

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSNTH-33
<b>DA Number</b>	DA2020-0397
<b>LGA</b>	Tamworth Regional Council
<b>Proposed Development</b>	Construction and use of a 5MW solar farm and associated infrastructure
<b>Street Address</b>	Lot A DP 442930 & Lot 2115 DP 1177957, 4133 Manilla Road, Manilla
<b>Applicant/Owner</b>	NSW Community Renewables (Manilla) Pty Ltd (Applicant) Mr P Calokerinos & Mrs H Calokerinos (Owners)
<b>Date of DA lodgement</b>	1 April 2020
<b>Number of Submissions</b>	9 submissions in support
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Private infrastructure for the purpose of electricity generating works with a capital investment value of more than \$5 million
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (Infrastructure) 2007;</li> <li>• State Environmental Planning Policy No. 44 – Koala Habitat Protection 2019;</li> <li>• State Environmental Planning Policy No. 55 – Remediation of Land;</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011;</li> <li>• New England North West Regional Plan 2036;</li> <li>• Tamworth Regional Blueprint 100;</li> <li>• Tamworth Regional Local Environmental Plan 2010;</li> <li>• Tamworth Regional Development Control Plan 2010;</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Annexure A – Associated Plans including Architectural Design, Landscape Master Plan and Stormwater Design;</li> <li>• Annexure B – Recommended Conditions of Consent;</li> <li>• Annexure C – Internal and External Referral Responses; and</li> <li>• Annexure D – Support Documents and Reports</li> <li>• Annexure E – Submissions</li> </ul>
<b>Clause 4.6 requests</b>	Not applicable
<b>Summary of key submissions</b>	9 submission in support; key reasons of support for the development: <ul style="list-style-type: none"> <li>• Contribution to the local economy and potential employment opportunities (7 submissions)</li> <li>• Environmental-sustainability (6 submission).</li> <li>• Benefit to local community in general (5 submissions)</li> <li>• To reduce carbon-emissions (4 submissions)</li> </ul>
<b>Report prepared by</b>	Anna La, Development Assessment Planner
<b>Report date</b>	25 November 2020

**Summary of s4.15 matters**

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

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## **EXECUTIVE SUMMARY**

### **Reason for consideration by the Northern Regional Planning Panel:**

The application has been referred to the Northern Regional Planning Panel (NRPP) pursuant to Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* as the proposed development has a “capital investment value” of more than \$5 million.

### **Brief Description of Proposal:**

The proposed development involves the construction and operation of a 5 megawatt (MW) solar farm comprising of 180 photovoltaic (PV) arrays, a power conversation unit, operations and maintenance building, high chain wire fence, vehicle access including a level crossing, a gravel hardstand, temporary construction buildings, and a high voltage ring main unit. Each PV array will be pole-mounted and inserted into the ground.

### **Permissibility:**

The applicable planning instrument is the Tamworth Regional Local Environmental Plan 2010 (TRLEP) under which the subject site is in Zone RU1 Primary Production. The proposed use is defined as a ‘electricity generating works’, which is a permissible development with consent.

### **Key Issues**

The key issues identified in the assessment pertain to access and traffic management, the rail corridor, as well as biodiversity and heritage conservation. Other matters of consideration include views and visual effect, noise, and stormwater management. Subject to the mitigation measures described in this report and recommended conditions of consent, the proposal is unlikely to have any negative impacts.

### **Referrals**

The subject development application was referred to external government agencies and internal Council divisions. No objections were raised with the proposal subject to compliance with recommended conditions of consent. In addition, concurrence has been granted by Transport for NSW with regards to accessing the rail corridor and creating a new access to the subject site from a classified road.

### **Recommendation:**

It is recommended that DA2020-0397 be approved subject to the conditions contained in **ANNEXURE B**.

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## PROPOSAL

The proposed development involves the construction and operation of a 5 megawatt (MW) solar farm covering approximately 18 hectares on a 54 hectare lot. The solar farm will be connected to the Essential Energy electricity grid via trenched cables to the Manilla Substation located 2km north of the site.

The proposal will comprise of the following structures and works:

- 180 ground-mounted tracking photovoltaic (PV) arrays with each array comprising of 84 PV panels measuring approximately 86m wide. A total of 15,120 PV panels are proposed producing 405W. Each array has 104 degree motion and will be mounted on steel pile posts. At maximum tilt, the PV arrays will have a maximum height of 2.5 metres with a clearance of 600mm between the bottom edge of the panel to the ground.
- A medium voltage (MV) power conversion unit (PCU) with dimensions of 6m (L) x 2.4m (W) x 2.9m (H) to be set on a concrete slab or footings. The PCU will contain a central PV inverter, transformer and switchgear.
- A 24m<sup>2</sup> operations and maintenance building with a maximum height of 2.79 metres on a 48m<sup>2</sup> concrete pad. The primary purpose of the building is to store equipment and documentation.
- A 2.3 metre high chain wire fence with 3 rows of barbed wire fence around the perimeter of the solar arrays to secure the infrastructure. Pedestrian and vehicle access to the enclosed infrastructure site is through a double leaf swing gate with a leaf width of 4 metres and height of 2 metres. An emergency access gate is also proposed at the south-east corner of the development area.
- A new sealed access from Manilla Road and a 4m wide gravel access road from the property boundary at the north-east corner of Lot A DP 442930. The gravel access road will transverse a non-operational rail corridor identified as Lot 2115 DP 1177957.
- A 25m x 50m gravel hardstand for construction laydown.
- A high voltage ring main unit (HV RMU) and metering subject to Essential Energy
- Temporary construction buildings.

No energy storage including solid batteries and hydrogen battery technology is proposed in this application.

A copy of the submitted plans is **ATTACHED**, refer to **ANNEXURE A**.

The Manilla Community Renewable Energy Inc (MCRE) in conjunction with Providence Asset Group, seek to establish a community joint venture solar project. The MCRE involves a group of socially and environmentally conscience Manilla residents taking it upon themselves to provide low cost and climate friendly electricity directly to the Manilla community and broader New England Region.

Government has also provided support for the project with the NSW State Government providing \$3.5 million for future upgrades to the project such as energy storage options. Energy storage options are currently being explored with options including solid batteries and hydrogen battery technology however these will form part of a future DA.

