

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE (DA NUMBER)	PPSNTH-78 (DA2021-0317)
PROPOSAL	Construction and use of a 5MW solar PV electricity generation facility with associated infrastructure
ADDRESS	Lot 1 in DP 328265, Lot 97 in DP 753841 and Lot 2 in DP 804438 'Roseamere', 1599 New England Highway, KOOTINGAL NSW 2352
APPLICANT	ITP Development Pty Ltd (Applicant)
OWNER	Mr MK Bryant & Ms EM Bryant (Owners) Tamworth Regional Council (owner of Lot 2 in DP 804438 for access during construction and decommissioning)
DA LODGEMENT DATE	04 February 2021
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Private infrastructure for the purpose of electricity generating works with a capital investment value of more than \$5 million
CIV	\$7,092,701 (including GST)
CLAUSE 4.6 REQUESTS	Not applicable
KEY SEPP/LEP	State Environmental Planning Policy (Koala Habitat Protection) 2020 State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Primary Production and Rural Development) 2019 New England North West Regional Plan 2036 Tamworth Regional Blueprint 100 Tamworth Regional Local Environmental Plan 2010 Tamworth Regional Development Control Plan 2010
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	Two (2) unique submissions
DOCUMENTS SUBMITTED FOR CONSIDERATION	Annexure A – Recommended Conditions of Consent; Annexure B – Development Plans including proposed Landscaping Maintenance Schedule; Annexure C – Internal and External Referral Responses; Annexure D – Supporting Documents and Reports; and, Annexure E – Submissions
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not Applicable.
RECOMMENDATION	Approval

DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	Thursday 28 October 2021
PREPARED BY	Alice Elsley, Senior Development Assessment Planner
DATE OF REPORT	20 October 2021

EXECUTIVE SUMMARY

Reason for consideration by the Northern Regional Planning Panel:

The Development Application (DA) 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*. The proposed development has a Capital Investment Value (CIV) of more than \$5 million (\$7,092,701 (incl. GST)), is private infrastructure and constitutes electricity generating works.

Description of Proposal:

The proposed development involves the construction and operation of a 5-megawatt (MW) solar farm, including 12,100 photovoltaic (PV) arrays, two (2) 3MW inverters, a transformer, 1.8m high chain wire security fencing, landscaping to the north and south of the array, and a laydown and carpark towards the middle of the development site.

Permissibility:

The applicable planning instrument is the *Tamworth Regional Local Environmental Plan 2010* (TRLEP). The subject lands are zoned Zone RU4 Primary Production Small Lots wherein 'electricity generating works' are permissible with consent.

Public Submissions – Key Issues

Issues raised in the public submissions include the following:

- Visual amenity and glare
- Suitability of the site
- Noise
- Erosion and stormwater
- Future expansion
- Access and traffic
- Landscaping
- Electronic and magnetic field exposure
- Safety and Hazards
- Impacts on local land values

The issues raised in public submissions are discussed in detail later in this Report.

Recommendation

The proposed development is considered to be generally compatible with its surrounds and provides for a diversification of land uses on the property. As a result of this assessment, the proposed development is recommended for conditional approval.

The recommended conditions of consent attached to this Report at **ANNEXURE A**.

1. THE SITE AND LOCALITY

1.1 The Site

The proposed development will be located on Lot 1 in DP 328265 and Lot 97 in DP 753841, known as 'Roseamere', 1599 New England Highway, Kootingal NSW 2352 (**Figure 1**). The site is undulating and falls from the west to the east at a grade of 5%. The property has total area of approximately 58.2 Hectares.

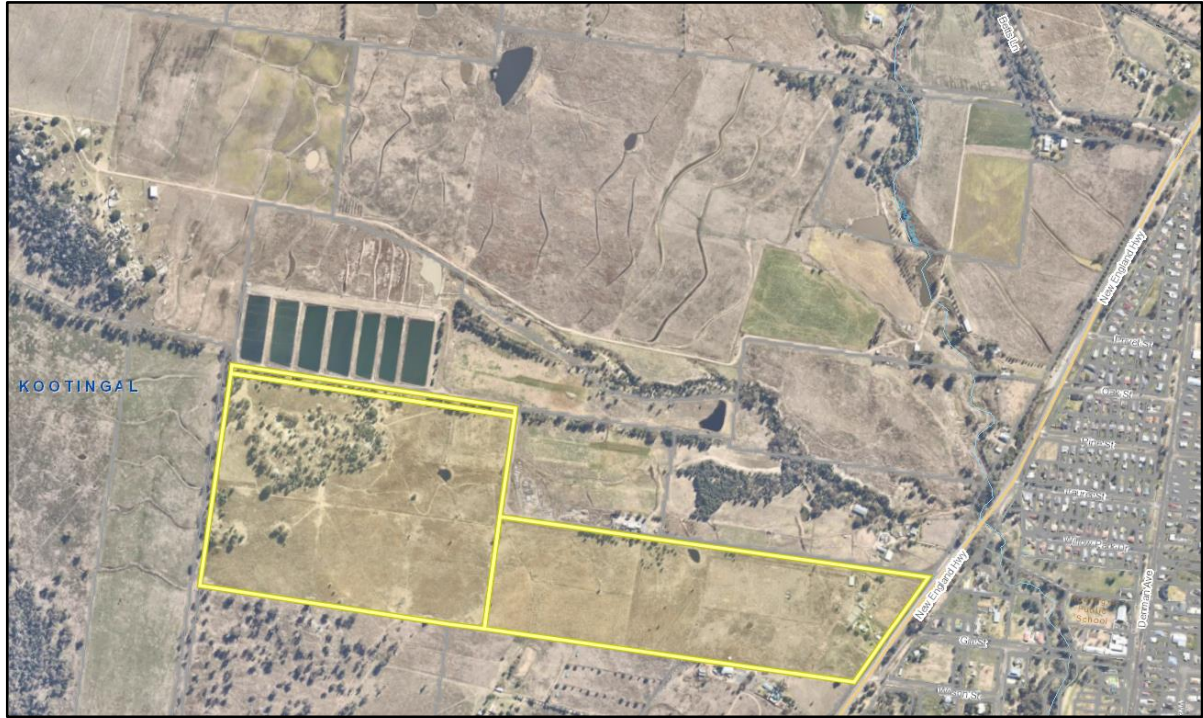


Figure 1. Aerial map of the subject lands and adjoining properties.

The subject lands are currently improved with an existing dwelling, a swimming pool and a number of outbuildings. These improvements are located towards the eastern part of the site and near the New England Highway.

According to the Statement of Environmental Effects (SEE) accompanying DA2021-0317, the subject lands were previously used as an orchid and for cropping oats until about twenty (20) years ago. The lands have since been used to graze sheep and cattle, and are now fallow with some alpacas and cattle grazing under agistment.

Access to and from the subject site is currently gained from the western side of the New England Highway via a gravelled driveway. This access services the existing dwelling but is not proposed to be utilised during the construction and decommissioning stages of the solar farm – only during operations.

The Applicant will access the development site via Council's land, being the adjoining battle-axe allotment (Lot 2 in DP 804438), during the construction and decommissioning stages of the solar farm. The Applicant has obtained owner's consent from Council as a part of the DA submission and a letter of in principle support from Council's Waste and Water Directorate.

2.7m when fully tilted to 60 degrees from horizontal in the early morning and late evening;

- Two (2) x 3MW AC inverter stations and a transformer. The inverter stations will be located within the array, mounted on a 12.2m long skid, and include high and medium voltage switchgear. The inverter stations will be connected to an 11kV feeder via underground cables to inject power to the electricity grid at the Essential Energy Kootingal Zone substation;
- Landscaping to the north and south of the solar array area and outside the security fence. The landscaping shall include native plants grown to a maximum height of 2.5 – 3m to the northern boundary to minimise overshadowing onto the panels. Taller plants may be provided along the southern boundary. The plants would be spaced 5m apart to provide a continuous screen upon maturity;
- 1.8m security fence around the perimeter of the solar array area; and,
- A laydown area and car park towards the middle and northern portion of the site for use during construction.

The SEE advises that the proposed development will be constructed over a three (3) month period with approximately fifty (50) personnel on the site. Construction hours will be from 7am to 4pm Monday to Friday.

Once operational, the proposed solar farm will not require any permanent employees on the site. The proposed solar farm will only need routine maintenance to be carried out quarterly by a crew of two (2) to (3) people. It is expected that the solar farm will be operational for thirty-five (35) years.

A copy of the submitted plans are attached to this Report at **ANNEXURE B** and presented in **Figure 3** and **Figure 4** below.

