

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE (DA NUMBER)	PPSNTH-84 (DA2021-0295)
PROPOSAL	Construction and use of a 5MW solar PV electricity generation plant with associated infrastructure
ADDRESS	Lot 4 DP 1048145, 329 Country Road, Warral
APPLICANT	NSW Community Renewables (Warral) Pty Ltd C/- Kdc Pty Ltd
OWNER	Mr M & Mrs J Cameron
DA LODGEMENT DATE	19 January 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	\$ 6,873,108.00
CLAUSE 4.6 REQUESTS	Not applicable
KEY SEPP/LEP	<ul style="list-style-type: none"> • 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 (State and Regional Development) 2011 • 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	Five (5) submissions
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Annexure A - Recommended Conditions of Consent; • Annexure B – Development Plans including Design, Landscaping and Stormwater Plans; • Annexure C – Internal and External Referral Responses; and • Annexure D – Supporting Documents and Reports • Annexure E – Submissions
SPECIAL INFRASTRUCTURE	Not Applicable.

CONTRIBUTIONS (\$7.24)	
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	26 August 2021
PREPARED BY	Mitch Gillogly, Team Leader – Development Assessment
DATE OF REPORT	18 August 2021

EXECUTIVE SUMMARY

Description of Proposal

The development encompasses the construction and operation of a solar farm with a maximum transfer capacity 5 Megawatts (MW).

The development will consist of:

- Establishment of a grid-connected solar photovoltaic (PV) plant including associated electrical generation, supplying no greater than 5 megawatts (MW);
- Upgrade the existing access via Country Road and internal driveway;
- Removal of five (5) isolated trees;
- Security fencing 2.3m high;
- Carparking area;
- Construction of a storage shed (32m²), temporary site office and power conversion station (shipping container).

Reasons for consideration by Northern Regional Planning Panel

The development is for electricity generating infrastructure by a private company and has a capital investment value of \$6,873,108 million. Consequently, the Development Application is required to be determined by the Northern Regional Planning Panel as the development is for infrastructure undertaken by a private developer with a capital investment value over \$5 million, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

Permissibility

The proposed solar farm is properly categorised as “electricity generating works” under the Tamworth Regional Local Environmental Plan 2010 (LEP).

“Electricity generating works” is defined as follows:

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

The subject site is located within the RU4 – Primary Production Small Lots Zone (RU4 Zone). Under the RU4 Zone, within the LEP, “electricity generating works” are permitted with consent.

Public Submissions - Key Issues

Issues raised in the public submissions include the following:

- Impacts on local land values

- Visual amenity
- Inconsistent with Blueprint 100
- Glare
- Dust

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 consent.

The draft conditions of consent attached to this report at **ANNEXURE A**.

1. THE SITE AND LOCALITY

1.1 The Site & Locality

The subject site is known as 329 Country Road, Warral (Lot 4 DP 1048145) and contains a total site area of 39.74ha (Figure 1). The subject site is currently occupied by a residential dwelling and ancillary outbuildings in the south-west corner of the site.

The site has historically been used for small scale agricultural purposes, primarily cattle grazing and cropping, and includes exotic grass species and scattered tress. The development site has a gentle fall of 2.8% from the west to the east/north-east towards Timbumburri Creek

Access is provided via Country Road which is a two-lane, two way sealed and unsealed road. A new access is proposed to be constructed to service the development. This section of Country Road is unsealed. The subject site is located 4km south from the Oxley Highway.

The surrounding area is made up of small scale rural allotments (hobby farms) with the Tamworth Airport located approximately 4km to the north west and the fringe of the Tamworth urban area located approximately 1.4km to the east of the site (Figure 2). A solar farm development was recently approved by the Northern Regional Planning Panel approximately 1km north of the development site on Country Road.