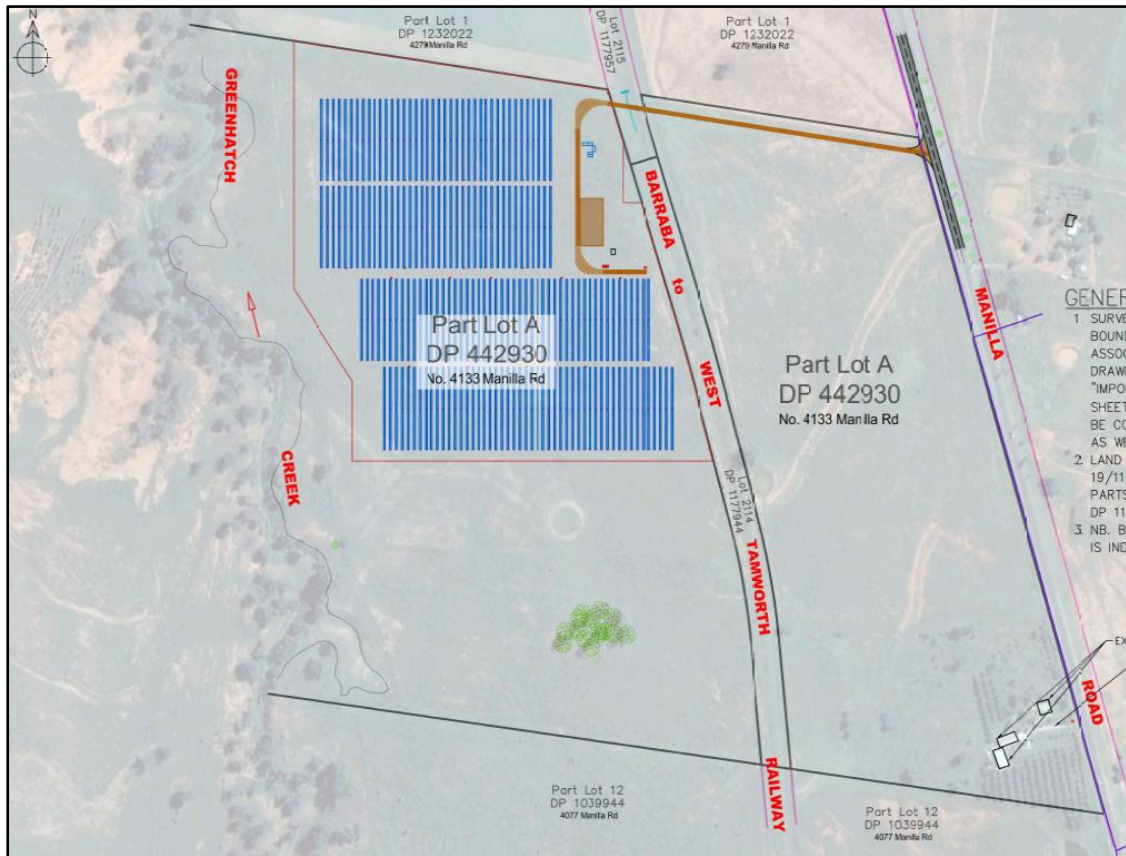


Figure 1. Site Plan

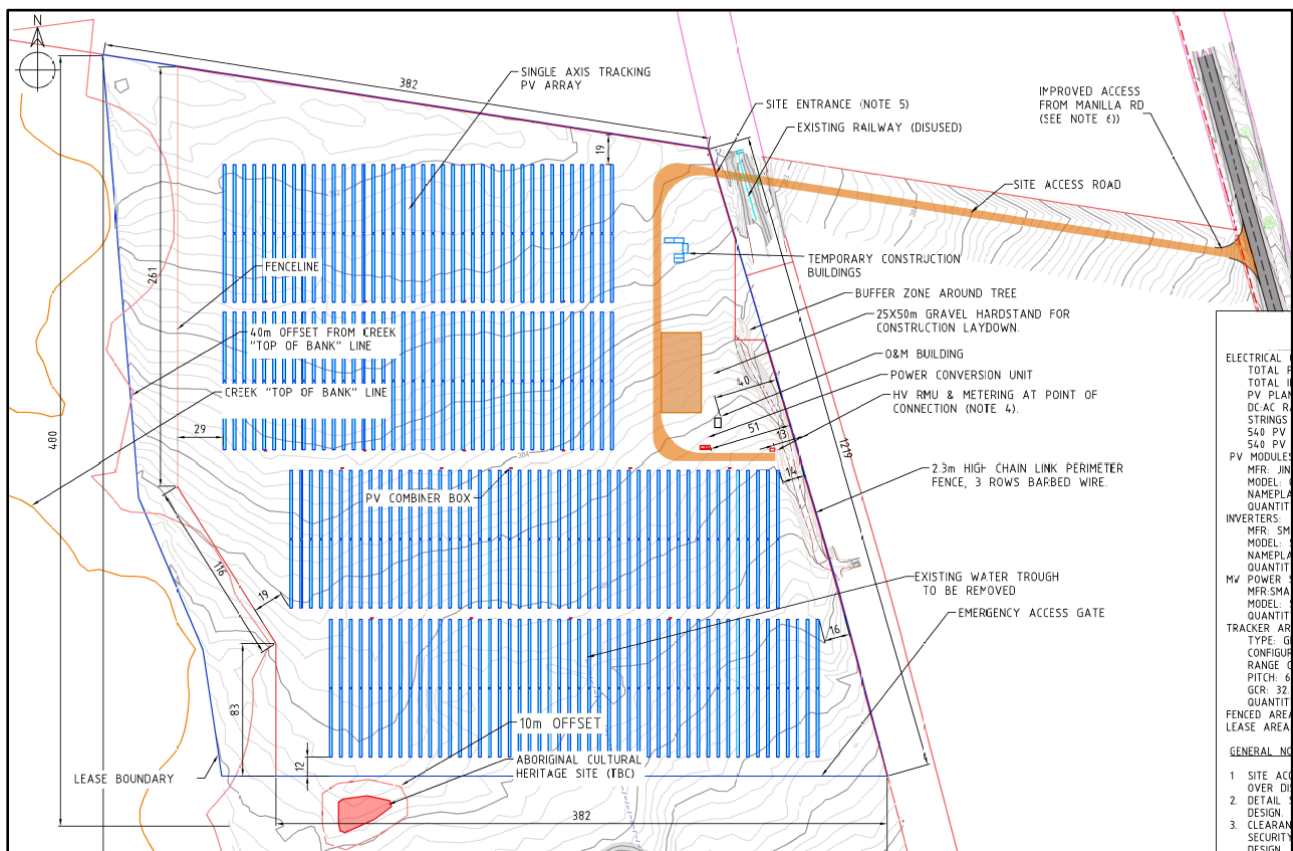


Figure 2. Development Area

## BACKGROUND

- PDA2020-0309 – Preliminary Development Advice Meeting between the Applicant and Tamworth Regional Council on 11 October 2019
- Development Application No. DA2020-0397 accepted on 14 April 2020

## SUBJECT SITE AND LOCALITY

The proposed solar farm is to be located on Lot A DP 4423940 also known as 4133 Manilla Road, Manilla which is approximately 4km south from the centre of Manilla township. A non-operational rail corridor identified as Lots 2114 and 2115 DP 1177944 divides the lot into two sections.

The most recent 2016 census recorded the population in Manilla at 3,300 residents living in 1,571 dwellings. The town is sited at the junction of Namoi and Manilla rivers.

The subject site is currently occupied by a residential dwelling and ancillary outbuildings on the south-east corner of the site adjacent to Manilla Road. There are currently two vehicle accesses connected to the property from Manilla Road. The subject site is consistent to land use and development in the immediate surrounding area with adjoining agricultural land and residential dwellings.

The site has historically been used for agricultural purposes, primarily cattle grazing and cropping, and contains a mixture of native and exotic grass species with mature trees located along the bank of the Greenhatch Creek. The proposals site has a gentle fall of 1.2% from the north to the south (towards Greenhatch Creek).