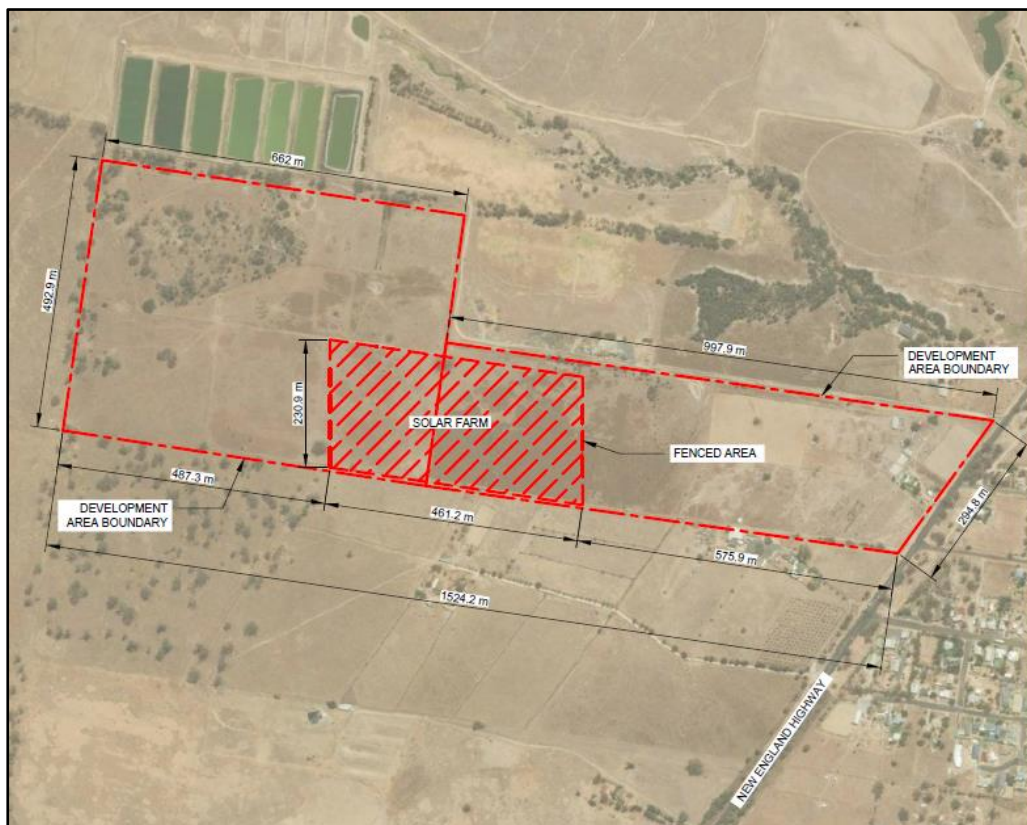


Figure 3 – Overall Site Plan.

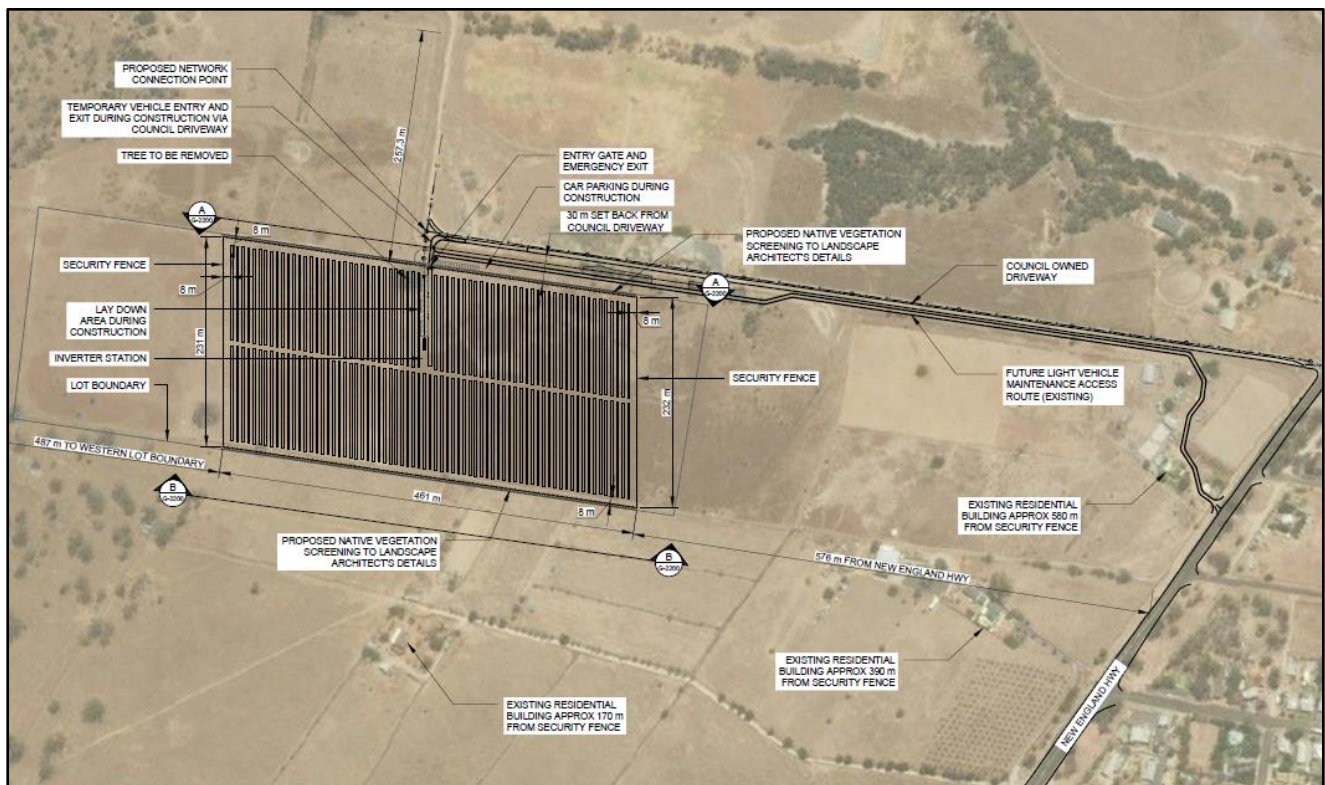


Figure 4 – Proposed Development.

2.2 Background

A pre-lodgement meeting was held between the Applicant and Council staff on 2 November 2020. The following key issues were identified during the pre-lodgement meeting:

- Plans need to clearly show the location and scope of the proposed development;
- Access and traffic;
- Integrated development provisions;
- Quantity Surveyors report for cost of works;
- Stormwater and on-site detention;
- Biodiversity;
- Heritage;
- Landscaping;
- Noise, social and visual impacts; and,
- Public consultation.

3. STATUTORY CONSIDERATIONS

Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') outlines the matters which the consent authority must take into consideration when determining a Development Application (DA). These matters include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (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,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below:

Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this DA:

State Environmental Planning Policy (Koala Habitat Protection) 2020

This Policy applies as the DA was lodged with Council on 4 February 2021 and prior to the commencement of *State Environmental Planning Policy (Koala Habitat Protection) 2021* on 17 March 2021. Furthermore, this Policy applies as the subject lands are located within the RU4 Primary Production Small Lots zone and have an area of more than 1 Hectare.

In accordance with Section 8 of this Policy, Council must be satisfied as to whether or not the land is potential koala habitat before granting consent to the DA. A Biodiversity Development Assessment Report (BDAR) prepared by Red Gum Consulting has been submitted with the DA and provides the following advices:

- The proposed development will involve the clearing of one (1) x White Cypress Pine tree and one (1) x Roughbarked Apple Box tree. The aforementioned trees are not suitable feed trees for koalas;
- The trees on the site are scattered and do not form part of connected vegetation; and,
- The nearest record of this species is approximately 2km to the south of the subject land.

Although not mentioned in the BDAR, it is noted that the aforementioned trees are not listed under Schedule 2 'Feed tree species' of this Policy

Based on the above findings, it is considered that the development site does not constitute potential koala habitat and no further assessment under this Policy is required.

State Environmental Planning Policy No 55 – Remediation of Land

The objective of *State Environmental Planning Policy No. 55 – Remediation of Land* ('SEPP 55') is to provide a state-wide planning approach to the remediation of contaminated land. Clause 7(1) of SEPP 55 requires consent authorities to consider whether the land is contaminated, and 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.

Table 1 in the SEPP 55 Guidelines identifies that agricultural/horticultural activities may cause contamination. As the SEE notes that the previous use of the site was for an orchard and agricultural purposes, the Applicant was requested to provide a Preliminary Site Investigation (PSI) report. A PSI report prepared by Neo Consulting Pty Ltd has since been received by Council and advises that the site is suitable for the proposed use without the need for additional investigations or remediation. The provisions under this Policy have therefore been satisfied.

State Environmental Planning Policy (Infrastructure) 2007

This Policy (the 'ISEPP') aims to facilitate the effective delivery of infrastructure across the State. The following provisions under the ISEPP have been considered as a part of the assessment of the subject DA, as outlined below:

➤ *Division 4 'Electricity Generating Works or Solar Energy Systems'*

Clause 34(1)(b) of the ISEPP states that development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural use zone, which includes the RU4 Primary Production Small Lots zone. The subject lands are zoned RU4 Primary

Production under the *Tamworth Regional Local Environmental Plan 2010* (TRLEP) and therefore the proposed development is permissible with consent under Clause 34(1)(b) of the ISEPP.

➤ *Division 5 'Electricity Transmission or Distribution Networks'*

In accordance with Clause 45(2) of this Policy, written notice has been provided to the electricity supply authority for the area, being Essential Energy, inviting their comments about potential safety risks. Essential Energy provided their response on 7 May 2021, which has been incorporated into the recommended terms of consent.

