

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	29 April 2021
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway and Stephen Gow
APOLOGIES	None
DECLARATIONS OF INTEREST	Paul Mitchell informed the Panel that he used to work with Ben Young, one of the consultants representing the applicant. However, it was more than ten years ago and would not influence his decision making. The Panel considered this declaration and decided that this did not preclude his involvement.

Public meeting held by teleconference on 29 April 2021, opened at 12:30pm and closed at 2:25pm.

MATTER DETERMINED

PPSNTH-66 – Liverpool Plains Shire Council – DA 48/2020 at 962 Black Gully Rd, Werris Creek – electricity generating facility (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 reasons given below:

1. The proposed use is permissible pursuant to State Environmental Planning Policy (Infrastructure) 2007 in the RU1 Primary Production zone, is not considered antipathetic to the relevant zone objectives and satisfies relevant development standards and guidelines.
2. The site is suitable for the intended use because it has good access to electricity transmission lines and the local road network, is largely free of land use and environmental constraints, and the proposal will be compatible with its surrounds.
3. The proposal, subject to the conditions imposed, will have no unacceptable impacts on the natural or built environments including neighbouring land uses.
4. The proposal will increase the availability of competitively priced electricity generated from a renewable and non-polluting source; as such, it will have broader social and environmental benefits.
5. The panel has carefully considered all issues raised in public submissions and considers that they have been addressed by either safeguards incorporated into the proposal or conditions imposed and that there are no residual issues warranting refusal of the application.
6. For the reasons given above approval of the application is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

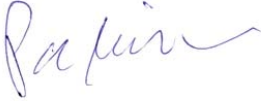
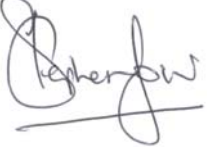

- Condition 10 – split current condition into two with general requirements including retention of existing paddock trees in Condition 10 and a new condition 10a addressing required new landscaping works which are to be undertaken prior to commencement of works on the solar array
- Condition 10a to specify that new tree planting to include two rows of trees to attain 6m in height within 3 years.
- Delete condition 38 original part(g), because of the amendments to Condition 10/10a
- New Condition 45a to impose a requirement for a financial bond for the required landscaping works, accepted by the applicants.

CONSIDERATION OF COMMUNITY VIEWS

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

- Traffic & access
- Visual impact
- Landscaping
- Noise
- Dust
- Stormwater
- Economic
- Suitability of the site, including Contamination, as well as natural hazards, including bushfire and flooding
- Waste & decommissioning
- DA processes

The panel considers that concerns raised by the submitters have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the meeting. The panel notes that in addressing these issues appropriate and additional conditions have been imposed addressing all issues raised.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Stephen Gow
 Penny Holloway	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-66 – Liverpool Plains Shire Council – DA 48/2020
2	PROPOSED DEVELOPMENT	Establishment of a 5MW Solar PV electricity generation facility with associated infrastructure
3	STREET ADDRESS	Lot 1 in DP 509915 and Lot 3 in DP 343532 – 962 & 822 Black Gully Road, Werris Creek NSW 2341
4	APPLICANT/OWNER	Wynergy Pty Ltd C/- KDC 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 (State and Regional Development) 2011 State Environmental Planning Policy (Koala Habitat Protection) 2020 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (Primary Production and Rural Development) 2019 State Environmental Planning Policy (Infrastructure) 2007 Liverpool Plains Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Liverpool Plains Shire Council Development Control Plan 2012 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: 22 April 2021 Written submissions during public exhibition: 16 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Mark Lynden OBO Ronald and Carmel Jones; Greg Weir and Ron Jones Council assessment officer – Alice Elsley and Nathan Skelly On behalf of the applicant – Ben Young and Ben Wynn Total number of unique submissions received by way of objection: 15
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: 29 April 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair) and Stephen Gow <u>Council assessment staff</u>: Alice Elsley Final briefing to discuss council's recommendation: 29 April 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Penny Holloway <u>Council assessment staff</u>: Alice Elsley and Nathan Skelly <u>Department of Planning, Industry and Environment</u>: Carolyn Hunt and Lisa Foley

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

SCHEDULE 1: TERMS OF CONSENT – LIVERPOOL PLAINS SHIRE COUNCIL

General

1. Development shall be completed in strict accordance with the application made, the stamped plans and the terms of this consent. The development shall not be modified except with the written consent of the Council, or to satisfy the Council Consent conditions.