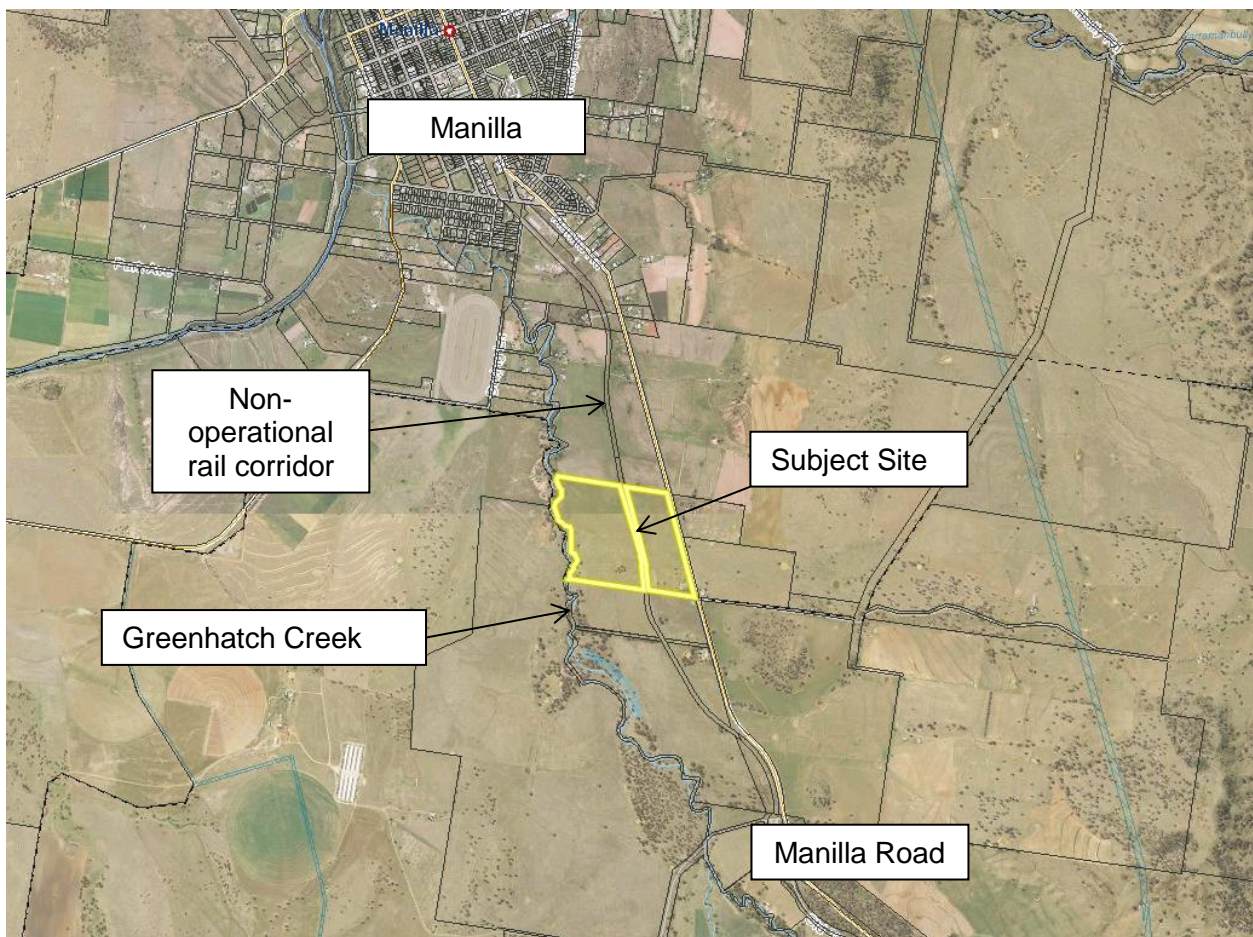


Figure 3. Locality Map

## EXTERNAL REFERRALS

The application was referred externally to the following agencies for comment:

- Department of Planning, Industry & Environment, Biodiversity & Conservation Division
- Essential Energy
- Tamworth Local Aboriginal Lands Council
- Transport for NSW

Comments and recommendations have been received from each of the aforementioned agencies (refer to **ANNEXURE C**). No objections were raised subject to compliance with the recommended conditions of consent. The matters concerning each agency and their recommendations are summarised in the **TABLE 1** below:

**TABLE 1. Referral responses from external agencies**

External Agency	Referral Response
<b>Department of Planning, Industry &amp; Environment – Biodiversity and Conservation Division (BCD)</b>	<p>The application was referred to the BCD for comment on the impacts on biodiversity and Aboriginal heritage conservation.</p> <p>The BCD has confirmed satisfaction with the evidence provided by the applicant in support of the land identified as Category 1 – Exempt land (as defined within the meaning of Part 5A of the Local Land Services Act 2013). As such, the development does not trigger entry into the Biodiversity Offset Scheme.</p> <p>The BCD confirmed that an Aboriginal Heritage Impact Permit (AHIP) is not required based on the distance of the Aboriginal site from the proposal in which no impact or harm to the Aboriginal objects can occur. For this reason, the project is not considered to be an ‘interim designated area’ (IDA) for the purposes of the <i>National Parks and Wildlife Act 1974</i> or ‘integrated development’ for the purposes of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>The BCD has recommended a condition of consent in support of the proposed mitigation measures specified in the Aboriginal Heritage Assessment accompanying the Development Application. This includes no-go zones clearly denoted on the plans, and fencing around the object as a preventative measure. Aboriginal heritage is discussed further under Section 4.15(1)(b) of this report.</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>
<b>Essential Energy</b>	<p>Essential Energy has no comments to make as to potential safety risks arising from the proposed solar farm.</p> <p>General advice has been provided with regards to existing responsibilities, clearance requirements, encroachment of electricity infrastructure, and arrangements to be made with the provider through a Connections Agreement. Conditions are recommended with respect to these matters.</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>

<p><b>Tamworth Local Aboriginal Lands Council</b></p>	<p>There are no objections from Tamworth Local Aboriginal Lands Council (TALC). Comments and recommendations have been received with regards to fencing, education of on-site personnel, an exclusionary buffer area, liaising with TALC and Gomeroi Traditional Owners to be present at the commencement of construction, and requirements if Aboriginal objects or human remains are found during works. Aboriginal heritage is discussed under Section 4.15(1)(b) of this report, and conditions are recommended with respect to these matters.</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>
<p><b>Transport for NSW</b></p>	<p><i>Classified Road Authority</i></p> <p>The proposed development requires a new access from Manilla Road which is a designated classified (State) road.</p> <p>In accordance with Clause 101 State Environmental Planning Policy (Infrastructure) 2007, the Council as the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road as the development has frontage to a classified road. TfNSW is given the opportunity under Clause 104 to comment on traffic generating developments listed under Schedule 3.</p> <p>Transport for NSW, have issued concurrence to the proposed development subject to conditions of consent. These matters are discussed in Section 4.15(1)(b) in <b>TABLE 3</b>.</p> <p><i>Railway Authority</i></p> <p>A non-operational rail corridor identified as Lots 2114 and 2115 DP 1177944, transverses the site of the proposed development, Lot A DP 442930. The applicant is proposing a 4m wide gravel access road level crossing across the non-operational rail corridor, Lot 2214 DP 1177944 to access the western side of the site in which the proposed development is to be located.</p> <p>In accordance with Clause 84, 85 and 86 of State Environmental Planning Policy (Infrastructure) 2007, the proposed development requires concurrence from the railway authority, Transport for NSW, based on the proposed development requiring access via a level crossing, being adjacent to a rail corridor, and involving excavation in, above, below or adjacent to the rail corridor.</p> <p>The railway authority, Transport for NSW, in consultation with appointed Rail Infrastructure Manager, John Holland Rail have issued concurrence to the proposed development subject to conditions of consent. These matters are discussed in Section 4.15(1)(b) in <b>TABLE 4</b>.</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>

## INTERNAL REFERRALS

The development was referred internally to the following Council divisions for comment:

- Development Engineering
- Environmental Health

Comments and recommendations have been received from the aforementioned Council divisions (**TABLE 2**). No objections were raised subject to compliance with the recommended conditions of consent (refer to **ANNEXURE C**).