➤ *Division 17 'Roads and Traffic'*

As the development site has frontage to a classified road, being the New England Highway (HW9), Clause 101 of the ISEPP applies. Clause 101(2)(b) states that the consent authority must not grant consent to development with frontage to a classified road unless it is satisfied that the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development.

As detailed in a later section of this Report, two (2) Traffic Assessment Reports (TARs) have been submitted with the subject DA. The TARs advise that the proposed solar farm will generate the most traffic during the construction phase of the Project and there will be minimal traffic during operations. Due to the relatively short construction period, the TARs recommend that traffic management measures be implemented in lieu of upgrading the existing access with the New England Highway. The TARs have been reviewed by Council and TfNSW – both of which have noted that there are some shortcomings in the reports.

Notwithstanding, Council are satisfied that the shortcomings in the TARs can be resolved through the imposition of the recommended conditions of consent and are manageable due to the short construction period for the Project. The recommended conditions have been developed with input from TfNSW, and are broad enough to capture all foreseeable access and transport scenarios based on similar recent solar farm developments.

It is considered that the safety, efficiency and ongoing operation of the New England Highway will not be adversely affected as a result of the development. The recommended conditions will ensure that the design of the vehicular accesses to the land complies (at a minimum) with TfNSW's Rural Property Access Standard and that measures are put in place for the safe movement of vehicles to and from the site via a Traffic Management Plan and Traffic Guidance Scheme. Such matters will need to be satisfied prior to the issue of a Construction Certificate for the development.

The proposed development does not constitute traffic generating development, as prescribed under Clause 104 and Schedule 3 of the ISEPP. According to the data in the TARs, the proposed development will not generate traffic volumes that trigger the thresholds under Schedule 3, being 200 or more motor vehicles per hour for development that constitutes 'any other purpose'.

State Environmental Planning Policy (State and Regional Development) 2011

This Policy aims to identify development that is State and regionally significant, and State significant infrastructure and critical State significant infrastructure. The proposal constitutes regionally significant development under Clause 5 of Schedule 7 of this Policy as it has a Capital Investment Value (CIV) of more than \$5 million, is private infrastructure and constitutes electricity generating works. In this regard, the Joint Regional Planning Panel are the consent authority for the proposed development.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

This Policy requires consideration of the economics and development of lands for primary production and to reduce land use conflict and sterilisations of rural lands.

The subject site is not identified as being State significant agricultural land. The development does not significantly alter the ability of the land, or surrounding land owners, to continue to undertake agricultural pursuits. Given the relatively small footprint of the development (11 Hectares), it is not expected that the proposal will result in any land use conflicts or sterilise the land for long term primary production purposes. Furthermore, a condition of consent restricts the operation of the solar farm to thirty-five (35) years. Finally, following any future decommissioning of the development, it is anticipated that the land would again be suitable for primary production purposes without any significant adverse impacts on its capacity. It is therefore considered that the proposal is consistent with the SEPP.

Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) 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; or,
- The BOS Threshold is met; or,
- The development is carried out in a declared area of outstanding biodiversity value.

Two (2) Flora and Fauna reports were submitted with the subject DA prepared by Zenith Town Planning Pty Ltd and Red-Gum Consulting. Following a review of the Flora and Fauna reports by Council staff and the NSW Department of Planning, Industry and Environment – Biodiversity Conservation Division, it was identified that the proposed development will exceed the applicable BOS threshold, being 1 Hectare or more. The Applicant was requested on 5 May 2021 to submit a BDAR, which delayed the assessment of the DA by approximately three (3) months as it was not received until 10 August 2021.

The BDAR prepared by Red-Gum Consulting (see **ANNEXURE D**) found that the proposed development does not require any offsets and is unlikely to result in a permanent impact, or loss, of native vegetation and habitat on the site. The BDAR advises that the development site contains highly modified and degraded vegetation which has been subject to previous clearing, heavy grazing, horticulture practices and invasion by highly competitive exotic pasture grasses. Accordingly, the vegetation integrity scores calculated for vegetation zones within the development site are extremely low. The two (2) trees that are to be cleared in order to accommodate the proposed development were also found to be isolated over exotic pasture.

The BDAR has been reviewed by NSW DPIE Biodiversity Conservation and Science Division who are satisfied that their previous comments have been addressed (see **ANNEXURE C**). Council staff have also reviewed the BDAR and are satisfied that the provisions under the BC Act and corresponding *Regulation* have been met.

The recommendations under Section 7.3 of the BDAR regarding the mitigation and management of biodiversity values have been conditioned within the recommended terms of consent. Such mitigation measures include: pre-clearance protocols, habitat augmentation, and the preparation and implementation of a Construction Environmental Management Plan.

New England North-West Regional Plan 2036

The New England North West Regional Plan 2036 (the Plan) recognises the potential for growth of the renewable energy industry within the Tamworth Regional Council area and surrounding region.

The Plan outlines nine Strategic Directions for the North West Slopes and Plains region in NSW. Strategic Direction Number 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 goal:

- 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 development is considered to contribute to achieving the outcomes of Strategic Direction Number 5 of the Plan, as it will enable diversification and expansion of energy generation within the region by capitalising on high rates of regional solar penetration.

The site is not mapped as comprising Biophysical Strategic Agricultural Land according to Figure 5 of the Plan.

Tamworth Regional Council's Blueprint 100 (Part 1 - Local Strategic Planning Statement)

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 Council Local Environmental Plan 2010 (LEP)

➤ Zoning and Permissibility

The subject lands are zoned RU4 Primary Production Small Lots with a minimum lot size of 40 Hectares pursuant to the provisions of the *Tamworth Regional Local Environmental Plan 2010* (TRLEP). The objectives of the RU4 zone are as follows:

- *To enable sustainable primary industry and other compatible land uses.*

- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

It is considered that the proposed development will not be contrary to the abovementioned objectives for the RU4 zone. The proposal is capable of operating in harmony with surrounding land uses, as addressed throughout this assessment Report and subject to conditional approval. Furthermore, ongoing compliance with the recommended conditions of consent will result in mitigation of potential impacts and / or conflicts with surrounding land uses.

The proposed development is identified as being 'electricity generating works' which is defined under the TRLEP as follows:

electricity generating works means a building or place used for the purpose of—
(a) making or generating electricity, or
(b) electricity storage.

'Electricity generating works' are permitted with consent in the RU4 zone as it constitutes 'any other development not specified in item 2 or 4' in the corresponding land use table.

- *Other development standards, miscellaneous and local provisions*
 - Clause 5.10 'Heritage Conservation'

Clause 5.10(2) requires development consent for certain works to a heritage item or Aboriginal artefact, object or place of heritage significance. As such, there are no items of local or State heritage significance listed under Schedule 5 of the TRLEP located on, or in proximity to, the subject lands. There nearest local heritage item is the Kootingal School (I143) which is situated approximately 1km to the east of the development site. Notwithstanding, it is considered that the proposal would not affect the significance of the heritage item due to the separation distance between the development site and the item.

The SEE also includes the search results of the Aboriginal Heritage Information Management System database and an assessment against the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. The search results and assessment conclude that the proposed development is unlikely to any impact on Aboriginal places or objects.

Based on the above findings, the proposed development is unlikely to impact items of heritage significance. Conditions have also been included in the recommended terms of consent in line with the suggested mitigation measures the SEE, including a representative from the Local Aboriginal Land Council to undertake an inspection of the site prior to the commencement of works and compliance with the provisions of the *National Parks and Wildlife Act 1974*, if any unknown Aboriginal objects, places or archaeological material are discovered during works.

- Clause 5.21 – Flood Planning

The subject lands are not identified as being liable to inundation by flooding in accordance with Council's City-Wide Flood Study.

- Clause 7.1 – Earthworks

Clause 7.1 requires development consent for certain earthworks and for the consent authority to be satisfied about a number of prescribed matters under Clause 7.1(3) prior to granting consent. Based on the information provided in the SEE, the proposed earthworks will be ancillary to the

development of the solar farm and are not expected to result in adverse impacts. Conditions have been included in the recommended terms of consent to mitigate any impacts that may arise from earthworks.

- Clause 7.5 – Development within a Designated Buffer

Clause 7.5 applies as the subject lands are partially located within the designated buffer to the Kootingal Sewage Treatment Plant (STP) (see **Figure 5**). It is considered that the noise emissions from the STP would not impact the proposed solar farm as it too will be industrial in nature. The SEE advises that the site has been selected due to the availability of connection into the Kootingal zone substation via a feeder line and favourable lease conditions, and therefore it is not practical to relocate the proposed development outside of the designated buffer.