Plans:

- Architectural Plans & Landscape Plan: Prepared by Daniel Lawless Drafting Service, Project No. J250, Sheets A01 – A04, L01 & L03 (Revision 6), Dated 17 April 2021;
- Survey Plans: Prepared by FYFE, Drawing No. 95090-1-1-SV-TO01-r1, Sheets 1 to 3, Dated 1 September 2020;
- Statement of Environmental Effects: Prepared by KDC, Dated October 2020;
- Due Diligence Aboriginal Archaeological Assessment: Prepared by Virtus Heritage, Version 3a, Dated 26 October 2020;
- Flood Impact Study: Prepared by GHD, Dated September 2020;
- Flora and Fauna Assessment Report: Prepared by Kleinfelder, Version 2.0, Dated 16 October 2020;
- Landscape Plan: Prepared by Wynergy, Undated;
- Noise Impact Assessment: Prepared by Muller Acoustic Consulting, Dated 10 September 2020;
- Social Impact Assessment: Prepared by Element Environment, Revision 1, Dated 30 September 2020;
- Stormwater Management Report: Prepared by DRB Consulting Engineers, Project No. 200419, Revision B, Dated 25 September 2020;
- Concept Stormwater / Civil Plans: Prepared by DRB Consulting Engineers, Project No. 200419, Drawings No. CIV01 & CIV02 (Revision A), Dated 25 September 2020;
- Waste Management Plan: Prepared by KDC, Dated October 2020;
- Reflectivity Report: Prepared by Wynergy & Review by Moss Environmental Pty Ltd, Revision B, Dated 17 February 2021;
- Traffic Impact Assessment: Prepared by Intersect Traffic, Issue E, Dated 27 February 2021;
- Visual Impact Assessment: Prepared by Moss Environmental Pty Ltd, Revision 2, Dated 28 September 2020;
- Letter from Bronwyn Brennan of Moss Environmental Pty Ltd in Response to Concerns Regarding the Visual Impact Assessment, Undated; and,
- Letter from KDC / SLR Consulting 'RE: Response to Request for Information (DA 48/2020) – 962 Black Gully Road, Werris Creek', Dated 23 February 2021.

If there is any inconsistency between the Conditions of Consent and the documents listed above, the Conditions of Consent shall prevail to the extent of the inconsistency.

Reason:

To ensure compliance with the application and plans.

2. The applicant shall ensure that all necessary licences, permits and approvals are obtained and kept up to date as required throughout the life of the development. None of the Conditions of Consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

Reason:

To meet statutory requirements.

3. All building work must be carried out in accordance with the requirements of the Building Code of Australia / National Construction Code.

Reason:

This is a prescribed condition under the Environmental Planning and Assessment Act 1979.

4. Any development in proximity to Essential Energy's electrical infrastructure shall comply with the latest industry guideline, currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

Reason:

To ensure safety and the management of risk.

5. To confirm and clarify the terms of this approval, development consent is given to Stage 1 only of the electricity generating works (solar farm) and associated infrastructure. Any future stages or expansion of the solar farm will be subject to separate approval(s).

Reason:

To ensure compliance with the approved application and plans.

Access

6. All access crossings and driveways shall be maintained in good order, and to Council's satisfaction, for the life of the development.

Reason:

To ensure that a safe and adequate all-weather access is available to the development.

7. All works shall be undertaken in accordance with Council's *Engineering Guidelines for Development and Subdivision Works*, adopted September 2006, and Council's Vehicle Crossings Policy.

Reason:

To confirm the terms of Council's approval.

Lighting

8. Should any outdoor lighting be installed on the development site, it must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.

Reason:

To protect the amenity of the locality and to ensure compliance with the provisions of the Liverpool Plains Shire Council Development Control Plan 2012.

Flora & Fauna

9. In accordance with the Flora and Fauna Assessment prepared by Kleinfelder (dated 16 October 2020) and to clarify the terms of this development consent, mature Koala habitat feed trees or retained/hollow bearing trees are not permitted to be cleared from the site.

