for early planting similar to the approach taken for the Panel's consideration of other solar farms in the area. This also includes specifying density requirements, heights, width and depth of planting.

The Panel were informed that this facility is not critical infrastructure. It is noted that AEMO classifies solar farms less than 5 megawatts as unscheduled generation and as such the grid does not rely on the proposed development for electricity generation. It is noted that the applicant indicated that there was no issue if the facility was "turned off" or supply interrupted as a result of a flood event within the site. Flood free access to the solar arrays is therefore not necessarily required.

In respect to the need for the culvert, the Panel agrees that the extent of landform change required is disproportionate to the need for flood free access as required by Condition 10.

The Panel agreed that Condition 10 could be amended to delete the requirement for a culvert and rely on a causeway access over the stream – subject to a Controlled Activity Approval from NRAR, if the structure is not otherwise exempt. Arising from this, the Panel was also satisfied in issuing an operative conditional consent.

The Panel also sought to understand the nature of this proposal which comprises a different array of solar receptors – at a height of 1 metre above the ground. The proposal includes the introduction of plastic sheeting under the array as a weed control measure in conjunction with a gravel layer. This aspect is not supported, and the Panel has considered that the ground should be maintained in a natural state and weeds controlled through a combination of planting ahead of solar array installation that acts to reduce initial weed growth, an option identified by the applicant when queried, in combination with the robotic devices for the mowing/slashing of the vegetation that are understood to be available. This can be addressed by a condition.

The site abuts the Hunter Expressway and is partly used for quarry purposes.

The Panel is satisfied that the development is appropriate for its setting and that impacts arising from the development can be reasonably mitigated.

The Panel considers that the siting of the solar array and the scale and height at 1 metre above ground, in a cleared area of the site with existing trees retained and maintained, with the solar panel array technology capable of being installed as it relates to the undulating natural ground level and over a much smaller footprint than typical for solar farms under different solar panel array technology results in minimal impacts and is not highly visible from the surrounding area.

The Panel considers that the proposed development could be approved subject to specific conditions outlined below.

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 following reasons:

- The proposed use subject to amendments is suitable for the site.
- The proposed development is compatible with the surrounding context.
- The proposed development provides for an environmentally sustainable form of electricity generation.

CONDITIONS

The Development Application was approved subject to the conditions at Schedule 2.

The conditions were amended from those that were included in the Council Report in the following way:

- Deferred commencement Condition 1 – amended and moved to new Condition 12A, with Schedule 1 deleted
- Condition 1 – amended to include all plans and BDAR.
- Additional condition – not approving plastic or gravel under the array, connection to Ausgrid external to site and box culverts (condition 5).
- Additional condition – limiting height of array (condition 6).
- Condition 10 – Access Road amended to remove requirement for culvert and reference plans (now condition 12).
- Condition 11 – added details relating to density, width, and height planting (now condition 13).






- Additional conditions requiring early planting before CC and fencing of landscaping (conditions 14 and 15).
- Condition 47 – delete reference to incorrect road and added decommissioning requirement (now condition 50).
- Updated condition numbering and condition cross referencing to match.
- Added reference to the Ausgrid letter under Advice.

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:

- Impact on scenic quality and views
- Impact on property value

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 additional detail has been added to the landscape condition.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Clare Brown	 Anne Sander
 Anthony Burke	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-93 – Cessnock – 8/2021/21907
2	PROPOSED DEVELOPMENT	Electricity Generating Works (5 Megawatt Solar Farm and Battery Storage)
3	STREET ADDRESS	1026 Lovedale Road, Allandale
4	APPLICANT/OWNER	Allandale Blue Metal Pty Ltd
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 (Resilience and Hazards) 2021; ◦ State Environmental Planning Policy (Planning Systems) 2021; ◦ State Environmental Planning Policy (Koala Habitat Protection) 2021; ◦ State Environmental Planning Policy (Transport and Infrastructure) 2021; ◦ Cessnock Local Environmental Plan 2011 • Draft environmental planning instruments: • Development control plans: <ul style="list-style-type: none"> ◦ Cessnock Development Control Plan 2010 • 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: 11 April 2022 • Supplementary report received: 28 April 2022 • Written submissions during public exhibition: one (1) • Applicant email 20 April 2022
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 11 November 2022 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton ◦ <u>Council assessment staff</u>: Sarah Hyatt, Janine Maher and Julia Ryl ◦ <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Site inspection: 19 January 2022 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair) and Sandra Hutton • Final briefing to discuss Council's recommendation: 21 April 2022 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Clare Brown, Anne Sander and Anthony Burke ◦ <u>Council assessment staff</u>: Sarah Hyatt and Richard Forbes ◦ <u>Department staff</u>: Leanne Harris and Carolyn Hunt • Applicant Briefing: 21 April 2022