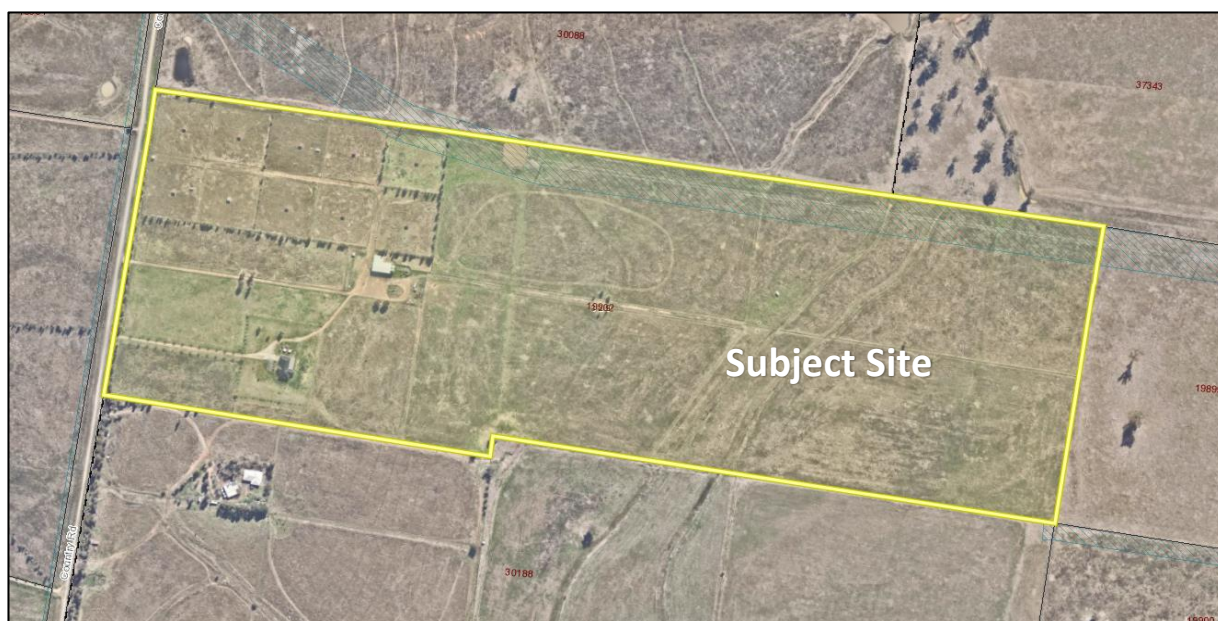


Figure 1 Subject Site

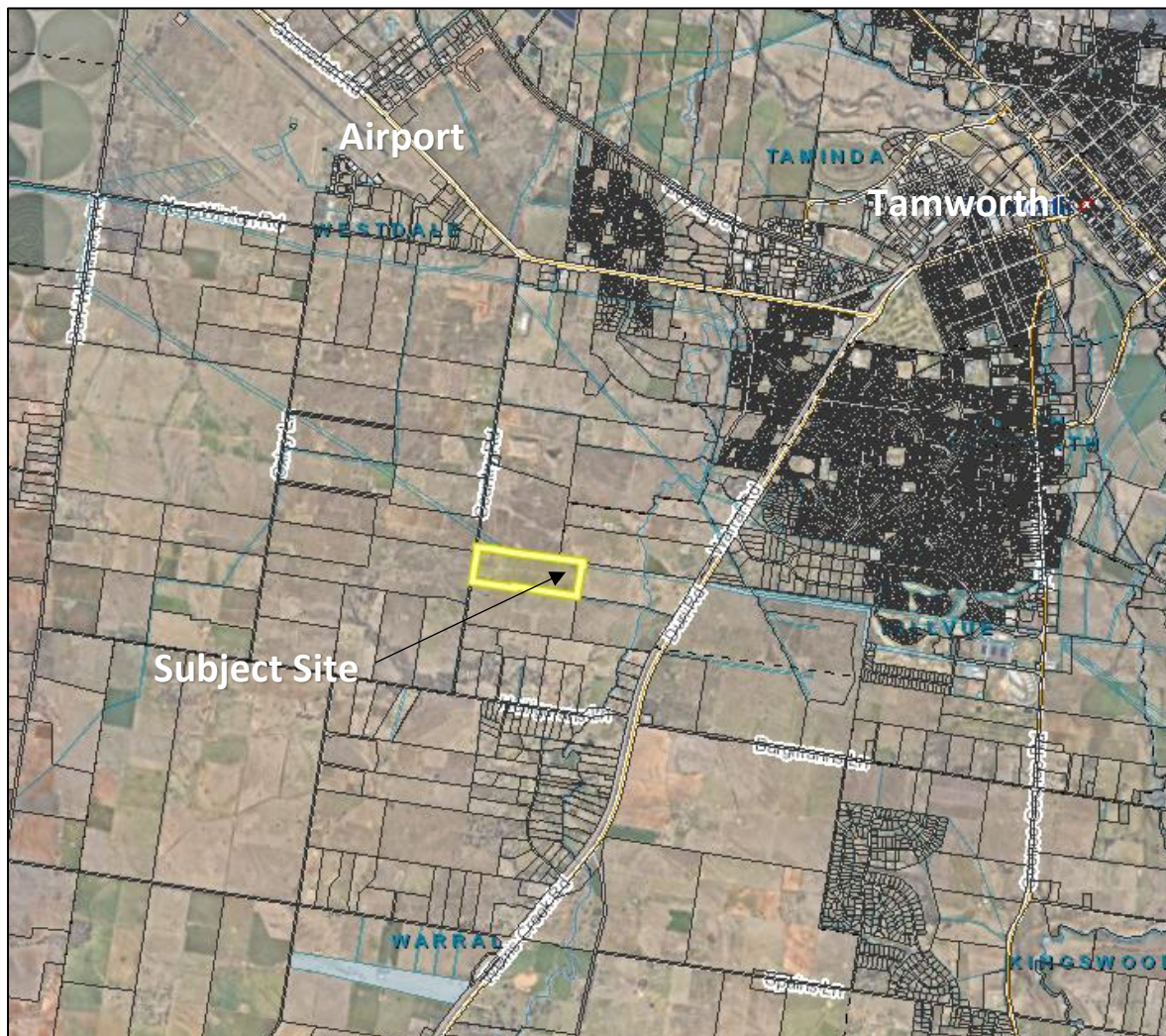


Figure 2 – Locality Plan

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The development encompasses the construction and operation of a solar farm with a maximum transfer capacity 5 Megawatts (MW).

The development will consist of:

- Establishment of a grid-connected solar photovoltaic (PV) plant including associated electrical generation, supplying no greater than 5 megawatts (MW);
- Upgrade the existing access via Country Road and internal driveway;
- Removal of five (5) isolated trees;
- Security fencing 2.3m high;
- Construction of a storage shed (32m²), temporary site office and power conversion station (shipping container).
- Landscaping
- Earthworks associated with car parking area and detention basin.

The solar farm will be connected to Essential Energy's network via an 11 kV distribution line running adjacent to the southern boundary of the site. A separate application process is being undertaken with Essential Energy for this connection. Due to the capacity of the inverter system, the proposed development will produce less than 5MW.

A copy of the submitted plans are attached to this report at **ANNEXURE B**.