**Table 2. Referral response from Council's specialists**

Internal Referral	Referral Response
<b>Development Engineering</b>	<p>The requirements with respect to access, and drainage are discussed with consideration of comments by the Development Engineering under Section 4.15(1)(b) of the report. Neither reticulated water nor sewer are connected to the site, and will not be required for the proposal. Conditions are recommended with respect to these matters</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>
<b>Environmental Health</b>	<p>Environmental matters including vegetation, heritage, noise, contamination, and dust mitigation are addressed under the Section 4.15(1)(b) of the report, and conditions are recommended with respect to these matters.</p> <p>The referral response is attached in <b>ANNEXURE C</b> of this report.</p>

## NSW Environmental Planning and Assessment Act 1979

### Section 1.7 Evaluation – Provisions of Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994

#### Biodiversity Conservation Act 2016

*The Biodiversity Conservation Act 2016* provides a basis for the Biodiversity Offset Scheme (BOS). Development that is subject to the BOS scheme includes development that needs consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (excluding complying development), activities under Part 5 of the *Environmental Planning and Assessment Act 1979*, State significant development and State significant infrastructure.

Where development or an activity is, “likely to significantly affect threatened species”, a Biodiversity Development Assessment Report (BDAR) must be prepared and the consent authority is required to consider the likely impact of the proposed development on biodiversity values before granting approval.

The threshold test of whether development or an activity is “likely to significantly affect threatened species” (and therefore whether a BDAR is required) is reached if:

- The test in section 7.3 of the BC Act is met;
- The BOS Threshold is met;
- The development is carried out in a declared area of outstanding biodiversity value.

A Fauna and Flora Assessment (FFA) (**ANNEXURE D**) was undertaken to investigate the impacts associated with the construction and operation of the facility and whether the proposal triggered entry into the Biodiversity Offset Scheme (BOS). The FFA determined one endangered native vegetation community was present within the study area, Grey Box Grassy woodland or open forest of the Nandewar Bioregion and New England Tableland Bioregion; however it was not within the footprint of the proposed solar farm. All other areas within the study area are cleared land and considered Category 1 – Exempt Land. The FFA considered the impacts of the proposal and concluded that the BOS threshold was not exceeded as the project would not:

- Clear more than one (1) hectare of native vegetation;
- Impact land mapped on the Biodiversity Values Map (area mapped outside of development footprint along Greenhatch Creek riparian corridor);
- Significantly impact any threaten species population, or threatened ecological communities list under the Biodiversity Conservation Action 2016;
- Impact any Area of Outstanding Biodiversity Values.

Following review of the FFA, Council staff determined that the clearing associated with the facility potentially exceeds the threshold (1 hectare) for the applicable minimum lot size and therefore referral to NSW Department of Planning, Industry & Environment – Biodiversity & Conservation Division (BCD) was deemed to be required. The BCD requested further information relating to the inclusion of all works associated in the threshold calculation and more robust evidence supporting the Category 1 land classification. Supplementary information provided by the Applicant, which included historical aerial imagery demonstrated to the BCD that the subject land could reasonably be considered Category 1 – Exempt land (pursuant to Local Land Services Act 2013) and therefore the development does not trigger entry into the Biodiversity Offset Scheme (refer to **ANNEXURE C** for the response from the BCD).

#### **Section 4.15 Evaluation**

The following matters listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979* is relevant in considering this application:

#### **Section 4.15 (1)(a)(i) The provisions of any environmental planning instrument**

##### Environmental Planning and Assessment Act 1979 & Environmental Planning and Assessment Regulation 2000

In accordance with Schedule 3, any “electricity generating station”, such as a solar farm, in which generates more than 30MW of electrical power is declared to be ‘designated development’. As the proposed solar farm is expected to generate a maximum of 5MW, it is not considered ‘designated development’ and therefore a detailed an Environmental Impact Statement in accordance to Schedule 2 is not required.

Further, the proposed solar farm is not integrated development under Division 4.8 of the Environmental Planning and Assessment Act 1979.

##### State Environmental Planning Policy No.44 – Koala Habitat Protection

In accordance with Clause 9 of the State Policy for koala protection, consideration for koala habitat protection is required where the land is identified on the Koala Development Application Map, the subject site exceeds an area of 1 hectare, and there is no approved koala plan of management in the local government area.

The native trees along the rear boundary adjoining Greenhatch Creek is shown to have potential value on the Koala Development Application Map and the subject site area exceeds 1 hectare. Considering there is no approved koala plan of management, a site assessment is required.

A site inspection carried out on 24 June 2020 found the proposed development to unlikely impede koala movement based on the distance of the proposal from the existing native trees on the site. The proponent has also confirmed that no trees will be cleared as a result of the proposed development. For this reason, the proposal is considered to have low or no direct impact (Tier 1) and requires no further assessment.

#### State Environmental Planning Policy No. 55 – Remediation of Land

In accordance with Clause 7 of the State Policy for the remediation of contaminated land, a consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and*
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The aim of the State Policy is to reduce the risk of harm to human health or the environment by providing a consistent approach to when consent is required, the considerations in determining consent to carry out remediation, and the standards and notification requirements when remediation is required.

The previous use of the site was for agricultural/horticultural activities such as rural residential living, cattle grazing, and cropping. Agricultural/horticultural activity is identified as an activity that may potentially cause contamination under Table 1 of the Planning Guidelines for Managing Land Contamination.

A search of Council records and a search of the NSW EPA Contaminated Land Record found no contaminating land activities at the site and a site inspection of the development area carried out on 24 June 2020 found no evidence of the following:

- Intensive animal handling facilities;
- Scums or discoloured waterbodies;
- Operational, or disused, sheds or other built structures;
- Chemical storage facilities;
- Evidence of land-based waste disposal or dumping; and
- Evidence of land disturbance, filling or excavation.

Given the previous use of the site for small-scale agricultural purposes and that the proposal is not considered a sensitive land use the subject site is considered suitable for the proposed development.

#### State Environmental Planning Policy (Infrastructure) 2007

##### *Development in or adjacent to Rail Corridors*

The proposed development requires access to the rail corridor identified as Lot 2115 DP 1177957. In accordance with Clause 84, 85 and 86, the proposed development requires concurrence from the railway authority, Transport for NSW, based on the proposed development

requiring access via a level crossing, being adjacent to a rail corridor, and involving excavation in, above, below or adjacent to the rail corridor.

While concurrence from Transport for NSW is required, the rail corridor is a part of the Country Regional Network (CRN) owned by Transport Asset Holding Entity (TAHE) and operated and maintained by the rail infrastructure manager, John Holland Rail (JHR). As such, in addition to concurrence from Transport for NSW, endorsement licences, and approvals from the relevant party are also required.