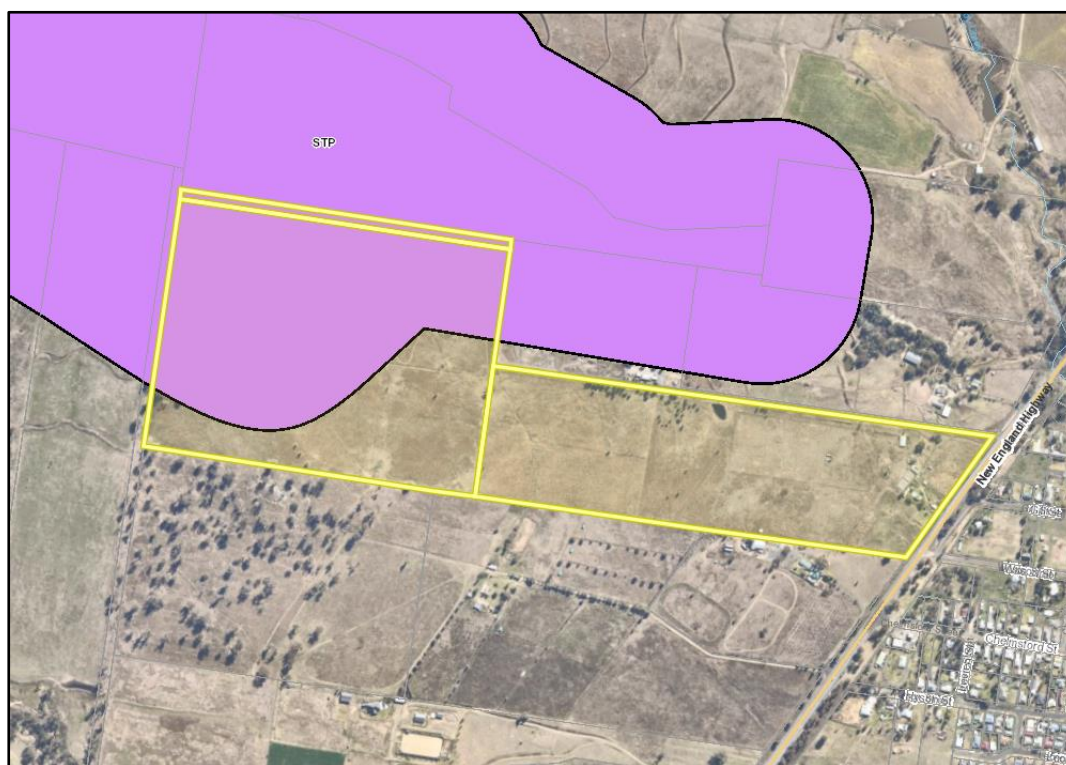


Figure 5 – Sewage Treatment Plant Buffer.

Additionally, Council's Water and Waste Directorate have provided a letter of in principle support for the use of the access road to the STP as a part of the DA submission. The use of the access road will be subject to a lease or other form of legal agreement as per the recommended conditions of consent.

3.1 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

Infrastructure SEPP Amendments – Electricity Generating Works or Solar Energy Systems

Amendments to *State Environmental Planning Policy (Infrastructure) 2007* pertaining to electricity generating works or solar energy systems were exhibited from 16 August 2021 until 13 September 2021. The accompanying Explanation of Intended Effect (EIE) states that one (1) of the proposed amendments is to clarify that large-scale solar farms are identified as 'electricity generating works', and not a 'solar energy system', and are therefore only permissible in certain prescribed rural, industrial or special use zones. The proposed development is consistent with the aforementioned changes to SEPP Infrastructure.

Infrastructure SEPP Amendments – Renewable Energy and Regional Cities

Amendments to *State Environmental Planning Policy (Infrastructure) 2007* pertaining to renewable energy and regional cities were exhibited from 13 September 2021 until 11 October 2021. According to the supporting EIE, the proposed amendments aim to manage the emerging land use conflicts associated with utility-scale solar and wind developments near regional cities, including Tamworth. The amendments will prescribe certain matters of consideration and new definitions for utility-scale solar and wind energy developments.

The proposed amendments are considered further in **Table 1** below:

Table 1. Assessment against proposed Infrastructure SEPP Amendments

Proposed Amendment	When it applies & what is required	Comments
Matters of consideration	<p>Applies to utility-scale solar development and land within 10km of land zoned B3 Commercial Core, and within 5km of any land zoned R1 – General Residential, R2 – Low Density Residential and R3 – Medium Density Residential.</p> <p>Matters of consideration:</p> <ul style="list-style-type: none"> Whether the development is located so as to avoid land use conflicts with existing and approved land uses; Whether the proposed development is likely to have a significant impact on, or conflict with, land that would be required to support the growth of a regional city having regard to any future growth areas identified in Regional Plans and Local Strategic Planning Statements and advices from Council; and, Whether the proposed development would significantly impact the scenic quality and landscape character of a regional city, including on any approaches to the city, taking into consideration any values identified by the community and Council. 	<p>The development site is located within 10km of the R1 General Residential zone and the township of Kootingal. The subject lands are situated approximately 15km to the north-east of Tamworth.</p> <ul style="list-style-type: none"> As addressed in a later section of this Report, it is considered that the proposed development will not result in land use conflict; The development site is not situated in an Urban Release Area (URA) or in any of the future growth areas identified in Figure 1.2 of Council's Blueprint 100 (Part 1 of Local Strategic Planning Statement); The proposed solar farm is not expected to be visible from the New England Highway when heading northbound and southbound with the exception of a small section (approximately 50m – 100m) near the intersection with Betts Road. The scenic vistas of the surrounding valley, rural landscape and mountain ranges will not be significantly impacted by the proposal, as discussed in a later section of this Report.
Standalone definitions	<p><i>Utility-scale Solar Energy System</i> – means a photovoltaic electricity system used for the purpose of generating electricity for export to the electricity grid.</p>	<p>The proposal is consistent with the proposed standalone definition.</p>

3.2 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Tamworth Regional Development Control Plan 2010 (Amendment No. 14)

The proposal was assessed under the *Tamworth Regional Development Control Plan 2010*. It is considered that the proposal would not be defined as one of the specified types of development in Step 2 of the DCP.

The Development Application has been completed in accordance with Step 3: General Development Specifications for Environmental Controls as it identifies 'potential environmental impacts of the development and demonstrates how they will be mitigated'.

Tamworth Regional Council Section 7.12 (Indirect) Contributions Plan 2013

Council may levy contributions for the proposed development in accordance with its adopted Section 7.12 Contributions Plan. According to the DA Cost Plan by MCG Quantity Surveyors (dated 15 March 2021), the cost of the development is \$7,092,701 (incl. GST) and therefore a 1% levy will apply. A condition has been included in the recommended terms of consent requiring the Section 7.12 Developer Contribution (\$70,927.01) to be paid to Council prior to the issue of any Construction Certificate.

3.3 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There is no planning agreement or draft planning agreement that has been entered into between the developer, relevant body or Council under Section 7.4 of the Act.

3.4 Section 4.15(1)(a)(iv) - Provisions of Regulations

The provisions under Clauses 92, 93, 94 and 94A of the *Environmental Planning and Assessment Regulation 2000* do not apply to the proposed development.

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* prescribes that 'electricity generating systems' that supply or are capable of supplying more than 30 megawatts of electrical power from energy sources, including solar, is designated development. As the proposed solar farm will generate a maximum of 5 megawatts, it does not constitute designated development.

3.5 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, the potential impacts relating to the proposed development have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

- **Context and setting** – The development site is located on the western side of the New England Highway and the township of Kootingal is approximately 1km to the east of the site. The Highway acts as a point of separation between the urban and rural areas in the locality.

The subject lands are surrounded by agriculture and small rural holdings with existing dwelling houses and ancillary development, to the north, south and west. Council's sewage treatment plant and depot is located to the north and north-west of the site.

The subject site, and adjoining properties, are located in a valley that includes the townships of Kootingal and Moonbi. In turn, the lands have undulating terrain and slope towards the north to north-east where water naturally drains into the Sandy Creek. There are steeper vegetated hills surrounding the site and wider locality (i.e. Kootingal and Moonbi).

Based on the above, it is considered that the proposed development is appropriate for the site and surrounding locality. The site, and surrounding area, has a varied landscape and, although the proposed solar farm will add a 'new' element, its impact is not considered to be unreasonable. The existing sewage treatment plant, ponds and depot are of an industrial nature and, in turn, the proposed solar farm would be compatible with this use. The proposed landscaping and other mitigation measures described in this assessment Report will also ensure that no adverse impacts, including land use conflict, arise as a result of the proposed development.

- **Visual Impact** – A Glint and Glare Assessment report prepared by ITP Renewables and a Landscape Character and Visual Impact Assessment (LCVIA) report prepared by Zenith Town Planning Pty Ltd have been submitted with the DA. These reports are discussed further below and are contained in **ANNEXURE D**:

➤ *Glint and Glare*

The Report notes that solar photovoltaic (PV) modules are designed to absorb as much light as possible and maximise efficiency. In this regard, the PV modules are constructed from dark, light-absorbing material and the glass is treated with an anti-reflective coating.

The Report has undertaken a GlareGauge analysis at each of the identified observation points within a 2km radius from the site (see **Figure 6**). The visual catchment includes twenty-seven (27) dwellings and nine (9) roads. There are two (2) dwellings within a 500 metres radius of the development site.