Reason:

To ensure compliance with the approved application and applicable legislation.

Visual

10. The mitigation measures outlined in the Visual Impact Assessment prepared by Moss Environmental (dated 28 September 2020) shall be adhered to as far as practicable. In addition to the establishment of the vegetation screen (see Condition 10a) and in particular, the following measures are to be implemented:
- a. Where feasible, utilise underground rather than overhead powerlines and co-locate powerlines. If additional poles are required, the poles should match the existing pole design as much as possible;
 - b. The materials and colour of onsite infrastructure will, where practical, be non-reflective and in keeping with the materials and colouring of existing infrastructure or of a colour that will blend with the landscape. Where practical:
 - i. Proposed new buildings will be non-reflective and in eucalypt green, beige or muted wheat;
 - ii. Pole mounts will be non-reflective; and,
 - iii. Security fencing posts and wire will be non-reflective and will maintain the rural infrastructure look.

In addition, all existing paddock trees on the property to the west of the solar panel array site are to be retained.

Reason:

To ensure compliance with the approved application and mitigate visual impacts.

PRIOR TO THE COMMENCEMENT OF WORKS:

- 10a. Prior to the commencement of works, a medium density vegetation screen, 2 rows deep and comprising varying native species to attain 6m in height within 3 years shall be established on the site in the alignments indicated in the Visual Impact Assessment prepared by Moss Environmental (dated 28 September 2020), together with an inground system for the permanent irrigation of the plantings. Final details are to be submitted to Council for approval before planting commences, with special attention given to advanced (sapling) plants of native trees in locations to screen the solar farm from residential properties to the west and from the 'Sunrise Lookout' at the Werris Creek Swimming Pool.

Reason:

To ensure compliance with the approved application and mitigate visual impacts.

11. Prior to any works commencing on site, a Construction Certificate for the development must be obtained from Council or a Registered Certifier. No building works are permitted to commence without first obtaining a Construction Certificate.

Reason:

To ensure that the required approvals have been granted prior to the commencement of building work.

12. Prior to the commencement of works, a Construction Traffic Management Plan (CTMP) and pre-commencement Road Dilapidation report shall be prepared by the Applicant, or their appointed contractor / consultant, and submitted to Council for review and approval. The CTMP shall include the recommended mitigation measures in the Traffic Impact Assessment prepared by Intersect Traffic Issue E (dated 27 February 2021). The pre-commencement Road Dilapidation report shall be prepared by a suitably qualified person and assess the current condition of the road(s).

Reason:

To ensure road condition and safety during construction.

13. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995* (NSW).

Reason:

To meet statutory requirements.

14. Prior to the commencement of works, the requested further information and Accredited Service Provider Design Plan shall be submitted to Essential Energy. This information must be reviewed and approved by Essential Energy prior to any works commencing.

Reason:

To meet statutory requirements.

15. Prior to the commencement of works, erosion and sediment control measures shall be installed on the development site and within 40m of each drainage channel in accordance with the recommendations contained in the Flora and Fauna Report prepared by Kleinfelder (dated 16 October 2020). Erosion and sediments control measures must be consistent with the "Blue Book" Managing Urban Stormwater – Soils and Construction (Landcom 2004).

Reason:

To ensure erosion and sediment control on the development site.

16. Prior to the commencement of works, and in accordance with the recommendations contained in the Noise, Visual and Social Impact Assessments, the Applicant shall carry out proactive community consultation and notification in advance of any service, utility interruptions and traffic changes. The Applicant shall also consult with affected landholders to determine and finalise a mitigation strategy regarding noise and visual impacts. The Mitigation Strategy shall be provided to Council for review prior to commencing works.

Reason:

To confirm the terms of Council's consent and ensure that potential impacts are mitigated.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE:

17. Prior to the issue of a Construction Certificate, a copy of the Controlled Activity Approval issued by Natural Resources Access Regulator (NRAR) shall be submitted to Council or Registered Certifier.

Reason:

To ensure that the required approvals have been granted prior to the commencement of building work.

18. Prior to the issue of a Construction Certificate by a Registered Certifier or Council, the Long Service Levy shall be paid.

Reason:

To meet statutory requirements.

