

DATE OF DETERMINATION	20 December 2021
DATE OF PANEL DECISION	20 December 2021
PANEL MEMBERS	Penny Holloway (Chair), Marcia Doheny and Andrew Hutton
APOLOGIES	Paul Mitchell and Stephen Gow
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 December 2021.

MATTER DETERMINED

PPSNTH-138 – Moree Plains – DA2021/35 at Amaroo Drive, Moree – 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.

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 zone by virtue of clause 34 of the Infrastructure SEPP, is consistent with the relevant zone objective of not restricting the use of other land for agricultural purposes 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.
4. The consent will not operate until legal access has been achieved as required by a Deferred Commencement Condition.
5. The proposal's visual impacts have been thoroughly assessed by both the applicant and Council's planner, and conditions are imposed to provide landscaping as required to

screen the development from the nearest residences to produce an acceptable outcome particularly on the urban fringe.

6. The proposal will provide competitively priced and non-polluting electricity to the community and therefore be socially beneficial.
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 uploaded to the planning portal on 14 December 2021 with the following amendments:

- Insert the following condition:

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: 392 DP: 751780) ensuring that the solar farm is required to be decommissioned and the subject lands remediated at the cessation of operations in accordance with the development consent (DA2021/35). Any such notation must be approved by Moree Plains Shire Council prior to lodgement with the NSW Land Registry Services.

(Reason: Site remediation)

- Amend Condition 39 to include the requirement to ensure a high level of visual amenity, as follows:

Decommission Management Plan

39. A Decommissioning Plan must be provided to Council (or relevant approval authority) generally consistent with the Concept Decommissioning Plan for review and approval no later than 12 months prior to the proposed cessation of operations. The objective of this is to restore the land to its pre-existing state suitable for agricultural use and to ensure a high level of visual amenity. It must include, but not be limited to, the following:

- (a) Expected timeline for rehabilitation completion;
- (b) Decommissioning and removal of all solar panels, above and below ground infrastructure, inverter stations, fencing and any other structures or infrastructure relating the approved development;
- (c) Programme of site restoration to return the land back to a suitable state for agricultural purposes; and
- (d) Details on waste management and recycling of all materials arising from the development.

(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.)

- Amend Condition 28 – to include the wording of ‘within 2 months from the commencement of works’ and relocate the condition under the During Construction section to read as follows:

Landscaping

28. All landscaping required by the approved Landscape Plan, including the removal of all noxious weeds, must be completed within 2 months from the commencement of works and 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.)

- Amend Condition 9 to include an alternative option for the preparation of a Traffic Management Plan and amend reference to design standards. The amended condition is to read as follows:

Public road upgrades

9. The applicant shall upgrade the western portion of Amaroo Drive. The road upgrades shall be implemented from the point 45m west of the Maple Avenue and Amaroo Drive intersection to the western end of the Amaroo Drive carriageway, being a distance of approximately 600m. The upgrade will allow for the passing of heavy vehicles going in alternate direction for the full length of the Council owned road carriage way, in all weather conditions OR Provide a Traffic Management Plan to control heavy vehicle conflict to the satisfaction of Council's Director of Engineering and the adjacent property owners/occupiers using the road.

Engineering design plans and specifications shall be submitted to Council for approval. These are to include details of geometric design, existing and proposed levels and gradients on longitudinal sections, cross sections, kerb returns, existing services and structures, cut and fill, intersection design, directional signage and any other relevant details. The roadwork design shall be in accordance with Council's specification for suitable road design.

Details of the proposed construction works are to be submitted to and approved by Council's Engineering Department prior to the issue of a Construction Certificate for Civil Engineering Works.

The works required by this condition shall be completed to the satisfaction of Council's Engineering Department prior to the issue of a Construction Certificate for the solar farm.

Council's standard Traffic Guidance Scheme (TGS) relating to construction work in the Road Reserve shall be adopted at all times during construction work.

Note: For construction that does not relate to Council's standard Traffic Guidance Scheme, a new TGS is to be prepared by the authorised person and the submitted to Council's Engineering Department.

(Reason: To ensure that roads are constructed in accordance with the relevant standards)

- Insert a Deferred commencement condition –
Legal access to the site shall be provided to the satisfaction of Council's Director of Planning & Community Development.

This consent will lapse if legal access to the site is not available within 12 months from the date of determination.

(Note: Should the applicant wish to access the site using the Crown Land linking to Amaroo Drive a formal agreement must be made with Council. This agreement would involve utilising a corridor of Crown Land for legal access to the site. This would be contingent on the Minister administering the Roads Act 1993 agreeing to formally transfer control of this land to Council.




A formal agreement would need to be made with Council for the use of Crown Land to access the site prior to the issue of a Construction Certificate.

All road construction and maintenance activities would be at the applicant's expense.)

- Delete Condition 12
- Amend Condition 18 – to include the following as the last dot point under the Construction:
 - Complaints management mechanism including phone and email contacts and a complaint register

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Penny Holloway (Chair)	 Marcia Doheny
 Andrew Hutton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-138 – Moree Plains – DA2021/35
2	PROPOSED DEVELOPMENT	5MW grid-connected solar PV installation
3	STREET ADDRESS	Amaroo Drive, Moree Lot 392 DP 751780
4	APPLICANT OWNER	NSW Community Renewables (Moree) Pty Ltd C/- SLR Consulting Estate of GH Ritter
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 Moree Plains Local Environmental Plan 2011 Draft environmental planning instruments: <ul style="list-style-type: none"> Draft Moree Plains Local Housing Strategy Development control plans: <ul style="list-style-type: none"> Moree Plains Development Control Plan 2013 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 December 2021 Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 15 December 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Penny Holloway (Chair), Marcia Doheny and Andrew Hutton <u>Council assessment staff</u>: Murray Amos <u>Department staff</u>: Carolyn Hunt, Stuart Withington and Lisa Foley Applicant Briefing: 15 December 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Penny Holloway (Chair), Marcia Doheny and Andrew Hutton <u>Council assessment staff</u>: Murray Amos and Lila Fisher <u>Department staff</u>: Carolyn Hunt, Stuart Withington and Lisa Foley <u>Applicant representatives</u>: Jeremy Every, Jason Gao, Patrick Quinlan and Rachel Pettitt <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	Uploaded to Planning Portal on 14 December 2021