Transport for NSW has reviewed the development application and granted conditional concurrence pertaining to licence terms, construction approvals, stormwater management details, the use of cranes and equipment, and addressing adverse impacts. These matters are discussed further in Section 4.15(1)(b) of the report (refer to **TABLE 4**)

#### *Development in or adjacent to Road Corridors*

The proposed development requires access from Manilla Road. In accordance with the Roads Act, Manilla Road is a classified (State) road and Tamworth Regional Council is the Roads Authority for all public roads (other than freeways or Crown roads) in the local government area as per Schedule 7. Transport for NSW (TfNSW) is the Roads Authority for freeways and can exercise roads authority functions for classified roads.

In accordance with Clause 101 of the State Policy for infrastructure, the Council as the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road as the development has frontage to a classified road. TfNSW is given the opportunity under Clause 104 to comment on traffic generating developments listed under Schedule 3. Any consent is provided under the terms of a Works Authorisation Deed (WAD).

Tamworth Regional Council is the Consent Authority and consideration of the implications of the proposal on safety, efficiency and the operation of the classified road is addressed under the Section 4.15(1)(b) of the report.

The application was referred to Transport for NSW and concurrence for development adjoining a classified road was received on 12 November 2020 (refer to **ANNEXURE C**).

#### State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, the proposed solar farm is declared to be regionally significant development based on it being a private infrastructure exceeding \$5 million for the purpose of electricity generating works. For this reason, the application has been referred to the Northern Regional Planning Panel (NRPP) for determination.

#### New England North West Regional Plan 2036

The *New England North West Regional Plan 2036* sets a vision for the region comprising of 12 local government areas including Tamworth. One of the focused goals is to create a 'strong and dynamic regional economy' through nine 'strategic directions'. Strategic Direction 5 is to "grow New England North West as the renewable energy hub of NSW". The Plan encourages the following actions to be taken to achieve this direction:

- a) *Diversify the energy sector by identifying renewable energy resource precincts and infrastructure corridors with access to the electricity network; and*
- b) *Facilitate appropriate smaller-scale renewable energy projects using biowaste, solar, wind, hydro, geothermal or other innovative storage technologies.*

The proposed solar farm aligns with the Regional Plan's goal in the following manner:

- The proposal provides Manilla a way of harnessing renewable energy and contributing to the local energy grid.
- It capitalises on the existing high rates of regional solar penetration to expand and provide diversity in electricity generation.
- The benefits contribute to the NSW Government's goal of achieving a carbon-neutral NSW by 2050.
- It promotes renewable energy production.
- The proposal generates employment and investment from construction, operations and connection to the State's electricity grid.

#### Tamworth Regional Council's Blueprint 100

The Tamworth Regional Council Blueprint 100 is an overarching strategy that provides a roadmap towards growing the Tamworth Region to a population of 100,000 through four (4) core strategies: creating more jobs, delivering skilled workers, managing affordability, and improving liveability. There are eight (8) priority themes to the four (4) strategies including Priority Theme 8. Priority Theme 8 seeks to strengthen the Tamworth Region's identity by broadening its narrative to include its other distinguishing characteristics including innovation around clean energy.

The proposed solar farm aligns with Blueprint 100 in the following manner:

- The provision of alternative electricity generation will benefit existing citizens and attract new residents.
- The proposed development can create more jobs by generating employment opportunities from construction and operation.
- The proposal can contribute to managing affordability by diversifying the energy market and reducing dependence on a non-renewable energy source.
- The project contributes to expanding Tamworth Region's identity to include renewable energy generation.
- It can strengthen the region's reputation for supporting local innovation and investment.

#### Tamworth Regional Local Environmental Plan 2010

##### *Permissibility*

In accordance with the Tamworth Regional Local Environmental Plan 2010, the subject site is in Zone RU1 – Primary Production. The proposal is defined 'electricity generating works'.

*"Electricity generating works" is defined as:*

*'a building or place used for the purpose of making or generating electricity, or electricity storage'*

Electricity generating works are permissible development with consent in Zone RU1.

The objectives of Zone RU1 are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To permit subdivision only where it is considered by the Council to be necessary to maintain or increase agricultural production.*

- *To restrict the establishment of inappropriate traffic generating uses along main road frontages.*
- *To ensure sound management of land which has an extractive or mining industry potential and to ensure that development does not adversely affect the extractive industry.*
- *To permit development for purposes where it can be demonstrated that suitable land or premises are not available elsewhere.*

The proposed development is consistent with the objectives of Zone RU1 in the following manner:

- The proposal will diversify land uses within the locality to include renewable energy production.
- No fragmentation or alienation of resource lands will result from the proposed development.
- No conflict between the proposal, the agricultural land uses within Zone RU1 and the rural residential land uses within adjoining Zone RU4 will result from the proposed development
- Ongoing compliance with the recommended conditions consent will result in mitigation of potential impacts and/or conflicts with surrounding land uses.
- Anticipated traffic generation levels resultant from the proposed development are restricted to construction stage only and therefore not deemed inappropriate for the locality given the temporary low impact within the rural setting and existing land uses within the immediate area.
- The operation of renewable energy generating system requires a large area to operate and the subject site is suitable based on it aligning with the land zone objectives, its lot size to accommodate the infrastructure, and also its close proximity to the main energy grid and community who will utilise the generated energy.

#### *Clause 5.10 Heritage Conservation*

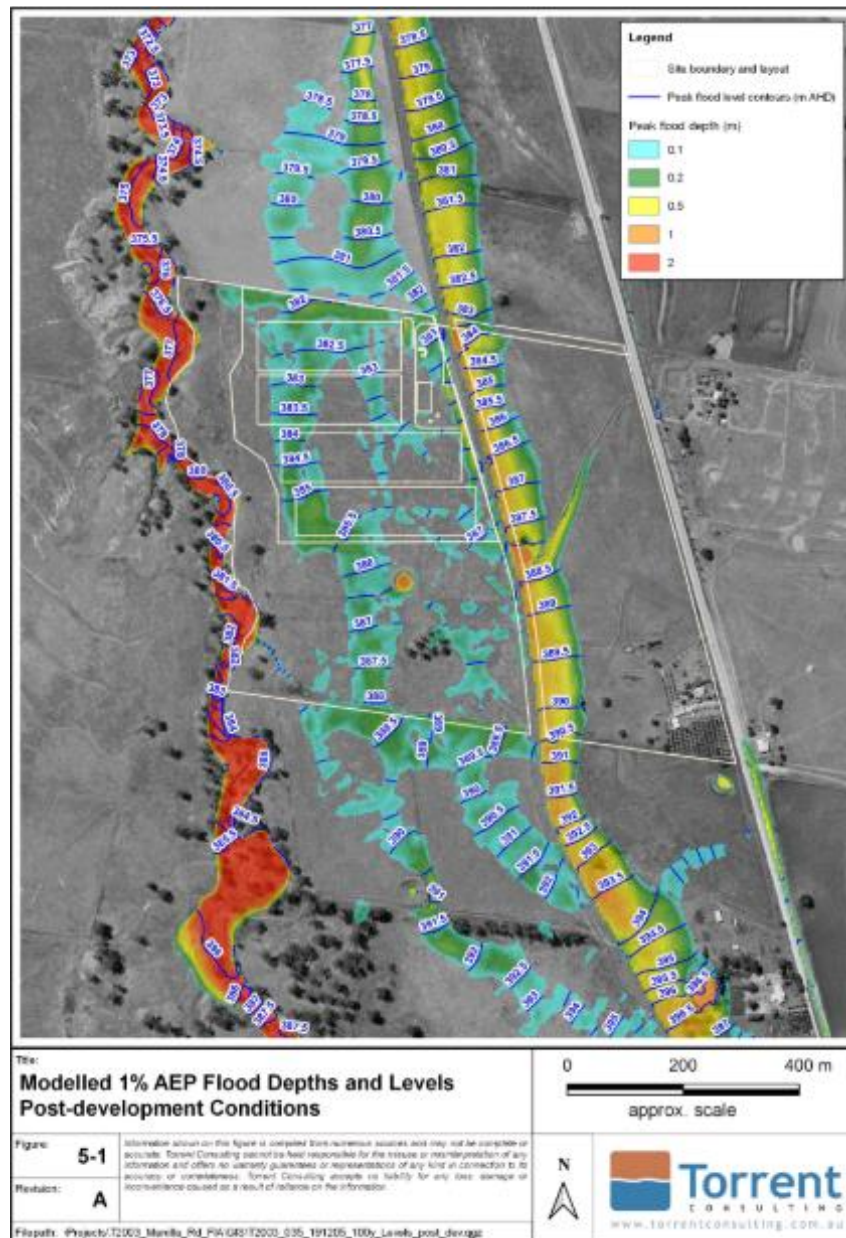
The purpose of this clause is for the protection and conservation of heritage items and Aboriginal objects. In accordance with Clause 5.10(2)(e), development consent is required for erecting a building on land on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

