

DATE OF DETERMINATION	15 December 2023
DATE OF PANEL DECISION	15 December 2023
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow and Michael Wright
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 December 2023.

MATTER DETERMINED

PPSNTH-231 – Liverpool Plains – 10.2020.48.2 – 962 Black Gully Road, Werris Creek – Reduction of Approved Development Footprint to 5MW 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 listed at item 8 in Schedule 1.

Application for modification of consent

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel is satisfied that the development to which the consent as modified relates is substantially the same development as that for which development consent was originally granted.

The Panel determined to approve the modification application for the reasons outlined in the Council assessment report. The Panel is further satisfied that:

- The proposed modifications to layout and access represent improvements to the original development proposal;
- The site remains suitable for the proposed development; and
- Subject to the imposition of conditions including those modified through the assessment of this application, the development, as modified, is unlikely to have significant adverse amenity or other impacts.

The Panel has carefully considered all relevant issues raised in submissions and believes they have been satisfactorily resolved by design amendments and/or conditions imposed and as modified by this approval.

The decision was unanimous.

CONDITIONS

The modification application was approved subject to the conditions in the Council Assessment Report with the following further amendments.

- Insert into Condition 21 the following:
'(e)(x) – Nominated construction traffic route, identifying the specific roads'
- Amend Condition 42 to include at the end of the second sentence in part (a) after the word 'site', 'as identified in the Construction Environmental Management Plan prepared in Condition 21'
- Amend Condition 43A to read as follows:

43A. Subject to the agreement by Department Planning and Environment (Crown Lands), the Crown Road adjoining Lot 3 DP 343532, Lot 249 DP 751017 and Lot 11 DP 1093246 is to be dedicated to Council. All costs associated with the dedication of the Crown Road to Council are to be borne by the developer.

Reason: To ensure there is no impact on Crown roads from the development as per the request from Crown Lands and that the dedication is to facilitate the creation of easements for utility services.


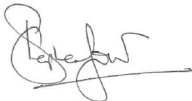
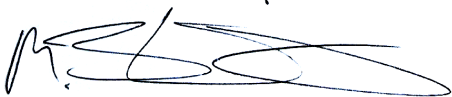
- Amend Condition 45A to include after the words 'suitable local experience' in the second sentence - '(e.g. from Landcare or similar)'

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Traffic
- Pedestrian safety
- Visual impacts
- Air quality
- Access
- Development address

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 appropriate conditions have been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-231 – Liverpool Plains – 10.2020.48.2
2	PROPOSED DEVELOPMENT	Establishment of a 5MW Solar PV Electricity Generation Facility with Associated Infrastructure
3	STREET ADDRESS	Lot 1 DP 255599 and Lot 3 DP 343532 962 and 822 Black Gully Road Werris Creek
4	APPLICANT OWNER	Angus Witherby - The trustee for Witherby Family Trust Ian Menz
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Primary Production) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Liverpool Plains Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Plains Development Control Plan 2012 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 7 December 2023 Written submissions during public exhibition: Three (3) Total number of unique submissions received by way of objection: Two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 14 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright <u>Council assessment staff</u>: Elizabeth Cumming and Nathan and Bartlett <u>Department staff</u>: Carolyn Hunt and Lisa Ellis Applicant Briefing: 13 December 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright <u>Applicant representatives</u>: Angus Witherby <u>Council assessment staff</u>: Elizabeth Cumming and Nathan Bartlett <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis

		<ul style="list-style-type: none"> Final briefing to discuss Council's recommendation: 13 December 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright <u>Council assessment staff</u>: Elizabeth Cumming and Nathan Bartlett <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report