19. Prior to the issue of a Construction Certificate, the developer shall pay a levy as applicable at the time of payment, relative to the total project value, in accordance with the *Liverpool Plains Contributions Plan 2012* and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The *Liverpool Plains Contributions Plan 2012* can be viewed on Council's website, www.lpsc.nsw.gov.au. The current levy payable is as follows:

Proposed cost of development	Percentage (%) Contribution
Up to \$100,000	Nil
\$100,001 - \$200,000	0.5%

More than \$200,000	1%
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Reason:

To make provision for public amenities and services within the community.

20. Prior to the issue of a Construction Certificate, a Section 68 application to carry out stormwater drainage work and install an on-site sewage management system (if proposed) under the *Local Government Act 1993* shall be submitted to and approved by Council.

Reason:

To ensure that appropriate approvals are in place prior to the issue of a Construction Certificate.

21. Prior to the issue of a Construction Certificate, a Construction Environmental Management Plan (CEMP) for the development must be prepared by the Applicant and submitted for approval by Council. The CEMP should be developed in consultation with Council and, at a minimum, include the following information:

- a. Description of the proposed construction works and work program;
- b. Identification of relevant statutory requirements and conditions of consent that apply to the construction phase of the development;
- c. Set standards and performance measures for each of the relevant environmental matters associated with construction work;
- d. Description of what actions and measures will be implemented to mitigate the potential impacts of the construction works and ensure such works will comply with the relevant standards and performance measures;
- e. Description of what measures and procedures will be implemented to:
 - i. Manage construction traffic;
 - ii. Register and respond to complaints during construction works;
 - iii. Mitigate any potential environmental impacts, including but not limited to noise, flora and fauna, dust, stormwater and visual impacts;
 - iv. Respond to the discovery of any items of indigenous or non-indigenous heritage significance. This shall incorporate the recommendations from the Due Diligence Aboriginal Archaeological Assessment prepared by Virtus Heritage (dated 26 October 2020);
 - v. Respond to emergencies, including bushfire and flooding events; and,
 - vi. Ensure the health and safety of construction workers.
- f. Explanation of how the environmental performance of the construction works will be monitored, and what actions will be taken if any non-compliance is detected; and,
- g. Description of the role, responsibility, authority accountability, and reporting of key personnel involved in the construction of the development.

Reason:

To ensure that appropriate environmental management practices are implemented during the construction of the proposed development.

22. Prior to the issue of a Construction Certificate, the Applicant shall submit suitable plans and details regarding the internal access road, stormwater drainage across the road and off-street carpark to Council for review and approval.

Reason:

To ensure compliance with the approved application.

23. Should the proposed development require connection to Council's Low Flow (potable) water supply, which is in proximity to the subject lands, the following shall be met:

- a. All works associated with providing and/or altering the water supply to the development shall be in accordance with the requirements of Council's *Engineering Guidelines for Development and Subdivision Works* and related Policies, and shall be at the Developer's cost; and,
- b. The Developer shall make Development Contributions for the development prior to the issue of a Construction Certificate. These contributions will be in accordance with Council's fee structure and will be calculated based on Equivalent Tenements (ET) for the year in which the work is undertaken. The number of ETs shall be calculated utilising Council's standard *NSW Water Directorate – Addendum to S64 Determination of Equivalent Tenements*. Determination of a local ET shall be required to be justified with supporting information and calculations for acceptance by Council.

Reason:

To confirm the terms of Council's approval, and to allow continued funding of water and sewer facilities.

PRIOR TO THE COMMENCEMENT OF WORK IN COUNCIL'S ROAD RESERVE:

24. An Application for a Special Crossing of Footway shall be submitted and approved by Council prior to any construction works commencing on the driveway crossover. Construction shall be carried out in accordance with Council's Standard Drawing and relevant Policies.

Reason:

To ensure that the correct approvals are in place prior to work commencing.

DURING CONSTRUCTION:

General

25. Construction activities associated with the Development, including heavy vehicles entering and exiting the Site, may only be carried out between 7:00 am and 6:00 pm, Monday to Friday inclusive, and between 8:00 am and 1:00 pm on Saturdays. No work is to be carried out on Sundays and Public Holidays. The following activities may be carried out in association with Construction outside of these hours:

- any works that do not cause noise emissions to be audible at any nearby residences not located on the Premises;
- the delivery of materials as requested by Police or other authorities for safety reasons; and,
- emergency work to avoid the loss of lives, property and/or to prevent environmental harm.