An Aboriginal Due Diligence Assessment Report was undertaken by Heritage Now to accompany the development application (**ANNEXURE D**). The study identified two (2) Aboriginal sites on the subject site: an artefact scatter and 'potential archaeological deposit' (PAD) (HN-MA-A01) and an isolated find (HN-MA-A02). It is acknowledged that the proposed development is located away from the Aboriginal sites. To ensure no impact and harm is inadvertently caused by the proposed development on the Aboriginal sites, it is recommended for them to be demarcated and a 10m buffer area to be established. This is reflected in the recommended conditions of consent.

#### *Clause 7.2 – Flooding Planning*

The subject land is not mapped as flood prone land under the Tamworth Local Environmental Plan. Nonetheless, a Flood Impact Assessment prepared by Torrent Consulting accompanies the development application (**ANNEXURE D**).

The modelling suggests the site is of a relatively low flood risk and is suitable for the proposed solar farm as shown in **FIGURE 4**. The site is not affected by flooding from Greenhatch Creek for the range of modelled design flood events. Flooding of the site is principally derived from local catchment runoff from the hill slopes to the south-east of the site. The assessment indicates that the flood impacts of the proposed solar farm development are largely contained within the site boundary.



**Figure 4. Modelled flood depths and levels post-development**

The proposed site access road does not provide reliable flood-free access for evacuation. The raising of the road level to provide flood-free access may also result in adverse impact to the neighbouring property due to the redistribution of downstream flood flows. However, it is expected that the site would be unattended most of the time. The report suggests preventing access to the site following the issuing of a severe weather or flood warning and may represent a reasonable mitigation of potential risk to life. A condition of consent requires this to form part of the site management plan.

Finally, the provisions of the Tamworth Regional DCP require the on-site electrical infrastructure and the floor level of any buildings to be above the 1 % AEP flood level. A condition of consent is recommended in this regard.

**Section 4.15 (1)(a)(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority**

There are no draft environmental planning instruments which apply to the development proposal.

#### **Section 4.15 (1)(a)(iii) Any development control plan**

##### Tamworth Regional Development Control Plan 2010 (Amendment 14)

The *Tamworth Regional Development Control Plan 2010 (TRDCP 2010)* does not contain controls that are applicable to the proposed use of the land for “electricity generating works”.

##### Tamworth Regional Council Section 7.12 (Indirect) Contributions Plan 2013

In accordance with the *Contributions Plan*, Council may levy contributions from a development with a value greater than \$100,000 for the provision of community infrastructure. The applicant submitted a Detailed Cost Summary Report prepared by RPS Group with a capital investment value of \$7,307,718.00 inclusive of GST. The contribution payable is \$73,077.18 based on the 1% levy rate applicable.

A condition of consent is recommended to require that payment of contribution is made prior to issue of any Construction Certificate.

#### **Section 4.15 (1)(a)(iia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

The site and the proposal are not the subject of a Planning Agreement.

#### **Section 4.15 (1)(a)(iv) Any matters prescribed by the regulations**

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* requires any ‘electricity generating station’, such as a solar farm, that generates more than 30MW of electrical power to be designated development. As the proposed solar farm is expected to generate a maximum of 5MW, the project is not designated development.

The proposed development will require a Construction Certificate and will be required to be constructed in accordance with the National Construction Code.

#### **Section 4.15 (1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

##### Access and Traffic Management

There are two (2) existing accesses established by the resident on site for the purpose of accessing the existing residential dwelling and the resident’s cattle yards. The two existing accesses are approximately 114 metres from one another. A third access is proposed to service the development and is located 470 metres north of the secondary access to the resident’s cattle yards.

A Traffic Impact Assessment prepared by Intersect Traffic Pty Ltd accompanies the Development Application (**ANNEXURE D**). The report considers the existing transport network connection, calculation of traffic generated by the proposed development, the adequacy of the proposed vehicular access and reviews the suitability of on-site car parking. The report identifies the following:

- Up to 10 light vehicles transporting a maximum of 30 employees per day arriving between 6 am and 7 am and departing between 6 pm and 7 pm.
- Maximum of 8 delivery vehicles per day between 10am and 4pm. Delivery vehicles are heavy rigid vehicles, articulated vehicles (AV) and where applicable, B-Doubles.

- Total of 18 additional vehicle movements to and from the site during the weekday AM and PM peak periods during the 4-6 months of construction
- During the operation of the solar farm, only 2 vehicle trips per hour is anticipated
- 20 car parking spaces

As described above the majority of traffic movements associated with the development will occur during the construction period (4-6 months) with only a single weekly vehicle trip occurring once operational. It is considered the local road network has adequate capacity to cater for the increase in traffic over the 4-6 months construction phase of the development with the new access to be constructed in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments.

In accordance with Clause 101 of the ISEPP, the Council as the Consent Authority is to have consideration for the safety, efficiency and ongoing operation of the classified road as the development has frontage to a classified road. TfNSW is given the opportunity under Clause 104 to comment on traffic generating developments listed under Schedule 3. TfNSW has reviewed the application and their comments and primary concerns are summarised in **TABLE 3**. Concurrence from TfNSW was received on 12 November 2020 and recommended conditions of consent issued by Council's Development Engineering.