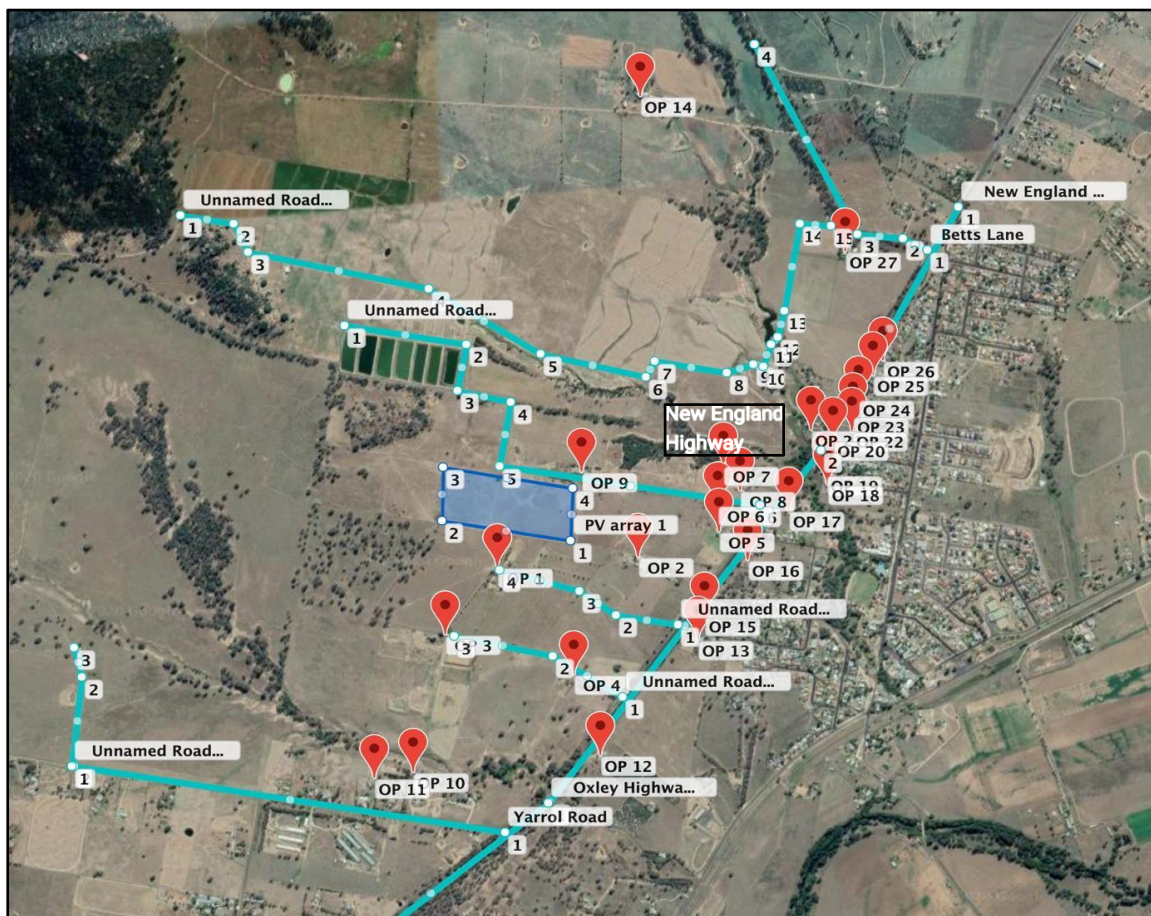


Figure 6 – Visual catchment for the proposed development.

The results of the GlareGauge analysis indicate that no residences or road users are expected to be impacted by glare from the proposed solar farm. Furthermore, the Report notes that many residences and road users will not have direct view of the solar farm due to existing obstructions from trees and other structures.

➤ *Landscape Character and Visual Impacts*

The LCVA identifies the visual catchment is the same as that used in the Glint and Glare Assessment and shown in **Figure 6** above. The LCVA found that the visual impact of the proposed development will range from negligible to moderate-high rating for the identified observation points. The most impacted residence (OP1) is located approximately 0.34km to the south of the proposed solar farm site and has been given a moderate-high impact rating. Two (2) other residences (OP14 and OP27) and Betts Lane have been given a moderate impact rating.

The LCVA also notes the following:

- The solar farm would not be visible to the dwellings and roads further to the south of the site due to the topography of the land. This is supported by Images 4 and 5 (**Figures 7 – 8**) in the LCVA;
- Some observation points to the east of the development site in Kootingal are elevated above the development site. However, the presence of existing trees and structures would impede visibility of the solar farm. This is supported by Image 6 (**Figure 9**) in the LCVA; and,
- Roadside and riparian vegetation, and the topography of the land (i.e. the development site falls to the north-north-east) would lessen the visual impact of the proposed development from all other observation points.



Figure 7 – Image 4 from the LCVA looking west towards the development site from the intersection of the access via Lot 2 and the New England Highway.



Figure 8 – Image 5 from the LCVA looking towards the development area from the New England Highway (northbound).



Figure 9 – Image 6 from the LCVA looking south-west towards the development site from the intersection of Denman Avenue and Oak Street, Kootingal.

In assessing the visual impacts of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW. Council has considered the judgment of ***Tenacity Consulting v Warringah Council [2004] NSWLEC 140*** which provides a four-step assessment process when making planning decision with respect to view sharing.

➤ **Step One – Assessment of the views to be affected.**

Assessing Officer Comments: Council staff undertook site inspections from the submitter's properties as they raised concerns that the proposal will adversely impact the rural landscape, and surrounding views and vistas. The submitter's properties correspond with OP1 and OP7 in the visual catchment indicated in **Figure 6**.

Following the site inspections from the submitter's properties, it was noted that the proposed solar farm will not be visible from the residence at OP7 due to the topography of the land and presence of existing outbuildings. The proposed solar farm will be partly visible from OP1 – the impacts of which are addressed in Step Three.

The surrounding area is characterised by a varied landscape. The western side of the New England Highway comprises agricultural holdings that are improved with dwellings and outbuildings whilst the eastern side of the New England Highway features the township of Kootingal. There are existing stands of vegetation along both sides of the New England Highway and around natural watercourses, including the Sandy Creek and associated tributaries. The surrounding area has undulating topography and is bordered by a mountain range.

The impacted properties (OP1, OP14, OP27 and Betts Lane) are expected to enjoy views over the rural component of the landscape as described above and illustrated in **Figures 10 – 11**.



Figure 10 – Looking towards the south from Betts Road and approximately 50m from the intersection with the New England Highway.



Figure 11 – Looking towards the north from the existing dwelling at OP1, being the adjoining property to the south of the development site.

It is anticipated that the development site may also be visible to motorists heading southbound along the New England Highway. This would occur near the intersection between the Highway and Betts Road due to the elevation of the land (i.e. falls towards the south-west) and break in vegetation along the western side of the highway (see **Figure 12**). The view towards the south to south-west over the rural landscape is expected to be impacted where visible from the Highway.



Figure 12 – Looking towards the south from the intersection between Betts Road and the New England Highway.

➤ **Step Two – Consideration from what part of the property the views are obtained.**

Assessing Officer Comments: as noted in the LCVA, the parts of the properties that obtain views would vary depending on the orientation of each dwelling and positioning relative to topography. Notwithstanding, it is expected that the properties would enjoy existing views to most, if not all, directions due to the size and orientation of the allotments.

The properties to the north of the development site (OP14, OP27 and Betts Lane) would have views of the proposed development when looking towards the south to south-west. On the other hand, the property identified as OP1 to the south of the development site would have views of the proposed development when looking towards the north and across the side boundary of the land.

It is also noted that the existing dwelling on the property identified as OP1 is located approximately 170m from the boundary of the development site. The northern side of the dwelling does not contain any large windows or living areas.

➤ **Step Three – Assessment of the extent of the impact**

Assessing Officer Comments: the extent of the impact of the proposed development is considered minor to moderate. As noted in the LCVA and illustrated in **Figure 13**, the solar farm accounts for only a small proportion of the expected views and vistas for the properties (OP14, OP27 and Betts Lane). These properties are located approximately 1.5km away from the development site. The proposed solar farm will occupy 11 Hectares of the 58.2

Hectare property, resulting in a coverage of approximately 19%. The views are also already interrupted due to the presence of existing buildings and stands of vegetation along the roads and Sandy Creek, and undulating topography of the land. The scenic vista of the mountain range that borders the area is expected to remain mostly unchanged.



Figure 13 - Looking towards the south from Betts Road with approximate location of the proposed solar farm.

Similarly, the visual impact for the property to the south (OP1) of the development site is considered to be moderate. The proposed solar farm is expected to be visible when looking to the north from the existing residence on the property. However, as shown in **Figure 14**, only part of the solar farm would be visible due to the presence of existing buildings and vegetation on the property. It is expected that the proposed landscaping along the southern boundary of the solar farm will also help to reduce the visual impacts of the development, as shown in the 'Elevation B' drawing in **ANNEXURE B**.



Figure 14 - Looking towards the north from OP1 with the approximate location of the proposed solar farm.

It is also noted that the views to east of the property, which too shows a rural landscape, will not be impacted by the proposal (see **Figure 15**).