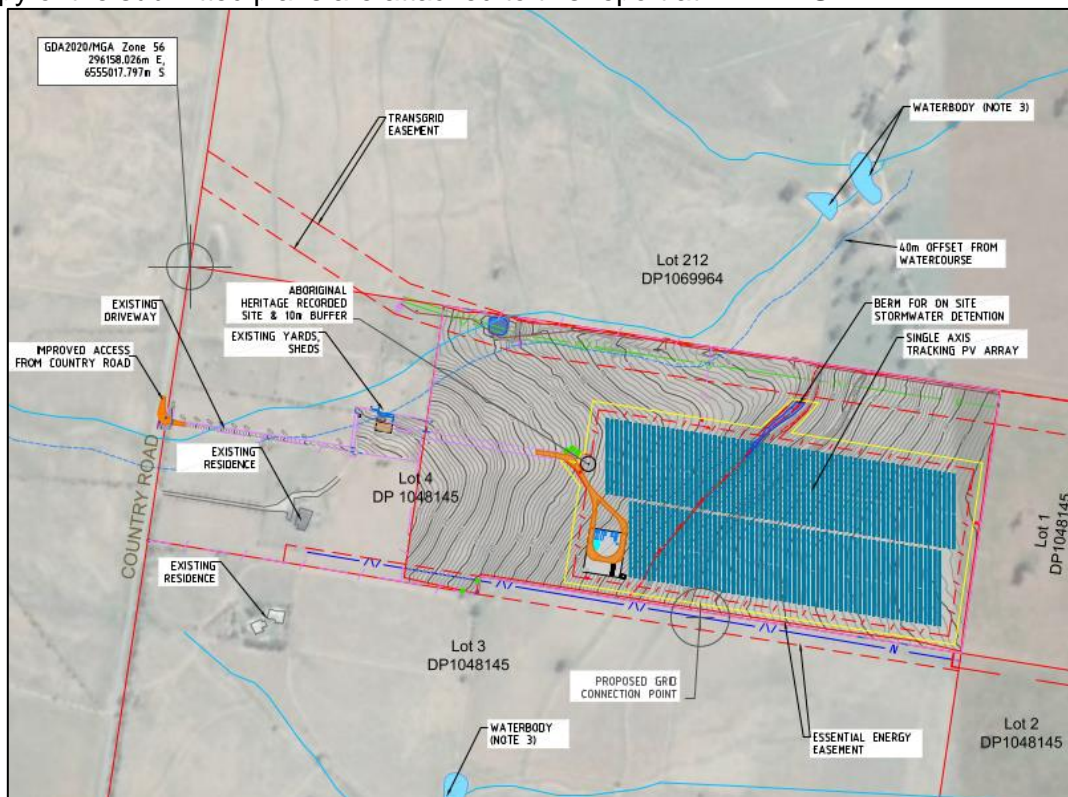


Figure 3 – Overall Site Plan

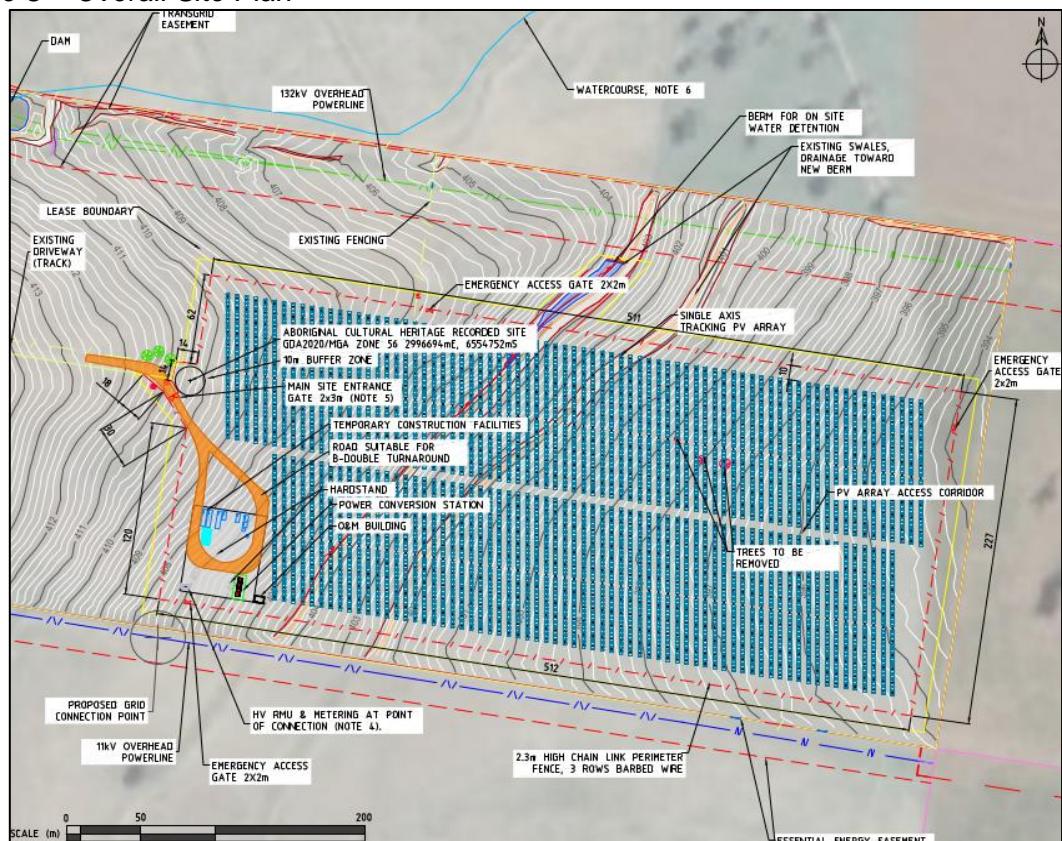


Figure 4 – Proposed development

2.2 Background

A pre-lodgement meeting was held between the Applicant and Council staff prior to the lodgement of the development application on 2 November 2020 where various issues were discussed. The key issues raised during that meeting are outlined below, and are also discussed in detail throughout this report:

- Planning Legislation
- Traffic Impacts
- Cost of Works
- Stormwater
- Electrical Easement
- Environmental Impact
- Heritage Impact
- Noise Impacts
- Social Impacts
- Visual/Reflectivity Impacts
- Landscaping
- Urban Design

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. The matters that are of relevance to the development application include the following:

- the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- the suitability of the site for the development,*
- any submissions made in accordance with this Act or the regulations,*
- 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 application:

- State Environmental Planning Policy (Koala Habitat Protection) 2021
- 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
- Tamworth Regional Local Environmental Plan 2010

A summary of the key matters for consideration arising from these State Environmental Planning Policies are considered in more detail below:

State Environmental Planning Policy (Koala Habitat Protection) 2020

State Environmental Planning Policy (Koala Habitat Protection) 2020 applies given the application was lodged with Council on 19 February 2021 prior to the commencement of State Environmental Planning Policy (Koala Habitat Protection) 2021 on 17 March 2021.

Tamworth Regional Council does not possess a Koala Plan of Management; therefore, the Koala Habitat Protection SEPP 2020 applies to the site.