Any work undertaken outside the specified construction hours, other than those specified in this Condition, must not be undertaken without prior consent of Council.

Reason:

To ensure the amenity of the neighbourhood is maintained.

26. To clearly identify the site to comply with Local Government Regulations you must provide a clearly visible sign stating:

- a. unauthorised entry is prohibited;

- b. builder's name and licence number – or owner builder permit number;
- c. street Number or lot number;
- d. contact telephone number / after-hours number; and,
- e. name, address and telephone number of the Principal Certifier.

The sign must be maintained on the on the site during building works and shall not be removed until the work has been completed.

Reason:

This is a prescribed condition under the Environmental Planning and Assessment Act 1979.

27. Toilet facilities are to be provided at, or in the vicinity of, the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- a. Must be a standard flushing toilet, and
- b. Must be connected:
 - i. To a public sewer, or
 - ii. If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - iii. If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

Reason:

To ensure that environmental health standards are met.

28. A site rubbish container shall be established and maintained for the duration of construction works.

Reason:

To ensure that waste generated by the building works is contained and does not pollute the surrounding environment.

29. Any demolition or building waste is to be removed to a suitably licenced waste management facility. All associated fees are to be paid. Consideration should be given to the separation of recyclable and reusable materials.

Reason:

To ensure that waste generated by the building works is contained and does not pollute the surrounding environment.

30. All loading and unloading of goods related to the development proposal shall be carried out within the confines of the lot boundaries. Under NO circumstances will the loading and unloading of goods on the public roadway be permitted.

Reason:

To ensure the protection of Council's infrastructure.

31. The Applicant must:

- a. repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development, including damage to the road(s) used during the construction of the Project (within 3 months of completion of construction). In the event public infrastructure is damaged, one of the following repair options shall be undertaken;
 - i. the proponent shall undertake re-sheeting to a minimum depth of 80mm on all public gravel roads damaged due to construction activities. Works shall be completed in accordance with RMS Specification M220; and,
 - ii. A Report shall be prepared to assess any damage to sealed roads that may have resulted from the construction of the project (including mechanism to restore any damage) and submitted to the relevant road authority for review; and,
- b. relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Reason:

To ensure that any damage to Council's infrastructure is rectified at the developer's cost, and to ensure that any required alterations to public infrastructure are undertaken to acceptable standards at the developer's cost.

Inspections

32. Critical Stage Inspections **must be undertaken in accordance with the *Environmental Planning and Assessment Act 1979*.**

Reason:

To ensure compliance before, during and after construction.

Heritage

33. If the Applicant becomes aware of any previously unidentified heritage object(s) during construction, all work likely to affect the object(s) shall cease immediately and the Heritage Council of New South Wales shall be notified immediately in accordance with Section 146 of the *Heritage Act 1977*. Relevant works shall not recommence until written authorisation has been issued.

Reason:

To ensure compliance with applicable legislation.

34. If the Applicant becomes aware of any previously unidentified significant Aboriginal object(s) during construction, all work likely to affect the object(s) shall cease immediately and the Office of Environment and Heritage informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*. Relevant works shall not recommence until written authorisation from the Office of Environment and Heritage advising otherwise is received by the Applicant.

Reason:

To ensure compliance with applicable legislation.

Site Works

35. The Applicant must implement all practicable measures to limit and minimise any harm to the environment that may result from the construction, commissioning or operation of the development. The applicant is responsible for all related earthworks and stockpiles within the entire site not just the building area.

Reason:

To ensure protection of the environment.

36. All earthworks and allotment filling that is required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Development. All cut and fill batters must be finished to less than 45° to the horizontal. Where this is not possible, retaining structures are to be considered.

Reason:

To confirm the terms of Council's approval and ensure that earthworks are undertaken in accordance with best practice standards.

37. Any proposed construction works/earthworks within Essential Energy's easement:
- must ensure ground clearances are maintained;
 - must ensure that access is maintained at all times, 24 hours a day / 7 days a week for Essential Energy; and,
 - any road within the easement must maintain minimum ground clearances and maintain a minimum clearance of 10.0 metres from any power poles or other structures.