Figure 15 – Looking towards the east from the existing dwelling at OP1.

Finally, it is considered that the visual impact of the proposed development will be minor where visible from a road, particularly the New England Highway. The western side of the Highway is improved with existing stands of vegetation and only a relatively small section (approximately 50-100m) is expected to be visible where there is a break in the trees near the intersection between the Highway and Betts Lane. The development site would not be visible heading northbound along the New England Highway due to the topography of the land (see **Figure 8**).

➤ **Step Four – Assessment of the reasonableness of the proposal that is causing the impact.**

Assessing Officer Comments: It is considered that the visual impacts of the proposed development are reasonable and any view loss is considered to be moderate to minor. The proposed development complies with the applicable controls under Council's DCP and LEP, and the solar farm will occupy a relatively small portion of the wider viewshed. The proposed landscaping will also assist to reduce the visual impact of the development.

Therefore, based on four step assessment process, it is considered the proposal will result in a minor to moderate impact on the existing views. The highly valued views will remain unimpeded by the low scale development and only form a small portion of the future vista.

- **Access & Traffic** – A Traffic Assessment Report (TAR) prepared by Triaxial Consulting (dated 1 September 2020) and subsequent revision (dated 22 July 2021) has been submitted with the DA (see **ANNEXURE D**). The TARs assess the traffic implications associated with the proposed development and provide the following supporting details:
 - The original TAR predicts that there will be 45 B-Double trucks (i.e. 90 total vehicle movements) over the construction phase. The updated TAR reduces this number to 13 total deliveries;
 - Both TARs identify that there will be light vehicles suitable for transporting up to 50 workers and a bus service for workers, if required, during construction;
 - The TARs advise there will be minimal traffic during operations as there will be no permanent staff on the site and only routine maintenance every few months is required. The TARs forecast that there will be 1 – 2 light vehicle trips to the site every three (3) months during the operational phase of the solar farm;
 - The updated TAR has clarified that the proposed site entry during construction of the solar farm will be via Council's land, being the adjoining battle-axe allotment (Lot 2 in DP 804438). Lot 2 is improved with an existing bitumen-sealed access crossing with headwalls from the western side of the New England Highway. The access crossing then meets with a 4m wide bitumen-sealed driveway that extends the length of the battle-axe handle and terminates approximately 2/3 of the way along the southern boundary of the allotment before changing to gravel.
 - The updated TAR recommends that their identified mitigation measures should be implemented in lieu of upgrading the site access from the New England Highway due to the relatively short construction period of the solar farm. The TARs advise that a construction Traffic Control Plan should be implemented to safely allow a B-Double to decelerate and enter the site via Lot 2. Additionally, access to the site by B-Doubles should be limited to the Northern approach as the swept path analysis (Triaxial Plan TX 15007.00-C10.1) indicates that, due to the approach angle from the South, a B-Double from this direction would track over the existing edge of bitumen and drainage infrastructure. The Northern approach is more amenable and would ensure the vehicle swept path stays within the existing constructed site entry; and,
 - The updated TAR recommends that the site entry to the solar farm from Council's land (Lot 2) be upgraded and sealed as per their supporting plan (Triaxial Plan TX 15007.00-C10.0); and,

- The updated TAR recommends that the existing driveway and track on the development site (i.e. Lot 1 in DP 328265 and Lot 97 in DP 753841) be utilised as the main entrance during the operational phase of the Project due to the lower traffic count, complexity and safety issues that constructing an entry directly from the New England Highway may cause.

The Applicant has obtained owner's consent from Council and a letter of in principle support from Council's Water and Waste Directorate for the use of Lot 2 as a part of the DA submission. The use of the access via Lot 2 will also be subject to a lease or other form of agreement with Council, which has been conditioned in the recommended terms of consent.

Both Council and TfNSW have noted that there are some shortcomings in the submitted TARs. The TARs have not included information around the transportation of construction materials and equipment, or nominated the haulage route or what port the modules will be transported from to the site. Additionally, the TARs have not indicated where B-Double vehicles approaching from the South will turn around at an alternate location to approach the site from the North. The submitted swept paths also appear to be wider than the existing cattle grid and show the trucks sitting back behind the cattle grid when entering the intersection.

Notwithstanding, Council are satisfied that the above issues can be resolved as conditions of development consent given the relatively short-term construction period for the proposed solar farm. The recommended conditions of consent have been developed with input from TfNSW, and are broad enough to capture all foreseeable access and transport scenarios based on similar recent solar farm submissions.

The recommended conditions include the following:

- a Traffic Management Plan and Traffic Guidance Scheme (if warranted) to ensure that vehicles can safely enter and exit the site;
 - Where upgrades during the construction phase are warranted, a Section 138 with concurrence from TfNSW under the *Roads Act 1993*; or, a Works Authorisation Deed with TfNSW; or, other agreement with TfNSW for any works within the road reserve;
 - At a minimum, all accesses to the development site must comply with the TfNSW *Typical Rural Property Access Standards*. Such standards require adequate widening, sight distances and laybys to the provided for both single unit trucks and articulated vehicles;
 - The operator must identify the transport route for articulated vehicles, including any required turning bay for heavy vehicles. Any necessary approvals for the transport route and turning bay must be obtained from the relevant authority prior to the release of a Construction Certificate; and,
 - A lease or other form of legal agreement to be provide for the nominated accesses during the construction, operational and decommissioning phases of the Project.
- **Public Domain** – The proposed development will not impact the public domain in terms of recreation opportunities, the amount, location, design, use and management of public spaces, or pedestrian linkages between public spaces.
 - **Utilities** – The proposed solar farm does not require an extension of reticulated services to service the site given there will be no permanent amenities or offices on site. A connection agreement is required with Essential Energy, as recommended in the conditions of consent.
 - **Heritage** – As discussed under Clause 5.10 'Heritage Conservation' of the TRLEP, the proposed development is unlikely to impact items of heritage significance. Conditions have also been included in the recommended terms of consent in line with suggested mitigation measures in the SEE.

- **Other land resources** – The land is predominantly used for small scale agricultural pursuits, with an existing dwelling house, and supporting infrastructure, located on the site. The proposed development will not prohibit the continuation of these small-scale agriculture on the site or impact the ability of adjoining landholders to carryout agricultural pursuits.
- **Soils** – The proposed development is not expected to have an adverse impact on soil conversation. Erosion and sediment controls will be required to be installed prior to the commencement, and maintained for the duration, of construction works. Conditions have been included in the terms of consent to this effect.
- **Water** – in accordance with the advice received from Council's Development Engineering Division, conditions have been included in the consent requiring stormwater to be diverted to an approved point of discharge and for peak flow rates to be at, or below, pre-development levels. No adverse impacts are anticipated subject to compliance with the conditions of consent.
- **Air and Microclimate** – It is considered that the proposed development will not result in adverse impacts on air and microclimatic conditions. The proposed solar farm is expected to generate dust during construction and operations. However, the proposed development will have a short-term / three (3) month construction period and, once operational, will only require two (2) to three (3) personnel on the site to carry out maintenance every quarter or as required. The SEE and supporting technical studies identify a range of measures to mitigate any dust that may be generated during construction and operational phases of the proposed development. Conditions have been incorporated into the recommended terms of consent to ensure compliance in this regard.
- **Flora and fauna impacts** – As discussed previously in this Report, the BDAR prepared by Red-Gum Consulting advises that the proposed development will not require any offsetting and is unlikely to result in a permanent impact, or loss, of native vegetation and habitat on the site. Conditions have been included in the terms of consent in line with the suggested mitigation measures under Section 7.3 of the BDAR.
- **Noise** - A Noise Impact Assessment (NIA) prepared by Muller Acoustic Consulting Pty Ltd has been submitted with the Development Application (see **ANNEXURE D**). The NIA has assessed the potential noise impacts arising from the construction and operation of the proposed solar farm on nearby sensitive receptors (see **Figure 16**) in accordance with the applicable NSW policies and guidelines.