The subject site has been heavily modified due to historic agricultural practices and contains only a few scattered trees. The development proposes to remove five (5) trees which include one (1) *Casuarina Cristata* (Bela) and four (4) *Eucalyptus Sideroxylon* (Mugga Ironbark). The trees to be removed are not listed a koala feed tress pursuant to Schedule 2 of the SEPP. An assessment of Koala habitat within the subject site determined that no highly suitable koala habitat, or core koala habitat is present. This is based on the following:

- No evidence of a resident population of Koalas was detected during the assessment (i.e. No Koala individuals, scats or scratch marks were identified).
- The Koala feed trees to be removed within the subject site are isolated in the landscape and are therefore unlikely to be fed upon by Koalas.
- All trees were identified as young (i.e <15 years old) and planted by the owners.
- Only one historical record of a Koala occurs within 5 km of the study area (DPIE, 2020a).

As a result, further assessment under this SEPP is not required.

State Environmental Planning Policy No 55 – Remediation of Land

This SEPP requires the consent authority to consider the potential contamination status of the land prior to approving the development. The development site area has historically used for small scale agricultural pursuits. Agricultural activity is identified as an activity that may potentially cause contamination under Table 1 of the Planning Guidelines for Managing Land Contamination.

A search of the NSW EPA's 'List of NSW contaminated sites notified to the EPA' and 'POEO Public Register' has been undertaken which revealed no contaminated sites listed in or around the site and no licences provided under the Protection of the Environment Operations Act were note. A site inspection of the development area found no evidence of the following with the lease area:

- Intensive animal handling facilities (existing cattle yards are small scale);
- Scums or discoloured waterbodies;
- Operational, or disused, sheds or other built structures;
- Chemical storage facilities; and
- Evidence of land-based waste disposal or dumping.

The subject allotment includes existing machinery sheds associated with the current small scale farming practices, however the shed is located outside of the lease area. The proposed development is not considered to be sensitive in nature and as a result is considered to be appropriate for the site in its current site in accordance with SEPP 55.

State Environmental Planning Policy (Infrastructure) 2007

Pursuant to clause 34(7) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), development for the purpose of a solar energy system may be carried out by any person with consent on any land. Accordingly, the proposed solar farm (which is a photovoltaic electricity generating system) is permissible subject to development consent being issued.

Clause 45 Determination of development applications—other development

The proposed development will require works to connect to the overhead electricity power lines and as a result constitutes works within 5m of powerlines.

Transmission lines (11KV) are located in proximity to the development. The transmission lines are within an existing easement in favour of Country Energy (now Essential Energy) bordering the southern boundary of the project over Lots 3 and 4 of DP1048145. Due to the location and nature of the proposed development referral to the electricity supply authority, Essential Energy, was required during the assessment period. 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.

State Environmental Planning Policy (State and Regional Development) 2011

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

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

The SEPP 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 state significant agricultural land. The development does not significantly alter the ability of the land over or surrounding land owners to continue to undertake agricultural pursuits. Given the relatively small footprint of the development (11ha), 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. Therefore, it is considered 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;
- The BOS Threshold is met;
- The development is carried out in a declared area of outstanding biodiversity value.

A Fauna and Flora Assessment (FFA) (**ANNEXURE D**) was undertaken to investigate the impacts associated with the construction and operation of the facility and whether the proposal triggered entry into the Biodiversity Offset Scheme (BOS). The FFA determined the entirety of the subject site comprised exotic grassland and is consistent with Category 1 – Exempt Land under section 60H of the Local Land Services Act 2013. Therefore, the development does not trigger entry into the Biodiversity Offset Scheme.

Following review of the FFA, Council staff identified a portion of the site was identified as “grazing native vegetation” on the NSW 2017 Landuse mapping. The proposal was referred to the NSW Department of Planning, Industry & Environment – Biodiversity, Conservation and Science Division (BCSD) for consideration.

The BCSD requested further information relating to the identification of “grazing native vegetation” on the NSW 2017 Landuse mapping and more robust evidence supporting the Category 1 land classification. Supplementary information provided by the Applicant, which included further investigation into the vegetation community and historical aerial imagery demonstrated to the BCSD and Council that the subject land could reasonably be considered Category 1 – Exempt land (pursuant to Local Land Services Act 2013) and therefore the development does not trigger entry into the Biodiversity Offset Scheme (refer to **ANNEXURE C** for the response from the BCSD).

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 site is not mapped as comprising Biophysical Strategic Agricultural Land according to Figure 4 of the Plan.

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.

Tamworth Regional Council’s Blueprint 100 (Part 1 of 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 it’s 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.

