

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

| | |
|---------------------------------|---|
| DATE OF DETERMINATION | 24 April 2024 |
| DATE OF PANEL DECISION | 24 April 2024 |
| DATE OF PANEL BRIEFING | 16 April 2024 |
| PANEL MEMBERS | Dianne Leeson (Chair), Stephen Gow, Michael Wright, Rob Hooke, and Donna Ausling |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | <p>Jamie Chaffey declared a conflict of interest as he is the owner of a neighbouring property ("Glenhaven" 51 Bennies Road, Carroll) to another Battery Storage project that he believes will come before the NRPP in the near future. For the record, he will be against the project on the neighbouring property as it is located on a significant flood plain and may affect his business operations nearby.</p> <p>His concern is that his bias on the future project could cause unintended consequences in the future should he not declare a conflict on these two projects now.</p> <p>He did not participate in any Panel meetings.</p> |

Papers circulated electronically on 9 April 2024.

MATTER DETERMINED

PPSNTH-257 – Gunnedah – 10.2023.00000026.001 – 131 Quia Road, Gunnedah – Electrical Generating Works (14.7MW) AND 147 Lot Community Title Subdivision (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 as a Deferred Commencement Consent subject to conditions. The Panel found that the Applicant has not provided sufficient information to demonstrate that:

- Adequate noise and vibration assessment has been provided specific to the proposed site including that emanating from the proposed substation, inverters and tracking systems for the solar arrays, and
- The visual impact of, and potential for glare from, the proposed substation is acceptable when viewed from surrounding areas.

In all other respects the Panel found the proposed development acceptable for the reasons outlined in the Council Assessment Report, subject to the imposition of conditions to mitigate adverse impacts.

In determining to approve the Application, the Panel notes:

- The land is zoned E4 General Industrial and the development is permissible with consent
- Appropriate arrangements will be made for construction, operation, decommissioning and rehabilitation
- The development will make a positive contribution to net zero through provision of renewable energy

The Panel found the proposed development 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 the following deferred commencement conditions:
The following are deferred commencement condition(s) imposed pursuant to *Section 4.16(3)* of the *Environmental Planning and Assessment Act 1979*.

DC1. The Applicant must provide a quantitative Noise and Vibration Impact Assessment undertaken by a suitably qualified acoustic consultant, to the satisfaction of Council's General Manager or delegate. This Noise and Vibration Impact Assessment must include:

- (a) Reference to NSW EPA Noise Policy for Industry 2017 and Assessing Vibration: a technical guideline 2006.
- (b) Identify nearest sensitive receivers to the solar farm and the extent of the Noise and Vibration Impact Assessment.
- (c) Qualitative and quantitative assessment of potential noise to be generated during construction (including road traffic noise), operation (including cumulative sound levels of panel tracking, substation inverters and transformers), and decommission phases.
- (d) The Noise and Vibration Assessment must identify any ongoing noise monitoring to be implemented to ensure that potential exceedances are not occurring and any mitigative measures that may or are required to ensure the amenity of the locality is protected.

Reason: To ensure noise and vibration impact on adjoining receivers are mitigated and compliance with NSW EPA Noise Policy for Industry 2017.

DC2. The Applicant must provide plans for the Electrical Substation to Council for review and approval. The Electrical Substation plan must include, but not limited to:

- (a) Elevations of the Substation and its relative height from natural Ground Level, including the earth mound, perimeter fencing, and landscaping.
- (b) Roof pitch and roofing materials to be used, including colour.

Note: Roof materials should be non-reflective where roof pitch is greater than 17 degrees or visible from a public space.

Reason: To ensure compliance with Gunnedah Development Control Plans 2012 in reference to reducing visual impact on adjoining receivers.

Evidence that will sufficiently enable Council to be satisfied as to the completion of all works required by deferred commencement condition(s) DC1(a-d) and DC2(a-b) above, must be provided to Council within 5 years of the date of determination of this deferred commencement consent, failing which, this deferred development consent will lapse pursuant to Section 76 of the *Environmental Planning and Assessment Regulations 2021*.

Notes:

This consent will not become operative until such time that the Council notifies the Applicant in writing that the requirements of deferred commencement Condition(s) DC1 and DC2 above have been satisfied.

Upon Council giving written notification to the Applicant that the deferred commencement condition has been satisfied, the development consent will become operative from the date of that written notification, subject to the following condition of consent.

- Delete Condition B6 and renumber the remaining conditions accordingly
- Amend new Condition B15 (former Condition B16) Vegetation Management Plan to read as follows:

B15 Vegetation Management Plan

Prior to the issue of a Construction Certificate, the applicant must submit to Council and obtain approval for a Vegetation Management Plan ('VMP') for the area to be landscaped comprising the area described as Lot 24 DP 1235089, 131 Quia Road Gunnedah.