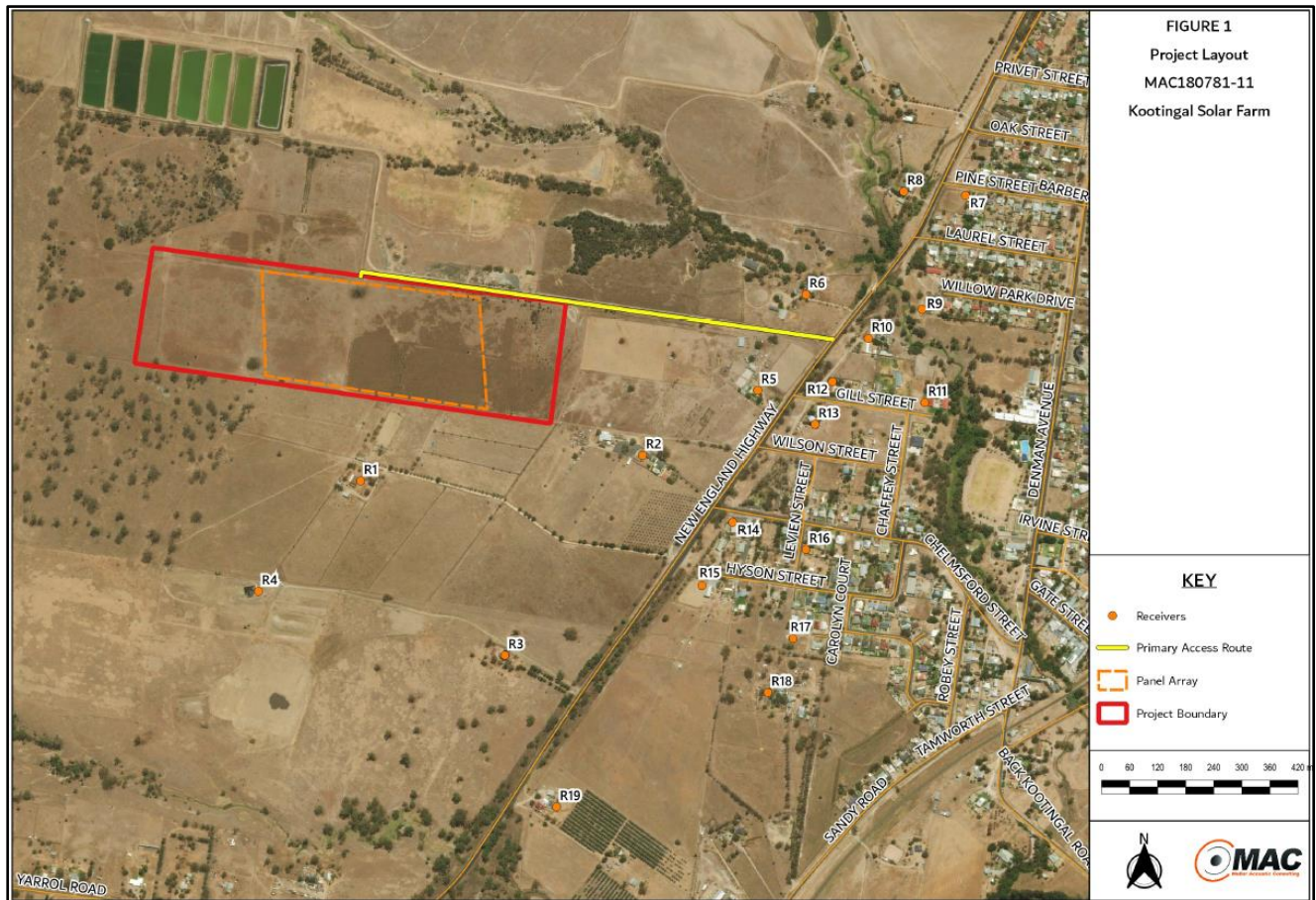


Figure 16 – Potentially Sensitive Receivers from NIA by Muller Acoustic Consulting Pty Ltd.

The NIA found that noise levels at the two (2) nearest receivers (R1 and R2) are expected to exceed the Noise Management Levels during construction and when works are closest to the receivers. The NIA notes that the exceedance is primarily due to piling and earthworks activities, and would be temporary and of short duration, as construction is to occur over a three (3) month period and during the daytime.

The NIA recommends a number of mitigation measures that can be implemented in order to reduce noise emissions during construction. Such mitigation measures include, but are not limited to, the use of mobile screens, broadband reverse alarms, signage and project-related community consultation forums. Conditions have been included in the recommended terms of consent to ensure compliance in this regard and to limit construction activities to standard hours.

The NIA also found that operational noise will comply with the Project Noise Trigger Levels (PNTLs) but recommends that the Proponent actively manages potential noise emissions from the Project via a one-off noise validation monitoring assessment. The NIA advises that the noise validation assessment will quantify emissions from the site and confirm emissions meet the applicable criteria. A condition has been included in the recommended terms of consent to this effect.

Finally, the results in the NIA indicate that project construction traffic noise levels would comply with the relevant Road Noise Policy criteria. This is based on predicted traffic volumes of up to four (4) heavy vehicles (semi-trailers or B-doubles) per hour and twenty (20) light commercial vehicles or equivalent mini buses for worker transport during the morning and afternoon peak hour periods.

In summary, the proposed development is expected to result in noise intrusion during construction but would comply with the applicable criteria during operations. Given that the

predicted noise exceedance will be temporary and will be mitigated, it is considered that the impact is not unreasonable.

- **Natural hazards** – The subject lands are not mapped as bushfire or flood prone land. No other natural hazards are known to affect the sites. However, given that bushfire hazards have been raised as a concern in the submissions, a condition has been included in the recommended terms of consent requiring the maintenance of an Asset Protection Zone in perpetuity of the development.
- **Waste** – A Waste Assessment Report prepared by ITP Renewables has been submitted with the DA. The Report advises that waste will mostly be generated during the construction and decommissioning phases of the Project. Minimal waste is expected to be generated during operations of the solar farm. The Report provides details of the likely waste material and proposed management options during the construction, operation and decommissioning stages of the development. Conditions have also been included in the recommended terms of consent to ensure that waste is appropriately managed during the stages of the development.
- **Safety, security and crime prevention** – The proposed development is not expected to have an adverse impact on safety, security and crime prevention. The development site is to be improved with a security fence, which is to be 2.3m high and chain mesh steel topped with three (3) rows of barbed wire.
- **Economic impact** – The SEE advises that some local professionals were used during the planning stage for the proposed development and recommends for labour to be sourced locally where possible during the construction and operational phases of the Project. The SEE also notes that the proposed development may also have positive economic impacts with respect to expenditure locally on meals and accommodation. In this regard, it is considered that the proposed development may have the potential to increase opportunity for local employment and expenditure. However, given the minimal ongoing operational requirements for a solar farm, any increase will be short-term only.
- **Site design and internal design** – The proposed development has been designed and located with consideration to the constraints of the site and potential environmental impacts, as discussed throughout this assessment report. The proposed works and associated infrastructure are located approximately 170m from the closest residential receiver. The amended landscape plans show a mixture of vegetation types to provide visual screening of the proposal. It is noted, that full visual screening of the development is unlikely, however the vegetation screening will soften the visual impacts.
- **Cumulative impacts** – The cumulative impacts of the proposed development are considered to be acceptable as discussed throughout this assessment Report and subject to conditional approval. There are no other electricity generating works in the locality.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above and subject to conditional approval.

3.6 Section 4.15(1)(c) - Suitability of the site

The subject site is considered suitable for the proposed development for the following reasons:

- The proposed development, being 'electricity generating works', is permitted with consent in the RU4 zone and under Clause 34(1)(b) of SEPP Infrastructure;
- The proposed development is not considered to be antipathetic to the objectives for the RU4 zone. The solar farm is a passive land use and is therefore not expected to result in land use

conflict or affect agricultural activities on, or in proximity to, the site. Furthermore, the proposal would not impact the sewage treatment plant;

- The proposed development is not expected to result in deleterious impacts, subject to the imposition of suitable conditions of consent;
- The attributes of the site are conducive to the proposed development, as discussed throughout this assessment report. Legal and physical access to the site is available from the New England Highway. The site is not affected by any known environmental constraints, including bushfire and flooding; and,
- Upon decommissioning of the solar farm (should this occur), the land can be restored to its previous form.

3.7 Section 4.15(1)(d) - Public Submissions

The Council received a total of two (2) unique submissions opposing the proposal. These submissions are considered in Section 5 of this report.

3.8 Section 4.15(1)(e) - 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 *Blueprint 100* and is not considered to be incompatible with surrounding development and existing or future land use patterns.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The Development Application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 2**.

Table 2: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Department of Planning Industry & Environment – Biodiversity, Conservation and Science Directorate (BCSD)	S7.12(2) <i>Biodiversity Conservation Act 2016</i>	<p>The application was referred to the BCSD for comment in regards to biodiversity impacts.</p> <p>Additional information was requested by the BCSD. The BCSD has subsequently reviewed the Applicant's BDAR and confirmed that their previous comments have been addressed.</p> <p>The referral response is attached in ANNEXURE C of this Report.</p>	Yes
Referral/Consultation Agencies			

Electricity supply authority	CI 45 – Infrastructure SEPP Development near electrical infrastructure	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. The referral response is attached in ANNEXURE C of this Report.	Yes
TfNSW	CI 101 – Infrastructure SEPP	As discussed previously in this Report, it is considered that the proposed development will not adversely affect the safety, efficiency and ongoing operation of the New England Highway. Council have developed recommended conditions of consent with input from TfNSW to ensure compliance in this regard. The referral response is attached in ANNEXURE C of this Report.	Yes
Integrated Development (S 4.46 of the EP&A Act)			
Natural Resources Access Regulator	S89-91 – <i>Water Management Act 2000</i> water use approval, water management work approval or activity approval under Part 3 of Chapter 3	It is not considered the proposed works are location on waterfront land as defined by the <i>Water Management Act 2000</i> (WM Act). The mapped drainage line which crosses the proposed access track is not considered to be waterfront land as it does not exhibit bed, banks and/or fluvial geomorphic features due to the highly disturbed nature of the site. Therefore, for the purposes of the WM Act, a controlled activity approval is not required for the proposed works.	N/A

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

4.2 Council Referrals

The DA has been referred to various Council officers for technical review as outlined **Table 3** and contained in **ANNEXURE C**.