The development site is located in a Stage 3 Option Growth Area as identified in Blueprint 100 (Part 1 of Local Strategic Planning Statement) (Figure 5). This growth area is currently not zoned for residential purposes nor any services provided to the site. This area is flagged for potential future investigation but with significant servicing constraints (sewer, flooding, access) already known, these constraints may prohibit the development of this area for residential purposes. At a best case scenario, the growth area would likely be development in 30-40 years, however this would be dependent on future population growth rates and investigation of other future residential areas. The area is not identified in the *New England North West Regional Plan 2036* as a future residential investigation area. The solar farm expected life span is a minimum of 25 years with a lease option enabling life extension to a maximum of 35 years. Therefore, a recommended condition of consent that restricts the operation of the solar farm to a period not exceeding 35 years from the issue of an occupation certificate is included in the draft conditions. The location of the solar farm in the potential growth area has been raised in the submissions, however based on the above, it is not expected to have any long-term detrimental impacts on the land which would inhibit any future growth on the site or the surrounding area if the area was deemed suitable for residential development in the future.

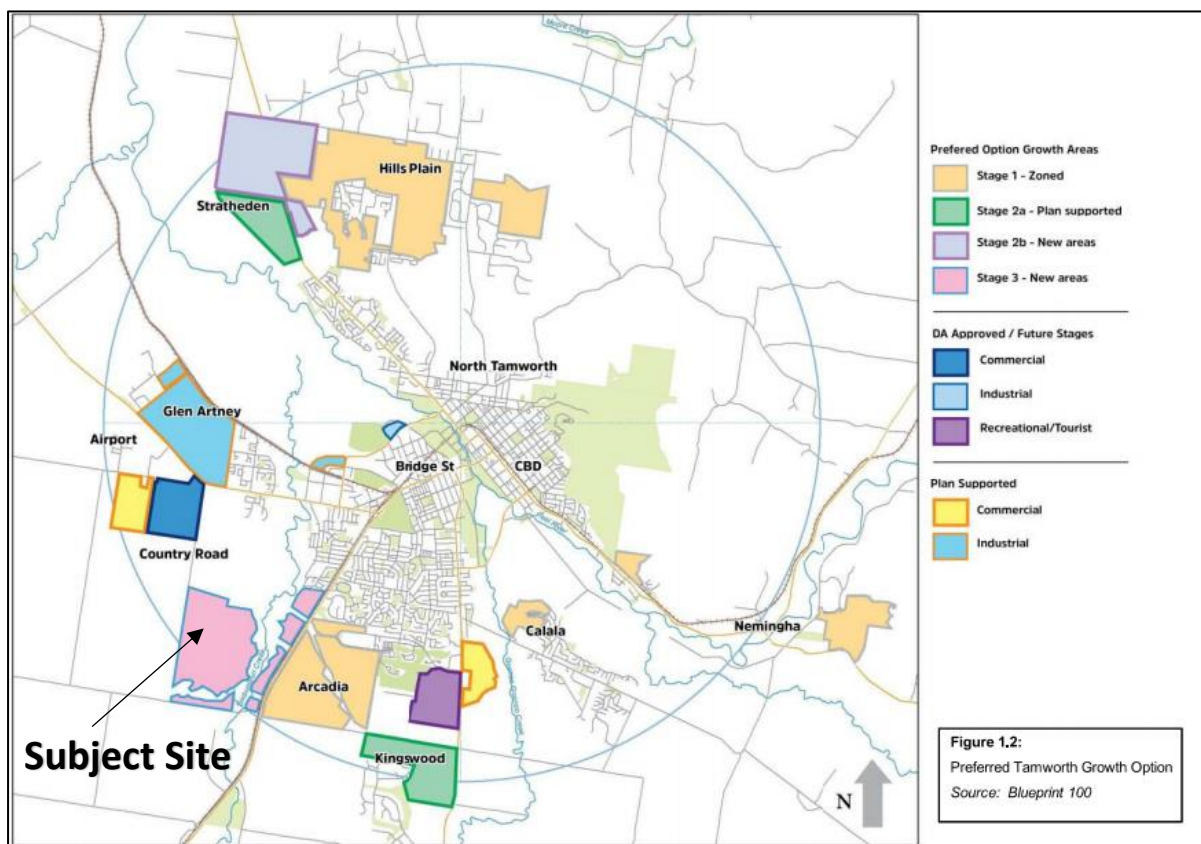


Figure 5 – Preferred Tamworth Growth Options – Blueprint 100

Tamworth Regional Council Local Environmental Plan 2010 (LEP)

Land Use Table

In accordance with the Tamworth Regional Local Environmental Plan 2010, the subject site is in Zone RU4 – Primary Production Small Lots. The proposal is defined ‘electricity generating works’.