**Table 3. Considerations with regards to access and traffic management**

Issue	Applicants Response	Council's Response
Vehicular conflict and resulting impacts on the safety and efficiency of the classified road as a result of the third property access	<p>The applicant reasons that the rationalisation and consolidation of accesses are unnecessary based on the anticipated infrequent use of the secondary and proposed third access.</p> <p>The applicant identifies infrequent use of the secondary access (existing cattle yards), estimating approximately five (5) times per year to receive water deliveries for the rainwater tanks.</p> <p>During the operation of the proposed solar farm, the third access is expected to be utilised by one (1) vehicle once a week and only as required. However, frequent use of the third access is expected during the 6 month construction period.</p>	<p>Any new access and the existing access servicing the existing cattle yards shall be upgraded to comply with Council's Engineering Design Minimum Standards for Subdivisions and Developments.</p> <p>TfNSW have acknowledged that if the cattle yards are serviced via an internal access from the existing access servicing the dwelling than an upgrade will not be required.</p>
Details of all proposed works including a strategic design drawing (2D) to demonstrate the scope of works, constructability and associated costs of works related to the classified road	The applicant has requested for details to be required under a condition of consent.	<p>A condition of consent is recommended to require the applicant to obtain approval pursuant to Section 138 of the Roads Act prior to the release of a construction certificate. TfNSW have raised no objections in this regard.</p> <p>Any new access and the</p>

		existing access servicing the existing cattle yards shall be upgraded to comply with Council's Engineering Design Minimum Standards for Subdivisions and Developments.
Approval of Council under Section 138 of the Roads Act 1993	The applicant has requested the requirement of a Section 138 approval to be a condition of consent.	A condition of consent is recommended to require the applicant to obtain approval pursuant to Section 138 of the Roads Act prior to the release of a construction certificate.
The access is related to a commercial operation; TfNSW recommends the Consent Authority to require an Austroads basic right-turn (BAR) treatment at the solar farm access.	<p>The applicant reasons that a right-turn treatment is unnecessary based on the anticipated infrequent use of the secondary and proposed third access.</p> <p>The applicant proposes to mitigate safety and efficiency concerns from the absence of a right-turn treatment through a Traffic Management Plan (TMP).</p>	<p>As per advice from TfNSW, the need for such treatment may be otherwise addressed where it can be demonstrated that conflict between vehicles entering and leaving the property can be managed in such a way as to minimise delay to any vehicles turning right into the site.</p> <p>A maximum of 8 delivery vehicles per day is anticipated during 4-6 months of construction. Based on the temporary nature of the construction period, and the low number of heavy rigid vehicles to be expected, it is considered reasonable for the risk to be managed by a TMP.</p> <p>The TMP must detail appropriate safety measures to minimise delay for vehicles entering the property and to effectively manage any project related traffic needing to turn right into the site.</p>
A Traffic Management Plan (TMP) including procedures and behavioural mitigation measures to support the proposed development	The applicant has requested for the TMP to form part of the conditions of consent.	A condition of consent is recommended to require a TMP to be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-2009.

## Rail Corridor

The *State Environmental Planning Policy (Infrastructure) 2007* stipulates that the consent authority must not grant consent to development that involves a new level crossing without concurrence of the rail authority for the rail corridor. In addition, the consent authority must consider the feasibility of alternative means of access to the development that does not involve use of level crossings.

The Construction of New Level Crossing Policy presents TfNSW's position that new level crossings are to be avoided wherever possible unless otherwise demonstrated by developers that all other options are exhausted, and that information regarding the safety and operational impacts and/or benefits of the proposed new crossings is provided.

TfNSW has reviewed the application and their comments and primary concerns are summarised in **TABLE 4**. Concurrence from TfNSW was received on 22 September 2020.

**Table 4. Considerations with regards to accessing the rail corridor**

Issue	Applicant's Response	Council's Response
All other resolutions are exhausted and the new level crossing is unavoidable	The applicant has acknowledged possible alternatives including use of existing level crossings, grade separations, and creek crossing in which are all unviable resolutions based on availability and costs.	Council and TfNSW are satisfied that evidence has been provided to demonstrate that the new level crossing is unavoidable, and it is agreed that the new level crossing is unavoidable.
Safety and operational impacts and/or benefits of the new level crossing	The proposal will not impact on any future use of the non-operational rail corridor with only gravel hardstand proposed over the corridor.	TfNSW has provided a conditional concurrence requiring the applicant to provide a safety assessment of the works prepared by a qualified Protection Officer. This is reflected in the recommended conditions of consent.
Details of all proposed works including a strategic design drawing (2D)	In response to a request for further details of the proposed works from TfNSW, the applicant has requested for the submission of details to be a condition of consent.	TfNSW has provided conditional concurrence including the requirement for geotechnical and structural drawings, and a detailed survey plan to be submitted to JHR for endorsement prior to the release of the first Construction Certificate. This is reflected in the recommended conditions of consent.
Identification of the proposed vehicular access treatment across the non-operational	In response to a request for further details of the proposed works from TfNSW, the applicant has requested for the	TfNSW has provided conditional concurrence including the requirement for geotechnical and structural drawings, and a detailed

corridor	submission of details to be a condition of consent.	survey plan to be submitted to JHR for endorsement prior to the release of the first Construction Certificate. This is reflected in the recommended conditions of consent.
Licence obligations including licence terms, fees, insurance, and bank guarantees for the construction of a new level crossing including acknowledgement that reinstating the rail corridor or upgrade may be required by Transport Asset Holding Entity (TAHE)	The applicant has corresponded with JHR who has advised that licence is to be drafted after development consent is granted. Licence fees have also advised.	The recommended conditions of consent reflects the conditional concurrence requirements provided from JHR whereby the applicant is required to enter a licence agreement with TAHE prior to commence of construction activities on site.
Adverse impacts of the stormwater drainage strategy on the existing watercourse and stormwater drainage infrastructure	<p>The applicant's stormwater drainage strategy includes onsite detention basin at the NE corner of development area to reduce post-development flows to align with the pre-development conditions.</p> <p>Detailed information discharge from the hardstand and detention basin are to be submitted</p>	Details of the discharge from the hardstand and the on-site detention basin are required for endorsement from JHR/TfNSW prior to the release of the relevant Construction Certificate.
Details regarding cranes, concrete pumps or other equipment must not be used in airspace over the rail corridor when the equipment is in operation or is permitted to weathervane into the rail corridor subject to approval of the rail authority	In consultation with JHR, the applicant has requested for any approval for the use of cranes and equipment to be a condition of consent.	The recommended conditions of consent reflect the conditional concurrence provided by JHR in relation to requiring approval from Transport Asset Holding Entity (TAHE) via JHR prior to any use of cranes and equipment.

A Risk Assessment/Management Plan and Safe Work Method Statements detailing any adverse impacts on the rail corridor in respect of construction and infrastructure on land immediately adjacent to the rail corridor	The applicant has sought deferral of the Risk Assessment/Management Plan and Safe Work Method Statements, and requests for its requirement to be a condition of consent.	The recommended conditions of consent reflect the conditional concurrence provided by JHR by requiring a Risk Assessment/Management Plan and Safe Work Method prior to the release of the first Construction Certificate.
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### Views & Visual Impact

A Reflectivity Glare Assessment prepared by SLR Consulting Australia (**ANNEXURE D**) found negligible adverse glare based on the distance of receivers (i.e. the nearest residents, motorists, aviation pilots, and rail operators) and the choice of PV system. The assessment identifies high chance of glare only when light strikes the solar panels at almost parallel angle. This cannot occur with the proposed PV system as the single axis trackers supporting the solar panels are designed to maximise absorption of solar rays at a perpendicular angle by racking the sun. In combination of the distance between the proposal and the nearest airfields, road network, operational railway line and residences, the potential of glare is negligible. As such, the assessment does not recommend any form of visual barrier.