Table 3: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineering	Conditions of approval were provided for road, access, parking, drainage and associated matters.	Yes
Environmental Health	Conditions of approval were provided for erosion and sediment controls, dust mitigation, potential contamination, dangerous goods, waste and noise emissions. The recommendations under Section 12 of the PSI report have also been incorporated into the consent.	Yes

There are no outstanding issues arising from these Council referrals subject to the imposition of the recommended conditions of consent being imposed.

4.3 Community Consultation

The DA was publicly notified for a period of fourteen (14) days commencing 17 February 2021 and ending 3 March 2021. Two (2) unique submissions opposing the proposal were received by Council during the public consultation period. A copy of the submissions is attached in **ANNEXURE E**.

The issues raised in the submissions are considered in **Table 4**.

Table 4: Community Submissions

Issue	No of submissions	Council Comments
Visual Impact / Glare Submissions raised concern the development will adversely impact the rural amenity and landscape.	2	<p>As detailed in an earlier section of this Report, the visual impacts arising from the proposed development have been determined to be moderate to minor but not unreasonable. The proposed solar farm would occupy a relatively small portion of the available viewshed of the rural landscape, which is already interrupted due to the presence of existing stands of vegetation, buildings, and the undulating topography of the land. The visual impacts of the development would also lessen the further the viewpoint is away from the development site as it occupies a smaller proportion of the overall view, as noted in the LCVA.</p> <p>Council staff undertook site inspections from each of the submitter's properties as a part of the assessment of the visual impacts of the proposed development. The submitter to the north (OP7) will not have any direct views of the solar farm due to the presence of existing buildings and the topography of the land. The submitter to the south (OP1) will have some views of the solar farm. However, these views will be partly obscured and are not enjoyed</p>

		<p>from habitable areas in the dwelling. It is therefore considered that the visual impact is not unreasonable.</p> <p>Additionally, the proposed landscape screen is expected to assist with reducing the visual impact of the solar farm, particularly for the other properties to the north and OP1 to the south of the development site. As shown in the amended plans, the landscaping along the southern boundary of the solar farm site will be 4m in height and include a combination of native shrubs and trees to screen the maximum tilt height (2.75m) of the solar PV arrays and security fencing. Landscaping along the northern boundary of the solar farm side will only be 3m in height due to spacing limitations.</p> <p>Conditions have been included in the recommended terms of consent with regards to the timing of planting and ongoing maintenance of the proposed landscaping and mitigation of visual impacts.</p> <p>Finally, the results of the GlareGauge analysis in the Glint and Glare Assessment report indicate that no residences or road users are expected to be impacted by glare from the proposed solar farm. Furthermore, many residences and road users will not have direct view of the solar farm due to existing obstructions from trees and other structures. A condition has been included in the terms of consent to ensure that the solar PV panels are not left horizontal during operations.</p>
<p>Suitability of the Site</p> <p>Submissions raised concern that the proposed development is located too close to residential areas, schools, swimming pool, the Kootingal township and their properties.</p>	2	<p>The subject site is considered to be suitable for the purposes of the proposed development. The proposal, being 'electricity generating works', is permitted with consent in the RU4 zone and under Clause 34(1)(b) of SEPP Infrastructure. The proposed development is not considered to be antipathetic to the objectives for the RU4 zone. The solar farm is a passive land use and is therefore not expected to result in land use conflict or affect agricultural activities on, or in proximity to, the site.</p> <p>Although the proposed development will have some impacts, it is considered that they would not be unreasonable and can be managed via conditions of development consent.</p>

<p>Noise</p> <p>Submissions raised concern that the PV panels and inverters will generate adverse noise emissions during operations</p>	<p>2</p>	<p>The NIA accompanying the DA advises that operational noise will comply with the PNTLs but recommends that the Proponent actively manages potential noise emissions from the project via a one-off noise validation monitoring assessment. A condition has been included in the recommended terms of consent to this effect.</p> <p>There is no known evidence that the panels will amplify existing noise levels and this will be confirmed by the noise validation assessment.</p>
<p>Erosion and stormwater</p> <p>Submission raised concern that the proposed development will cause erosion and exacerbate existing drainage issues</p>	<p>1</p>	<p>In accordance with the advice received from Council's Development Engineering Division, conditions have been included in the consent requiring stormwater to be diverted to an approved point of discharge and for peak flow rates to be at, or below, pre-development levels. Additionally, the conditions specify that no effluent or polluted water of any type can enter Council's stormwater drainage system. Section 120 of the <i>Protection of the Environment Operations Act 1997</i> also prohibits the pollution of waters.</p>
<p>Further expansion of solar farm</p> <p>Submissions raised concern regarding future expansion of the solar farm</p>	<p>1</p>	<p>If the operators seek to expand the solar farm, a new DA will need to be lodged with Council.</p>
<p>Council Road & Access</p> <p>Submission raised concern regarding the use, condition and maintenance of the proposed access road during the life of the development</p>	<p>2</p>	<p>The Applicant has clarified that the development site will be accessed via Council's land, being the adjoining battle-axe allotment (Lot 2 in DP 804438), during the construction and decommissioning stages of the solar farm. The Applicant has obtained owner's consent from Council as a part of the DA submission and the use of Council's road will be subject to a lease or other form of agreement with Council, as conditioned within the recommended terms of consent.</p> <p>During the operations of the solar farm, the Applicant proposes to use the existing driveway access and track on the development site (i.e. Lot 1 in DP 328265 and Lot 97 in DP 753841). The SEE and TARs accompanying the DA advise that there will be approximately 1 – 2 light vehicles every few months for maintenance of the solar farm site. Given the predicted low vehicle count and that an Operations Environmental</p>

		Management Plan will need to be implemented as per the recommended conditions, no adverse impacts are anticipated.
Landscaping Submissions raised concern regarding the replacement and maintenance of the proposed landscape screen	2	<p>The Applicant proposes to start planting the vegetation screen during the construction period. The plants will be regularly watered during this period to ensure successful establishment. The plants will be maintained every two (2) to three (3) months thereafter and any dead plants will be replaced with plants of the same species and maturity.</p> <p>Conditions have been included in the recommended terms of consent to ensure that the proposed landscape screen is established during construction and maintained in perpetuity of the development. Additionally, a recommended condition requires the Applicant to submit a detailed Landscape Management Plan prior to the issue of a Construction Certificate for the development.</p>
Electronic and Magnetic Field Exposure Submission raised concern regarding potential interference of the inverters/batteries with television	1	<p>The Applicant has advised that, according to the Australian Radiation Protection and Nuclear Safety Agency, there is no established evidence of health effects from exposure to electric and magnetic fields from powerlines, substations, transformers, or other electrical sources. Hence, no interference with radio/television reception and the internet will occur.</p>
Safety & Hazards Submissions raised concern regarding the potential hazards and risks that may arise from the proposed development, such of bushfires, explosion of the batteries / inverters and contamination	1	<p>The Applicant has advised that a Construction Environmental Management Plan (CEMP) and Bushfire Management Plan will be prepared and implemented during the construction and operational phases of the solar farm in order to mitigate any potential risks.</p> <p>Additionally, conditions have been included in the recommended terms of consent to address the concerns raised by the submitter. Such conditions pertain to a CEMP (Construction Site and Waste Management Plan), an Asset Protection Zone for bushfire protection, potential contamination, an Emergency Management and Operations Environmental Management Plan, and the storage of hazardous materials.</p>
Devaluation of properties	2	<p>The solar farm site will be bordered by vegetative screening to minimise the visual</p>

Submissions raised concern that the development would devalue neighbouring properties		impact of the development on neighbouring properties. While land values are not a consideration under the <i>Environmental Planning & Assessment Act 1979</i> , there is no direct evidence that land values in the area would be negatively impacted.
Transformer Submission sought clarification about the proposed transformer	1	As shown on the plans accompanying the DA, the transformer will be located within the inverter station area and approximately 400m away from the rear boundary of the submitter's property. The transformer and inverter station details are contained in the drawing numbered KOO1C-E-4300 and labelled 'Inverter Station Details'.

5. CONCLUSION

This Development Application has been considered in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and corresponding *Regulation*, as outlined in this Report. Following a thorough assessment of the relevant planning controls, the issues raised in submissions and the key issues identified in this Report, it is considered that the application can be supported.

The key issues for the proposed development pertain to access, visual impacts, noise, suitability of the site, hazards and stormwater. It is considered that the key issues have been satisfactorily resolved through amendments to the proposal and/or in the recommended conditions of consent at **ANNEXURE A**.

Finally, the site is determined to be suitable for the purposes of the proposed development and the proposal is expected to be compatible with the surrounding locality.

6. RECOMMENDATION

That the Development Application DA2021-0317 for the construction and use of a 5MW solar PV electricity generation facility with associated infrastructure at 1599 New England Highway, KOOTINGAL NSW 2352 (Lot 1 DP 328265, Lot 97 DP 753841 and Lot 2 DP 804438) be **APPROVED** pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the recommended conditions of consent attached to this Report at **ANNEXURE A**.