‘a building or place used for the purpose of making or generating electricity, or electricity storage’

Electricity generating works are permissible development with consent in Zone RU4.

The zone objectives as provided in the Land Use Table are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To permit development for certain purposes if it can be demonstrated that suitable land or premises are not available elsewhere.

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

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

Clause 5.10 - Heritage conservation

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

An Aboriginal Due Diligence Archaeological Assessment was undertaken by Virtus Heritage to accompany the development application (**ANNEXURE D**). The study identified one (1) artefact scatter (WSF001) within the project area along the graded track. The proposal was referred to the Tamworth Local Aboriginal Lands Council (LALC) who recommended that the proposed access track be realigned and a 10m buffer be provided around the artefact scatter. The plans have been amended to reflect these requirements. Furthermore, a representative from the

TLALC shall be present onsite during earthworks given the lack of visibility during the study due to overgrown paddocks. This is reflected in the recommended conditions of consent.

It is not considered an Aboriginal Heritage Impact Permit (AHIP) is required based on the distance of the Aboriginal site from the proposal in which no impact or harm to the Aboriginal objects can occur. For this reason, the project is not considered to be an 'interim designated area' (IDA) for the purposes of the *National Parkes and Wildlife Act 1974* or 'integrated development' for the purposes of the *Environmental Planning and Assessment Act 1979*.

Clause 5.21 - Flood Planning

The subject site is not identified a flood prone land in accordance with Council's City Wide Flood Study. Stormwater runoff will be managed onsite to ensure no adverse effect neighbouring properties and can be readily managed if required.

Clause 7.6 - Development in flight path

The proposed development is located approximately 4km south east from the Tamworth Airport. The proposal was referred to Civil Aviation Safety Authority, Air Services Australia and the Tamworth Airport for comment, who advised the development will not affect any sector or circling altitude, nor any instrument approach or departure procedure for the Tamworth Airport. Therefore, the development will not impact on the safety, efficient or regularity of existing or future air transport options for the Airport.

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

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

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

Tamworth Regional Development Control Plan 2010 (Amendment 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

In accordance with the Contributions *Plan*, Council may levy contributions from a development with a value greater than \$100,000 for the provision of community infrastructure. The applicant submitted a Detailed Cost Summary Report prepared by RPS Group with a capital investment value of \$6,873,108.00 inclusive of GST. The contribution payable is \$68,731.08 based on the 1% levy rate applicable.

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

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

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

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

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

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

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, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

- **Context and setting** – The subject land is located in a semi-rural setting on the south-west fringe of the Tamworth Urban area. The solar farm will constitute a 'new' element in the landscape and will be visible from the public and private domain. The proposed establishment of a landscaping buffer around the perimeter and low scale nature of the development will assist in minimising impact on the existing amenity. Whilst the development will be an 'new' element in the landscape, it will not result in unreasonable impact provided the landscaped buffer is implemented and maintained

Finally, It is recommended that any outdoor lighting is to comply with AS4282-1997 Control of the Obtrusive Effect of Outdoor Lighting to minimise impact on surrounding properties, carriageways and nocturnal fauna. This requirement is reflected in the recommended conditions of consent.

- **Views and Visual Impact** – The Visual Impact Assessment prepared by SLR Consulting (**ANNEXURE D**) assessed visual impact on the surrounding area based on the techniques set out in the "Guidelines for Landscape and Visual Impact Assessment, Third Edition" (2013) prepared by the Landscape Institute and the Institute for Environmental Management and Assessment (UK).



Figure 6 – Visual analysis viewpoints

The analysis from the public viewpoints shown in Figure 6 identifies, viewpoint 1 and 2 located on Warral Road indicate the greatest 'magnitude of landscape change' being minor-moderate. Viewpoint 5 also provides a representation of the view from Country Road with the subject site in the foreground and the urban fringe (Tamworth) and Oxley Reserve mountains in the background.

A visual representation of the impact from viewpoint 1, 2 and 5, without the proposed landscape buffer, is provided below in Figures 7, 8 and 9.