Reason:

To confirm Essential Energy's requirements for the proposed development.

38. In accordance with the flora and fauna, noise, social and visual impact assessments approved as a part of this development consent, the following mitigation measures must be implemented during construction and included in the CEMP:
- Erosion and sediment control:
 - Avoid stockpiling material adjacent to native vegetation, but instead use areas that are already cleared or disturbed;
 - Regular inspection and maintenance of erosion and sediment control measures, particularly following rainfall events to ensure their ongoing functionality; and,
 - The immediate removal offsite of any excavated materials.
 - Dust control:
 - Setting maximum speed limits for all traffic within the site;
 - Use of a water tanker or similar to spray unsealed areas;
 - Progressively rehabilitate disturbed soils to reduce views of bare soils; and,
 - Application of dust suppressants in response to visual cues and use of covers on soil stockpiles.
 - Chemical spills:
 - All chemicals must be kept in clearly marked bunded areas;
 - Regularly inspect vehicles and plant for leakage of fuel or oil; and,
 - No re-fuelling, washing or maintenance of vehicles and plant is to be undertaken within 20m of natural drainage lines;
 - Vegetation protection:
 - Areas of vegetation outside the development footprint are to be clearly defined to prevent accidental clearing or damage to vegetation.
 - Weed management:
 - All vehicles should be cleaned prior to entering the site to prevent the introduction of new weed species.
 - Community:
 - Implement a Code of Conduct for contractors encouraging positive behaviour and expectations when interacting with the local community; and,
 - Implement disciplinary processes for breaches in the Code of Conduct or other anti-social behaviour.
 - Noise:
 - Where possible, use localised mobile screens or construction hoarding around plant;
 - A construction noise management protocol to minimise emissions, manage out of hours (minor) works to be inaudible, and to respond to potential concerns from the community;
 - Operating plant in a conservative manner (no over-revving);
 - Utilise the quietest possible machinery where practicable;

- v. Utilise a broadband reverse alarm in lieu of traditional high frequency type reverse alarm;
- vi. Provide toolbox meetings, training and education for personnel on site during construction;
- vii. Place signage at the front entrance advising truck drivers of their requirement to minimise noise both on and off-site; and,
- viii. Utilise project-related community consultation forums to notify residences within proximity of the site about the progress of the Project, upcoming potentially noise generating works, its duration and nature, and complaint procedures.

Reason:

To mitigate potential impacts during construction.

39. If during works the development site is found to be contaminated, within the meaning of the *Contaminated Land Management Act 1997*—
- a. all works must stop immediately, and,
 - b. the Environment Protection Authority and Council must be notified of the contamination.

Reason:

To ensure compliance with applicable legislation.

Internal Road & Carpark

40. During works, a carpark that complies with AS 2890.1 within the construction laydown area for a minimum of ten (10) spaces and an internal access road shall be provided on the site. The carpark and internal access road can be constructed from near dustless road pavement material of sufficient depth to carry the expected loading of vehicles travelling to and from the site. Additionally, at the completion of construction, the access road shall be constructed in accordance with the requirements of *Planning for Bushfire Protection 2019* and Council's Engineering Guidelines.

Note: It is recommended for the access road to be emulsion sealed for long-term maintenance.

Reason:

To ensure compliance with the provisions under the Liverpool Plains Shire Council Development Control Plan (2012) and the approved documentation.

PRIOR TO THE COMMENCEMENT OF OPERATIONS:

41. An inspection of the completed development must be undertaken, and an Occupation Certificate must be issued, prior to the occupation and operation of the solar energy generation facility.

Reason:

To ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979, and Council's Terms of Consent.

42. Prior to commencement of operation, the Applicant must engage a suitably qualified person to prepare a post-construction Road Dilapidation report at the completion of construction. The report shall be submitted to Council for review and approval prior to commencement of operation.

Reason:

To confirm the terms of Council's consent and ensure that the standard of the road network is not made any worse solely from the development.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:

Access

43. A vehicle crossing from the edge of Black Gully Road to the property boundary shall be constructed at the full cost of the Developer. The vehicle crossing is to be constructed in accordance with Council's requirements and shall be completed prior to the issue of an Occupation Certificate.

Reason:

To ensure that an adequate all-weather access is provided to the development site.

