

<b>DATE OF DETERMINATION</b>	20 November 2023
<b>DATE OF PANEL DECISION</b>	20 November 2023
<b>PANEL MEMBERS</b>	Dianne Leeson (Chair), Michael Wright, Penny Holloway and Sam Coupland
<b>APOLOGIES</b>	Todd Redwood
<b>DECLARATIONS OF INTEREST</b>	Stephen Gow

Papers circulated electronically on 10 November 2023.

#### **MATTER DETERMINED**

PPSNTH-229 – Armidale Regional - DA-164-2019/D at 347 Dangarsleigh Road, Armidale – Dangarsleigh Solar Farm - Modification of Development Consent (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 listed at item 8 in Schedule 1.

#### **Application for modification of consent**

The Panel determined to refuse the modification application pursuant to section 4.55(2) of the *Environmental Planning and Assessment Act 1979*.

The application sought four principal amendments to Condition 18, namely:

1. Remove the requirement for a Conservation Management Plan and replace it with a Heritage Asset Action Plan (HAAP)
2. Reduce the area of the site to be included in the proposed HAAP to exclude Palmerston House and its immediate landscaped grounds
3. Remove the requirement for the proposed HAAP to be prepared in consultation with a suitably qualified heritage consultant, and
4. Amend the timing for submission and approval of the proposed HAAP

The decision of the Panel was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to refuse the modification application and agrees with the reasons for refusal as set out in Council's assessment report (dated 31 October 2023). In particular, the Panel:

1. agrees with Council's position that a Conservation Management Plan for the whole of the Heritage Item as listed under Schedule 5 of the Armidale LEP (that is, the whole site comprising 245 and 247 Dangarsleigh Road) is required. Such a Conservation Management Plan should provide a good base of information to guide the preparation of any related Heritage Asset Action Plan/s and any future development proposals
2. notes the approval of DA-164-2019 (the solar farm) was conditional on a Conservation Management Plan being prepared in recognition of the significance of the Item. The Panel further notes there has been previous acceptance that a Conservation Management Plan is required as imposed by Condition 18

3. agrees with Council that the Conservation Management Plan should be prepared by a suitably qualified heritage consultant
4. agrees with the assessment of Council's heritage advisor (Jackson Stepowski September 2023) that the HAAP submitted with the application is itself deficient in terms of what is required of a Heritage Asset Action Plan (notwithstanding the Panel's view that a HAAP is not appropriate in this instance), and
5. is of the view that amending the requirement for the Conservation Management Plan to a period post commencement of operations provides no incentive for compliance by the Applicant and presents potential challenges for Council in enforcement.

In coming to its decision, the Panel has had regard to:

- Council's assessment report dated 31 October 2023,
- advice provided by Council's heritage advisor,
- the application submission, supplementary documents, and representations of the Applicant,
- the previous Panel determination and reasons for decision of 27 August 2020,
- the judgement of the Land and Environment Court of 9 October 1997 (ref no. 10510 of 1996), and
- the Heritage Council of NSW's *Statement of best practice for conservation management plans* and *Statement of best practice for heritage asset action plans* (2021).


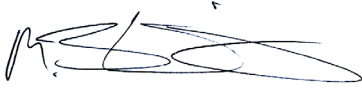


The Panel has considered the public interest and finds it best served by maintaining the requirement for a Conservation Management Plan to guide the use, and management and maintenance of the Item into the future.

The Panel further notes the Heritage Item encompasses parcels of land by different landowners - both personal and corporate. As such, the agreement and participation of all owners will be necessary in the preparation and implementation of a Conservation Management Plan. The Panel recommends Council take all reasonable actions to facilitate the completion of the plan.

The Panel notes there were no submissions made in response to notification of the Application.

#### 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	
 Dianne Leeson (Chair)	 Michael Wright
 Penny Holloway	 Sam Coupland

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-229 – Armidale Regional - DA-164-2019/D
2	PROPOSED DEVELOPMENT	Dangarsleigh Solar Farm - Modification of Development Consent
3	STREET ADDRESS	347 Dangarsleigh Road, Armidale
4	APPLICANT OWNER	Angus Witherby Baroona Properties Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: Nil</li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: Nil</li> <li>• Planning agreements: Nil</li> <li>• Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council Assessment Report: 31 October 2023</li> <li>• Written submissions during public exhibition: Zero (0)</li> <li>• Total number of unique submissions received by way of objection: Zero (0)</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 26 September 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Penny Holloway, Sam Coupland and Todd Redwood</li> <li>○ <u>Council assessment staff</u>: Emily Tischner and Daniel Boyce</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>• Applicant Briefing: 14 November 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Penny Holloway and Sam Coupland</li> <li>○ <u>Applicant representatives</u>: Angus Witherby</li> <li>○ <u>Council assessment staff</u>: Emily Tischner and John Goodall</li> <li>○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 14 November 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Penny Holloway and Sam Coupland</li> <li>○ <u>Council assessment staff</u>: Emily Tischner and John Goodall</li> <li>○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare and Lisa Ellis</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A