

DATE OF DETERMINATION	21 February 2022
DATE OF PANEL DECISION	18 February 2022
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway and Stephen Gow
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 February 2022.

MATTER DETERMINED

PPSNTH-103 – Gunnedah – DA2021/035 at 781 Wandobah Road, Gunnedah – 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 listed at item 8 in Schedule 1.

Development application

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

1. The proposal is permissible in the RU 1 Primary Production zone under the Gunnedah LEP and by virtue of clause 34 of the Infrastructure SEPP. It is also consistent with the relevant zone objectives because it is a sustainable rural use and allows ongoing rural use of the land concerned and satisfies the applicable provisions of all relevant SEPPs, including current planned amendments to the Infrastructure SEPP which deal specifically with regulation of 'utility-scale solar developments'.
2. The proposal is consistent with strategic plans applying to the area including the New England North West Regional Plan because it promotes development of renewable energy facilities in suitable locations.
3. The development site is suitable for the proposed use. It is largely free of environmental constraints, adequately separated from sensitive surrounding land uses and will not conflict with any nearby use or sterilize any valuable agricultural land. The site is proximal to electricity transmission lines and has good road access.
4. The proposal's visual impacts have been thoroughly assessed and with the landscaping measures proposed and conditioned have been found to be satisfactory.
5. The proposal will provide competitively priced and non-polluting electricity to the community and therefore be socially beneficial.
6. The Panel has carefully considered the matters raised in the two submissions received following exhibition of the application and believes that the principal concerns raised can or will be addressed by the design of the proposal and conditions imposed. There are no residual matters that are of sufficient significance to warrant refusal of the application.
7. For the reasons given above approval of the application is in the public interest.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Insert new condition as follows:

G2. Decommission and Remediation of Land

Prior to the issue of any Occupation Certificate, the Applicant must ensure that there is a notation registered on the subject land (Lot: 48 DP: 755474) ensuring that the solar farm is required to be decommissioned and the subject lands remediated at the cessation of operations in accordance with the Notice of Determination for DA 2021/035. Any such notation must be approved by Gunnedah Shire Council prior to lodgement with the NSW Land Registry Services.

Reason: To ensure that the obligation for decommission works is registered to the land title.

- Condition D5 to be amended to read as follows:

An amended Landscaping Plan is to be submitted to and be approved by the General Manager of the Gunnedah Shire Council or his delegate, prior to the issue of a Construction Certificate. The amended Landscaping Plan is to include the planting of a landscaping barrier along the initial 50 metres of the Eastern boundary of the development area, measured from the north east corner of the site, external to the security fence, in addition to all landscaping indicated to be required by the development. The landscaping is to be a minimum width of three (3) metres.

The Landscaping Plan is to include a report prepared by a qualified landscape architect which confirms that selected vegetation species, growth rates, densities and canopy areas will create a suitable barrier within a minimum of 3 years, to visually screen the development from adjoining public spaces and private residences.

Landscaping species should incorporate a selection of suitable species which will enable the establishment of a complete visual screen from the ground level to a height of approximately 2.3 metres, being the height of the security fence.

Selected species should be low maintenance, drought and frost tolerant species.

Reason: To ensure that visual screening is established between the development and residential receivers to the East of the site and Thompson Road.

- Condition F6 to be amended to read as follows:

F6 Heavy construction traffic is to be limited to delivery hours of 10:00am until 2:00pm.

Signage, making motorists aware of the turning of construction vehicle, is to be placed within the road reserve at a suitable sighting distance from the intersection to the site from Wandabah Road. The suitable distance is to be determined in consultation with Council's Infrastructure Services Team.




Reason: To ensure heavy traffic is limited to appropriate times to limit impact on likely peak periods of existing traffic within the road network.

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:

- The development is location in same area of future urban housing development
- Significant time for consideration of planning proposal for adjoining property
- The development site is more appropriate for agricultural uses
- Smaller scale to existing solar farms in LGA and unnecessary
- In adequate capacity for additional vehicle within the road network and additional accesses from road reserve
- Vehicle access should be provided by Thompson Road
- Rotation of panels (East-West) will affect the ability for future houses to West of the site
- The development would result in a reduction to surrounding land values
- The development would result in increased heat generation by solar panels
- Glare would affect residences to East and West from Panels
- The proposed 3m wide landscaping barrier is inadequate
- The development may introduction of noxious weeds
- There is a lack of landscaping/visual screen on the Western side of the development
- There are inconsistencies with construction hours within the application documents
- Requested relocation of parking and setdown area to south of the development area
- Requested relocation of the solar farm to southern end of the development site
- Need for repair of existing boundary fence
- Suggestion that existing boundary fence is not in the correct location

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-103 – Gunnedah – DA2021/035
2	PROPOSED DEVELOPMENT	The development application is seeking consent for the construction and operation of an Electricity Generating Works (Solar Farm) with a generation capacity of 5MW, including the installation of 12,000 solar modules, two 3.4 inverter stations, construction of 1.8m high security fence and planting of landscaping.
3	STREET ADDRESS	781 Wandobah Road, Gunnedah
4	APPLICANT OWNER	ITP Development Gregory Foran and Belinda Foran
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 (State and Regional Development) 2011 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (Koala Habitat Protection) 2020 State Environmental Planning Policy (Infrastructure) 2007 Gunnedah Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Gunnedah Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 8 February 2022 Amended conditions: 10 February 2022 Written submissions during public exhibition: two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 26 August 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Jamie Chaffey <u>Council assessment staff</u>: Wade Hudson, Andrew Johns and Jack Morrissey <u>Department staff</u>: Carolyn Hunt and Lisa Foley Final briefing to discuss council's recommendation: 16 February 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway and Stephen Gow <u>Council assessment staff</u>: Wade Hudson <u>Department staff</u>: Stuart Withington, Cameron Brooks and Lisa Foley Applicant Briefing: 16 February 2022

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway and Stephen Gow ○ <u>Council assessment staff</u>: Wade Hudson ○ <u>Department staff</u>: Cameron Brooks and Lisa Foley ○ <u>Applicant representatives</u>: Jou Jong, Allen Grimwood, Albert Ngo and Mishka Talent <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	Provided on 10 February 2022