Bushfire

44. Prior to the issue of an Occupation Certificate, a Bushfire Emergency Management and Operations Plan shall be submitted to Council for endorsement. The Plan shall be prepared in accordance with the requirements of *Planning for Bushfire Protection 2019* and the NSW Rural Fire Service's *Guide to Developing a Bushfire Emergency Management Plan*.

Reason:

To protect people and property from bushfire.

Landscaping

45. Prior to the issue of an Occupation Certificate, all landscaping identified on the approved Landscaping Plan and as outlined in Condition 10a shall be provided on the development site unless otherwise varied and agreed to by Council due to extenuating circumstances, such as drought conditions.

Reason:

To confirm the terms of Council's consent and ensure that visual impacts are mitigated.

- 45a. Prior to the issue of an Occupation Certificate, a landscaping bond of \$20,000 shall be paid to Council, in a form acceptable to the Council. The bond shall be held by Council for at least twelve (12) months following the issue of the Occupation Certificate and will be released upon submission of a report by a professionally qualified landscape architect or arborist, confirming the success of the landscaping and its probability of long-term survival with the maintenance required under this consent.

Reason:

To confirm the terms of Council's consent and ensure that visual impacts are mitigated.

Earthworks & Documentation

46. Prior to the issue of an Occupation Certificate, and where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance with the requirements of AS 1289 Method of Testing for Compaction shall be provided to Council.

Reason:

To confirm the terms of Council's consent.

47. A 'pdf' version of the "work-as-executed" plans certified by a Registered Surveyor or a Chartered Professional Civil Engineer confirming the development works is completed according to the approved construction drawings.

Reason:

To ensure the development met council's engineering guidelines and standards.

48. Prior to the issue of an Occupation Certificate, and where required by the development, documentation shall be submitted to Council for review confirming that adequate arrangements have been made to secure legal access over the subject lands and stormwater disposal. Such documentation may constitute easements registered on the title of the subject lands, a lease or the like.

Reason:

To confirm the terms of Council's consent and ensure legal access and stormwater disposal throughout the life of the development.

DURING OPERATIONS:

49. The following requirements shall be adhered to throughout the operation of the development approved by this consent:
- Internal unsealed pavement areas to all vehicular parking, manoeuvring, loading and unloading areas as well as environmental control measures, are to be maintained such that whilst in use, the development does not generate excessive dust or vehicles exiting the site do not track sediment onto the public road;
 - The ground cover beneath the solar panel arrays shall be maintained to reduce dust and rehabilitated to reduce views of bare soil as far as practicable;
 - Dust impacts, including those arising from winds and traffic movements, shall be minimised and mitigated as far as practicable. Any product used for dust mitigation or cleaning must be declared to Council prior to use to ensure that no soil or groundwater contamination risks are associated with the product.

Reason:

To confirm the terms of Council's consent.

Landscaped Areas (Planting and Maintenance)

50. Any tree or shrub that fails to establish after the initial planting date must be replaced as soon as practicable with the same or equivalent species of tree or shrub. All landscaped areas on the site must be maintained in good order for the life of the development. Additionally, pruning and weeding shall be undertaken to maintain the vegetation screen's amenity and effectiveness in breaking up views.

Reason:

To ensure that the amenity of the site is maintained and to mitigate the visual impact of the development.

Bushfire

51. The area around the solar arrays and any associated buildings or infrastructure, as indicated below, shall be maintained in perpetuity as an Inner Protection Area as outlined within 'Planning for Bush Fire Protection 2019' and the NSW Rural Fire Service's document 'Standards for Asset Protection Zones':
- North, East, South and West for a distance of at least 10m.

Reason:

To provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building or structure.

52. Utilities, landscaping and access arrangements are to comply with 'Planning for Bush Fire Protection 2019'.

Reason:

To ensure compliance and to locate gas and electricity so as not to contribute to the risk of fire to a building.