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Clare Brown, Anne Sander and Anthony Burke ○ <u>Council assessment staff</u>: Sarah Hyatt and Richard Forbes ○ <u>Department staff</u>: Leanne Harris and Carolyn Hunt ○ <u>Applicant representatives</u>: Robert Frost, Zofia Kuypers and Mal Frost <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2**CONDITIONS OF CONSENT****1. Approved Plans and Documents**

Development must be carried out strictly in accordance with DA No. 8/2021/21907/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Array Layout, Drawing No. ADL-SF-0001, Revision D	Cameron Dinkha	07/03/2021
Overall Site Layout, Drawing No. ADL-SF-0002, Revision C	Cameron Dinkha	07/03/2021
Site Landscape Layout, Drawing No. ADL-SF-0003, Revision D	Cameron Dinkha	07/03/2021
DC Block Design, Drawing No. ADL-SF-0004, Revision B	Robert Frost	13/02/2022
PEG South Elevation, Drawing No. ADL-SF-0005, Revision B	Robert Frost	06/02/2022
Security Fence Elevation, Drawing No. ADL-SF-0006, Revision A	Robert Frost	21/02/2022
Awning Details, Site Plan, Column Locations, Footings, Current View, 5 Pages	Stratco Outback	27/02/2022
Site Plan (Shed)	Stratco	26/10/2021
Elevations (Shed), 4 pages	Statco	26/10/2021
Current View (Shed)	Statco	26/10/2021
Slab Layout (Shed), 2 pages	Statco	26/10/2021

Document Title	Prepared By	Dated
Statement of Environmental Effects, Revision 2	Robert Frost	27/10/2021
Bushfire Risk Assessment Report, Revision 2	Umwelt	16/08/2020

Decommissioning and Site Rehabilitation Plan, Revision A	HDB	March 2022
Biodiversity Development Assessment Report	Umwelt	September 2021

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. CC, PC & Notice Required

In accordance with the provisions of Section 6.6 and 6.7 (cf previous Section 81A) of the *EP&A Act 1979* construction works approved by this consent must not commence until:

- a) A CC has been issued by a Certifier (being Council or a registered certifier); and
- b) A PC has been appointed by the person having benefit of the development consent; and
- c) If Council is not the PC, notify Council no later than two (2) days before building work commences as to who is the appointed PC; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

3. BCA Compliance

Pursuant to Section 4.17(11) (cf previous s 80A) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

4. Requirements of Electricity Supply Authority

The applicant must comply with the requirements specified by the Electricity Supply Authority, Ausgrid, as detailed within their correspondence dated 13 October 2021, Reference TRIM 2017/12/285, a copy of which is attached to this consent.

5. Limitations and Development Not Approved by this Consent

No approval is granted for any of the following:

- a) Connection to Ausgrid infrastructure – external to the site,
- b) Box culverts,
- c) Use of plastic ground sheeting, and
- d) Use of gravel ground cover.

6. Approved Height of Array

The height of the array is limited to a maximum of 1m above natural ground level.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Construction Certificate:

7. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a CC.

8. Cessnock Section 7.12 Levy Development Contributions Plans (2020)

A total monetary contribution of \$78,150.00 is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*, such contribution is to be paid prior to the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock Section 7.12 Levy Contributions Plan 2017 (as amended)*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or may be inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

9. Car Parking – Commercial/Industrial

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifier prior to the issue of a CC.

10. Stormwater – Discharge (General)

The applicant shall collect all roof and stormwater runoff from the impervious areas on site, and any other drainage entering the site, and discharge it to Council's satisfaction in accordance with Council's 'Engineering Requirements for Development'.

The plans submitted in association with the CC application are to demonstrate compliance with this

requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of the CC.

11. Dilapidation Report – Council Property

A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council prior to the issue of a CC:

- a) Lovedale Road pavement & shoulders along the site frontage:

The dilapidation report is to be prepared by a practising Structural / Civil Engineer agreed to by both the applicant and Council. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant.

12. Access Road

The registered proprietors shall provide details of an all-weather access road from the property boundary to the proposed development. The access road will need to be constructed to 4m wide, 100mm thick pavement with 1m wide clear verges either side and incorporate a causeway crossing in accordance with Figure 16 of the Statement of Environmental Effects dated 27 October 2021. All works are to be in accordance with Council's 'Engineering Requirements for Development' and NSW Rural Fire Service 'Planning for Bushfire Protection' to serve the proposed development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement prior to the issue of a CC.

12A. Controlled Activity Approval

A controlled activity approval shall be obtained from the Natural Resource Access Regulator for works proposed within the watercourse.