The VMP must be prepared by a suitably qualified and experienced Ecologist. Works within the VMP are to include as a minimum, the initial (five) years post vegetation planting. The primary objective of the plan must be weed management, watering regime and replanting where necessary. Implementation of the VMP must commence immediately following issue of a Construction Certificate. In preparing and implementing the VMP the following criteria must be addressed:

- (a) A suitably qualified and experienced professional contractor must be engaged to carry out any maintenance weed control, replacement of unsuccessful planting specified in the VMP and the Landscape Plan. The minimum qualifications and experience required for the contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel).
- (b) A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation and extent of dominant weed infestations.
- (c) A description of any existing native vegetation, assessment of ability to regenerate and rehabilitation methods must be provided.
- (d) A schedule of works must be prepared detailing the sequence and duration of works necessary for the maintenance weed control works. All primary weed control must be undertaken in the first year following commencement of the VMP, with secondary weed control undertaken in the second year following commencement of the VMP. Maintenance weed control must continue for the duration of the VMP.
- (e) The location and type of fencing or other suitable method of restricting access of livestock into the area to which the VMP applies must be identified if livestock are to be kept on the lot.
- (f) Photo monitoring points, details of plant survival, any mortalities and replacement planting, occurrence of natural regeneration and weed density must be used as part of the monitoring of the area and included in each monitoring report.
- (g) Monitoring reports on the progress of the VMP must be submitted to and approved by Council once every six (6) months for the duration of the VMP.

Reason: To ensure the development does not adversely impact on biodiversity.

- Amend new Condition B16 Vehicle Access Requirements (former Condition B17) Vehicle Access Requirements part (a) to correct condition reference to Condition C9
- Delete Condition D11 Construction Noise and renumber the remaining conditions accordingly

- Insert new Condition F2 which reads as follows and renumber the remaining conditions accordingly:
F2 Prior to the issue of an Occupation Certificate, all recommended mitigation works, adopted within the Noise and Vibration Assessment approved by deferred commencement condition DC1, are to be constructed and implemented.

Reason: To ensure noise and vibration impacts on adjoining receivers are mitigated and compliance with NSW EPA Noise Policy for Industry 2017.


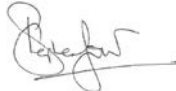
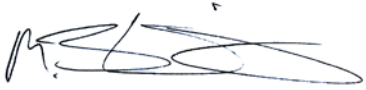


- Amend new Condition F12 (former Condition F11) to read as follows:
F12 Prior to the issue of a Subdivision Certificate for the Community Title Subdivision, the developer is to submit to and have approved by Council, a copy of the Final Community Title Management Plan. The Community Title Management Plan must include a reference to this Development Consent and the obligation of the Site Decommission and Rehabilitation Plan as required by Conditions B2 and G1.

Reason: To ensure that the Community Title Management Plan is prepared and references this consent.

- Amend Condition G15 by deleting 'is' and replacing with '15' and inserting the following at the end of the condition:
Should any noise levels exceed the specific noise levels above, the developer is to implement noise mitigation works in consultation with Council. The mitigation works are to be proposed to and approved by Council, demonstrating how these works are expected to reduce noise levels to a compliant level.

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) |  Stephen Gow |
|  Michael Wright |  Rob Hooke |
|  Donna Ausling | |

| SCHEDULE 1 | | |
|------------|---|---|
| 1 | PANEL REF – LGA – DA NO. | PPSNTH-251 – Gunnedah - 10.2023.00000026.001 |
| 2 | PROPOSED DEVELOPMENT | Electrical Generating Works (14.7MW) AND 147 Lot Community Title Subdivision |
| 3 | STREET ADDRESS | 131 Quia Road, Gunnedah |
| 4 | APPLICANT/OWNER | David Walker (on behalf of Premise Australia and Ironbark Energy Pty Ltd) Ironbark Holdings 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 (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Resources and Energy) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ 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 • 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: 9 April 2024 • Amended Council Assessment Report received: 11 April 2024 • Written submissions during public exhibition: 0 • Total number of unique submissions received by way of objection: 0 |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> • Briefing: 15 November 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Jamie Chaffey and Donna Ausling ○ <u>Council assessment staff</u>: Prashanth Van Houten and Wade Hudson ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis • Applicant Briefing: 16 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Donna Ausling and Rob Hooke ○ <u>Applicant representatives</u>: David Walker ○ <u>Council assessment staff</u>: Prashanth Van Houten and Wade Hudson ○ <u>Department staff</u>: Carolyn Hunt • Final briefing to discuss council's recommendation: 16 April 2024 |

| | | |
|----|------------------------|---|
| | | <ul style="list-style-type: none">○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Donna Ausling and Rob Hooke○ <u>Council assessment staff</u>: Prashanth Van Houten and Wade Hudson○ <u>Department staff</u>: Carolyn Hunt |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the Council Assessment Report (and updated on 16 April 2024) |