Stormwater

53. In accordance with the Stormwater Management Report prepared by DRB Consulting Engineers and Concept Stormwater Plan 200419/CIV01-02 (dated 25 September 2020), the Applicant shall implement the following strategy as far as practicable to limit post-development flows to pre-development flow rates for the 1 in 100-year storm event:

- a. *All impervious runoff from the proposed Photovoltaic Arrays shall be discharged to the existing ground surface where the natural flow regime will be maintained;*
- b. *Runoff from the proposed gravel/hardstand area catchment shall be conveyed via sheet flow and the existing earth berm to the proposed above ground onsite detention basin; and,*
- c. *Discharge from the above ground onsite stormwater detention basin shall be limited to the pre-development flow rates.*

Reason:

To ensure that the proposed development does not impact adjoining private properties with respect to increased stormwater flows.

Noise

54. 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*.

Reason:

To preserve neighbourhood amenity and meet statutory requirements.

Weed & Pest Management

55. The property must be maintained to prevent the harbourage of pest and the risk of fire. The property must meet the obligations of the *Biosecurity Act 2015* in managing declared pest animal and plant species and comply with the minimum standards of fire prevention maintenance as legislated by the *Local Government Act 1993*.

Reason:

To preserve the amenity of the site and ensure that environmental standards are met.

Potential Contamination

56. Any dielectric fluid used must be managed to prevent contamination. Any spillage of this fluid must be recorded and notified to Council. In the event of a major spillage, the NSW Environment Protection Authority (EPA) must also be notified to report a potential pollution event.

Reason:

To ensure that the proposed development does not cause adverse environmental impacts.

Waste

57. *The Applicant shall ensure that the following waste management measures are complied with during operations of the development:*

- a. *No green waste is burnt on the site of the Project;*
- b. *No waste generated outside of the site is to be received at the site for storage, treatment, processing, reprocessing, or disposal on the site;*
- c. *The reuse and/or recycling of waste material generated on the site shall be maximised as far as practicable; and,*
- d. *All liquid and/or non-liquid waste generated on the site is assessed and classified in accordance with the Waste Classification Guidelines (EPA, November 2014), or any future guideline that may supersede that document and where removed from the site is only directed to a waste management facility lawfully permitted to accept the materials.*

Reason:

To ensure that the proposed development does not cause adverse environmental impacts.

DECOMMISSIONING / POST OPERATIONS:

58. *Within twelve (12) months of the site being decommissioned, the site shall be returned, as far as practicable, to its condition prior to the commencement of construction in consultation with the relevant landowners, unless the site is being retained for future development purposes. All solar panels and associated infrastructure shall be removed from the site unless otherwise agreed to by Council. Recycling options are to be prioritised over disposal at a landfill.*

Reason:

To confirm the terms of Council's consent.

SCHEDULE 2: GENERAL TERMS OF APPROVAL – NSW NATURAL RESOURCES ACCESS REGULATOR (NRAR)



General Terms of Approval

for proposed development requiring approval under s89,
90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1130081
Issue date of GTA:	25 November 2020
Type of Approval:	Controlled Activity
Location of work/activity:	962 Black Gully Road, WERRIS CREEK 2341
Waterfront Land:	Tributary of Werris Creek
DA Number:	Establishment of a Solar PV Electricity Generation Facility
LGA:	Liverpool Plains Shire Council

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
GT0009	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0002	<p>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents relating to Development Application DA48/2020 provided by Council to Natural Resources Access Regulator.</p> <p>B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.</p>

1. The installation of a vehicle crossing is an approved structure in accordance with Section 138 of the *Roads Act 1993*. The ongoing maintenance and/or repair of the vehicle crossing is the responsibility of the adjoining owner in accordance with Section 142 of the *Roads Act 1993*.
2. The Applicant is to advise Council at least 48 hours prior to commencement of any construction works on site or associated with the site, together with the approved contractor's name and address.
3. If Black Gully Road is affected during or after rainfall, it is recommended that any heavy vehicle operators or the contractor's representative contacts Council – at least, where possible 24 hours prior to entry, requesting advice on the road condition and whether it is trafficable prior to entering Black Gully Road.
4. The proposed 11kV private cable must be located outside Essential Energy's easement. However, if such cable is proposing to cross Essential Energy's easement at right angles, then this must be pre-approved by Essential Energy.
5. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
6. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the properties should be complied with.
7. Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar electricity generation facility which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreements and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer Essential Energy's Network Connections team for requirements via email networkconnections@essentialenergy.com.au
8. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the proposed development in accordance with industry standards.
9. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.