The approval is required prior to issue of any Construction Certificate or works commencing on site. Details of the approval are to be submitted to Council.

13. Detailed Landscape Plan

A detailed Landscape Plan prepared by a suitably qualified person must be submitted and approved, prior to the issue of a CC. The plan must include:

- a) Location of all proposed and existing planting, delineating existing trees to be retained, removed or transplanted,
- b) A detailed planting schedule including species by botanical and common names, quantities, pot sizes and estimated size at maturity,
- c) Planting shall be provided at density of no less than 1 tree/plant per 3 square metres,

- d) The plan shall provide exact dimensions of areas to be planted. A minimum depth of 10m is required along the northern boundary of the site from the boundary to Lovedale Road for a distance of 320 metres and along the southern boundary abutting the Hunter Expressway for a minimum of 10m depth and 200 metres consistent with the location shown on the site landscaping layout,
- e) Details of planting procedure including preliminary grubbing and seeding of the area impacted by the development,
- f) Details of earthworks including mounding, retaining walls and planter boxes,
- g) A landscape maintenance schedule for the owner/occupier to administer over the determined time frame including a process for the ongoing management of weeds,
- h) Details of drainage and watering systems including detailed specification and plans including; proposed material, make/model, dimensions, quantities,
- i) The landscaping of the site is to be designed to:
 - i) Be low maintenance with native species characteristic of the Lower Hunter Spotted Gum – Ironbark Forest EEC,
 - ii) Be designed for a safe level of transparency,
 - iii) Include significant canopy trees where possible,
 - iv) Include trees and shrubs known to be fauna food sources where possible,
 - v) Provide perimeter planting adjacent to the car park, and
 - vi) Not interfere with sight lines for vehicles entering or exiting the site (at full height-post establishment).

14. Establishment of Planting

Works associated with the establishment and revegetation as detailed in the landscape plan are to be completed prior to issue of a CC.

15. Fencing of Landscaping

Landscaping planted in accordance with the approved landscaping plan shall be appropriately fenced to prevent stock grazing during establishment. Fencing shall be completed prior to issue of a CC.

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site:

16. Construction and Traffic Management Plan

The applicant must prepare a Construction Management and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the *PC* as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
 - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
- e) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

17. PC Signage and Contact Details

Prior to the commencement of works, a sign must be erected in a prominent position on the site on which the proposal is being carried out. The sign must state:

- a) Unauthorised entry to the work site is prohibited,
- b) The name of the principal contractor (or person in charge of the site) and a telephone

number on which that person may be contacted at any time for business purposes and including outside working hours,

- c) The name, address and telephone number of the PC for the work.

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

18. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

19. S.138 Roads Act 1993 Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

20. Relocation of Services

The registered proprietor of the land shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

21. Trees to be Retained

Any trees to be retained within (10 m of) the development footprint must be fenced prior to construction works beginning. The fencing is to encompass the maximum possible area within the drip line of the canopy. Tree protection signage must be attached to the fencing surrounding the retained trees.

DURING WORKS

The following conditions are to be complied with during works:

22. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

23. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

24. Approved Plan Kept On Site

A copy of the approved plans must be kept on site for the duration of site works and be made available upon request.

25. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment and Heritage *Noise Guide for Local Government*.

26. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works,
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits,
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PC and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

27. Erosion and Sediment Control

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's "Engineering Requirements for Development", and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

28. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

29. Tree Protection

Stockpiling or storage or mixing of materials (including soil), vehicle parking, disposal of liquids, machinery repairs, refuelling and the siting of any new offices or sheds must not occur within the drip line of retained trees during any stage of the development.

30. Clearing of Development Footprint

During construction works all vehicles must be washed before entering the site to prevent the spread of exotic species.

31. Tree Protection Fencing

All tree protection fencing and signage as required by Condition 15 must remain in place until completion of construction works.

32. Clearing to be Carried Out

Clearing of native vegetation and development activities must only occur within the approved development footprint as shown in Figure 1.2 (Development Footprint) of the Biodiversity Development Assessment Report by Umwelt (Australia) Pty Ltd dated September 2021.