While the proposed development does not include lighting, the Reflectivity Glare Assessment by SLR Consulting Australia addresses potential night-time illumination glare. It is recommended that any outdoor lighting is to comply with *AS4282-1997 Control of the Obtrusive Effect of Outdoor Lighting* to minimise impact on surrounding properties, carriageways and nocturnal fauna. This requirement is reflected in the recommended conditions of consent.

The Visual Impact Assessment prepared by Mara Consulting (**ANNEXURE D**) assessed visual impact and identifies the high visual impact within the immediate vicinity (i.e. within 1.5km radius) due to proximity of motorists on adjacent roads (i.e. Manilla Road and Melrose Lane) and residential properties. Due to the topography hindering visibility, and the visual buffer of buildings and trees, the visual impact of the proposal beyond the immediate vicinity is minimal. Where visibility is highest, the proposal is particularly noticeable due to the lack of development in the immediate vicinity. For this reason, the assessment recommends to screen the infrastructure and reduce its visual dominance by planting vegetation along the boundaries as per the Landscape Plan prepared by Mara Consulting. This requirement is reflected in the recommended conditions of consent.

### Noise & Vibration

A Noise Assessment prepared by Muller Acoustic Consulting Pty Ltd accompanies the Development Application (**ANNEXURE D**). It identifies noise during construction to potentially exceed acceptable levels and will likely to impact the following residential properties:

- 4133 Manilla Road
- 4124 Manilla Road
- 4182 Manilla Road

The assessment acknowledges that the exceedance would primarily be due to piling activities and be of a short duration and temporary nature during the 4-6 months construction period. It recommends implementation of noise management protocols to minimise emissions. The

assessment does not anticipate operational noise and road noise from the transport route to exceed satisfactory levels.

With consideration of the Noise Assessment and referral to Council's Environmental Health, it is recommended that conditions of consent to include a noise management plan to be implemented and any noise generated from the operation of the development must not be intrusive or offensive as defined by the *Protection of the Environment Operations Act 1997*. A condition of consent requires noise validation monitoring assessment must be completed once operational to quantify emissions from the site and to confirm emission meet relevant criteria.

### Flora and Fauna

A Ecological Assessment Report prepared by Anderson Environment and Planning accompanies the Development Application (**ANNEXURE D**). As discussed previously the subject vegetation is considered Category 1 – Exempt land as defined within the meaning of Part 5A of the *Local Land Services Act 2013*, and therefore the BOS doesn't apply.

The report recommends the implementation of a Construction Environmental Management Plan (CEMP), a Vegetation Management Plan (VMP) and Weed Management Plan to minimise localised impacts on biodiversity. This is reflected in the conditions of consent. In addition, a condition of consent is recommended to ensure the hollow-bearing stag is to be retained and a buffer zone is to be established

### Heritage

An Aboriginal Heritage Due Diligence Assessment was undertaken by Heritage Now in consultation with representatives of the Tamworth Local Aboriginal Land Council and the Gomeroi Traditional Owners (**ANNEXURE D**). Two (2) Aboriginal sites were identified: an artefact scatter and potential archaeological deposit (PAD) (HN-MA-A01) and an isolated find (HN-MA-A02). While the proposed development is located away from the Aboriginal sites, the following recommendations are proposed to prevent inadvertent impact:

- The locations of Aboriginal sites (HN-MA-A01 and HN-MA-A02) are to be marked as no-go zones on all construction plans. During construction it may be necessary to demarcate these sites using temporary fencing or other visual markers to prevent inadvertent impact.
- All on-site personnel are to be made aware of their obligations under the NSW National Parks and Wildlife Act 1974, which may be implemented through a heritage induction.

The proposal was referred to the Department of Planning, Industry & Environment and Tamworth Local Aboriginal Land Council who support the recommendations above. Comments from the Tamworth Local Aboriginal Land Council agree with above recommendations with the exception of a mandatory rather than optional heritage induction.

The recommended conditions of consent reflect the intent of all recommendations with regards to heritage conservation. A condition requiring mandatory instead of optional demarcation of the Aboriginal sites during construction has been recommended to ensure a visible prevention measure on-site and to also reduce the necessity of a mandatory heritage induction considering the implementation difficulties if there are multiple sub-contractors.

### Stormwater Management

A Stormwater Management Report prepared by DRB Consulting Engineers accompanies the Development Application (**ANNEXURE D**). The report identifies runoff from the proposed gravel/hardstand area catchment will be conveyed via sheet flow and grass-lined swales to the proposed above-ground onsite stormwater detention (OSD) basin. By discharging the runoff from this area through the proposed OSD basin, the post-development peak flows are reduced back to the pre-development peak flow values.

A condition is recommended which requires a stormwater servicing strategy prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments.

#### **Section 4.15 (1)(c) The suitability of the site for the development**

The subject site is considered suitable for the proposed development based on the site being suitably zoned (RU1 Primary Production), is compatible with existing land uses in the locality, and will not contribute to or result in land use conflict with surrounding agricultural activity. Furthermore, the proposal will have minimal visual impact beyond the immediate vicinity due to the natural topography hindering visibility and the visual buffer of buildings and trees. Where visibility is highest, the visual impact will be minimised once proposed vegetation screening is established. The property is also considered to be well positioned in terms of its proximity to the electrical substation and community. The proposed solar farm will be connected to the Essential Energy electricity grid via trenched cables to the Manilla Substation located 2km north of the site.

#### **Section 4.15 (1)(d) Any submissions made in accordance with this Act or the Regulations**

The application was publicly exhibited in accordance with the *Tamworth Regional Community Participation Plan 2019* from 15 April 2019 to the 6 May 2019. The application was advertised in the local newspaper, the *Northern Daily Leader* on 13 April 2019 and notification letters were sent to all adjoining property owners. All nine (9) submissions received (**ANNEXURE E**) were in support of the proposal. Generally, submitters identified varied and multiple reasons in support (refer to **TABLE 5**)

**Table 5. Key reasons in support of the proposed development by submitters**

<b>Reason in Support</b>	<b>Type of Benefit</b>	<b>Number of submitters</b>
Contribution to the local economy and potential employment opportunities	Economical	7
Environmental-sustainability	Environmental	6
Benefit to local community in general	Social	5
To reduce carbon-emissions	Environmental	4
Cheaper energy	Economical	3
Adoption of advanced technology	Social	3
Intergenerational equity	Social	1
Suitability of site	Economical	1
Sets a precedence for similar developments	Social	1

#### **Section 4.15 (1)(e) The Public Interest**

As discussed in this report, matters of interest raised by both the Community and Government Authorities are noted and are addressed by the proposed mitigation measures and recommended conditions of consent. There are no further matters of public interest relating to the wider community. The proposal will contribute to the provision of renewable energy for the community. The proposal is consistent with the objectives of the *Tamworth Regional Local Environmental Plan 2010* and is not considered to be incompatible with surrounding development and land use patterns.

### **ASSESSMENT – KEY ISSUES**

The key issues identified in the assessment pertain to access and traffic management, biodiversity, and heritage conservation. Subject to the mitigation measures described in this report, the proposal is unlikely to have any negative impacts.

## RECOMMENDATION

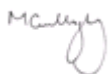
The application has been assessed in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*. The evaluation demonstrates that the proposal is satisfactory in terms of the matters for consideration identified in the legislation. It is recommended that the proposal be granted conditional development consent.

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**Acting Director – Planning & Compliance**

**Date: 25/11/2020**