33. Bushfire Protection

The following bush fire protection measures are to be implemented at the commencement of building works, and maintained for the life of the development:

a) Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire-fighting activities. To achieve this, the following conditions shall apply:

At the commencement of building works, and in perpetuity, the 10m APZ around the development shall be managed as an 'Inner Protection Area' in accordance with Appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*.

b) Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire-fighting activities. To achieve this, the following conditions shall apply:

- i) The provision of water, electricity and gas shall comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.
- ii) A 22,500 litre water supply tank (manufactured from concrete or metal) shall be provided for fire-fighting purposes. A Rural Fire Service standard 65mm metal Storz outlet with a ball valve shall be fitted to the outlet within the 'Inner Protection Area' or the non-hazard side away from the structure.
- iii) A minimum 5hp or 3kW petrol or diesel-powered pump shall be provided for connection to the water supply and shielded against bush fire attack. A hose of minimum 19mm internal diameter with reel for fire-fighting shall be provided for connection to the pump.

c) Access

The intent of measures is to provide safe operational access on property access roads for emergency services personnel in suppressing a bush fire, and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

Access shall comply with Table 7.4a of *Planning for Bush Fire Protection 2019*.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate (as specified within the condition):

34. Roads – Bitumen Crossing

The registered proprietors shall construct and maintain a bitumen sealed access crossing from the edge of the road formation in Lovedale Road to the property boundary, in accordance with Council's "Engineering Requirements for Development" and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossing is required to be constructed prior to the issue of an OC.

Construction of the crossing will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (gravel in place but prior to sealing of the crossing).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.). Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

35. Roads – Access Completion

The access road to serve the subdivision shall be completed in accordance with Council's 'Engineering Requirements for Development' prior to the issue of an OC.

36. Drainage Works

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

37. Flood Mitigation Works

Any flood mitigation works required to be undertaken in accordance with this consent shall be completed prior to issue of an OC for the development.

38. Parking – Completion

Car parking areas shall be completed prior to the issue of an OC.

39. Fencing

All proposed fencing must be completed prior to the issue of an OC.

40. Second Dilapidation Report

A second Dilapidation Report, including a photographic survey, must be submitted after the completion of works. A copy must be lodged with Council and the PC prior to the issue of an OC.

41. Completion of Landscape Works

All landscape works, including the removal of all noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of Development Consent, prior to the issue of an OC, other than as required by Condition 14.

42. Bushfire Protection

The Bushfire Protection Measures and standards as outlined within Condition 33 (which forms part of this consent), shall be installed/completed prior to issue of an OC.

43. Finish of Excavated &/or Filled Areas Around Site

The excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is

to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises:

44. Driveways to be Maintained

All access crossings and driveways shall be maintained in good order for the life of the development.

45. Road – Advice

The applicant is advised that Council will not accept responsibility for the road access. In this respect, the care, control and maintenance thereof, is the sole responsibility of the user/s, in perpetuity.

46. Weeds

The weed, Fireweed (*Senecio madagascariensis*) on the site must be removed.

47. Maintenance of Native Vegetation

All native vegetation on the site outside of the approved development footprint, as shown in Figure 1.2 (Development Footprint) of the Biodiversity Development Assessment Report by Umwelt (Australia) Pty Ltd dated September 2021, must be retained in a natural state and not grazed, cleared, picked (as defined in the *Biodiversity Conservation Act 2016*) or disturbed in any way.

48. Outdoor Lighting

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and AS 4282:1997 Control of the obtrusive effects of outdoor lighting.

49. Maintenance of Landscaping

Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development. If any of the

vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

50. Decommissioning and Rehabilitation

Should the use of the solar farm cease, all panels and infrastructure associated with the solar farm shall be removed and decommissioned within twelve (12) months of cessation of the use.

All works shall be undertaken in accordance with the Decommissioning and Rehabilitation Plan, prepared by HDB, dated 10.03.2022. Decommissioning is also required of all solar panels, above and below ground infrastructure, inverter stations, fencing and any other structures or infrastructure relating to the approved development.

Suitable evidence of compliance with the above requirement, must be provided to Council upon completion of the decommissioning and rehabilitation works.

In the event the solar farm is decommissioned, a Dilapidation Report in respect of the visible and structural condition of Lovedale Road (from the point of access to the site to the entrance ramp onto the Hunter Expressway west and 500m along Lovedale Road to the north), is required to be submitted to, and approved by Council.

The Dilapidation Report must include a photographic survey and be prepared by a practising structural/civil engineer agreed to by both the applicant and Council. Any damage to Lovedale Road caused during decommissioning of the solar farm will require rectification, at the applicant's cost. Any such works will require approval under Section 138 of the Roads Act 1993, and must be carried out in conjunction with the decommissioning and rehabilitation works.

ADVICE

A. "DIAL BEFORE YOU DIG" DIAL 1100

Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
www.dialbeforeyoudig.com.au

B. Aboriginal Heritage

As required by the National Parks and Wildlife Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately, and Council and Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from Heritage NSW.

Note: The National Parks and Wildlife Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site. Should any item required to be harmed an Aboriginal heritage impact Permit will be required before any further works are undertaken.

C. Responsibility for Other Consents/Agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant including any Controlled Activity approval for works within the watercourse. Separate approval to connect into the network is required from Ausgrid in accordance with advice dated 13 October 2021.