Figure 7 – Visual impact from viewpoint 1 (VP1)



Figure 8 – Visual impact from viewpoint 2 (VP2)



Figure 9 – Visual impact from viewpoint 5 (VP5)

The visual impact of the development is raised as a key issue in the submissions given the rural amenity. Council requested additional information to be provided regarding the proposed landscaping and maintenance of landscaping once the solar farm is operational. The amended landscaping plans identify a mixture of small and large shrubs around the exterior of the security fencing to screen the development from the surrounding area. This will reduce the visual impact of the development, in particular at ground and lower level elevations. Visual representations of the proposed landscaping from viewpoints can be found in the visual assessment document in **ANNEXURE D**. However, it is acknowledged that a number of the surrounding residential dwellings are at an elevated position which will result in some form of visual impact which cannot be addressed with the proposed landscape screening.

In terms of assessing the visual impact of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW. In assessing these impacts, 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: The surrounding area is characterised by open, gently undulating rural land. The primary views for residents located to the south of the development are to the north which include uninterrupted views of the Oxley Reserve mountain range and the wider Tamworth urban area. These views provide a visually

pleasing interface between the rural, urban and natural environment. The primary views for residents to the east and north are primarily rural looking back to the escarpment of the Duri Mountain range to the south and south west.

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

Assessing Officer Comments: Views are obtained from all parts of the surrounding properties based on the size of the allotments and orientation.

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

Assessing Officer Comments: It is acknowledged the proposed solar farm will be visible from several adjoining properties, however the extent of the impact is considered minor-moderate. This is based on the fact the existing views and vistas from all adjoining properties will remain significantly unchanged in consideration of the separation distances between the solar farm site and nearby dwellings; elevation; landscaping and location on the edge of the urban fringe. The solar farm will become visible in existing views, however the highly valued views will remain unimpeded by the low scale development and only form a small portion of the future vista.

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

Assessing Officer Comments: The proposed development complies with Council's planning controls and is permissible with consent. The solar farm is low scale with the PV Mounting system (the panels) (2.6m high), maintenance shed (2.7m high) and power conversion station (2.4m high) screened by landscaping from ground level (height of 1-4 metres). Whilst the solar farm covers an area of 11 ha, it is relatively non-descript in consideration of the wider views and vistas. It is considered the proposal is suitable and that the visual impacts are reasonable and any view loss is considered minor.

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

- **Access & Traffic** – The proposed development will utilise the existing northern access point off Country Road. This will be upgraded to accommodate heavy rigid vehicles (B-Doubles). The internal road will be widened to 4m and remain unsealed. The internal access has been realigned to protect the identified Aboriginal artefact identified as part of the Aboriginal Due Diligence Study.

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

- Up to 10 light vehicles transporting a maximum of 30 employees per day arriving between 6 am and 7 am and departing between 5 pm and 6 pm.
- Maximum of 8 delivery vehicles per day between 10am and 4pm. Delivery vehicles are heavy rigid vehicles, articulated vehicles (AV).
- Maximum of 3 deliveries within a peak hour of other vehicles such as earthwork machinery, concrete agitators etc.

- Total of 18 additional vehicle movements to and from the site during the weekday AM and PM peak periods during the 6 months of construction.
- 10 car parking spaces.

As described above the majority of traffic movements associated with the development will occur during the construction period (6 months approximately) with only a single weekly vehicle trip occurring once operational. Country Road is a two-lane, two way sealed and unsealed road and is considered adequacy to cater for the traffic demand. Furthermore, construction has commenced on a 5-legged roundabout on the Oxley Highway which removes the current controlled give way T-Intersection. This improves the capacity and level of service of the intersection. It is considered the local road network has adequate capacity to cater for the increase in traffic over the 6 months construction phase of the development. A dilapidation survey of Country Road must be undertaken prior to works commencing as per the recommended conditions of consent.

- **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 recommend in the conditions of consent.
- **Heritage** – An Aboriginal Due Diligence Archaeological Assessment was undertaken by Virtus Heritage to accompany the development application (**ANNEXURE D**). The study identified one (1) artefact scatter (WSF001) within the project area along the graded track. The proposal was referred to the Tamworth Local Aboriginal Lands Council (LALC) who recommended that the proposed access track be realigned and a 10m buffer be provided around the artefact scatter. The plans have been amended to reflect these requirements. Furthermore, a representative from the TLALC shall be present onsite during earthworks given the lack of visibility during the study due to overgrown paddocks. This is reflected in the recommended conditions of consent
- **Other land resources** – The land is predominantly used for small scale agricultural pursuits, with an existing dwelling house, and support infrastructure located onsite. The solar farm will not prohibit the continuation of these small scale agricultural onsite nor impact the ability of adjoining landholders to carryout agricultural pursuits.
- **Soils** – The proposed development is not expected to have adverse impacts on soil conservation. Erosion and sediment controls measure will be installed during the construction process and form past of the recommended conditions of consent.
- **Water** – A stormwater management plan has been submitted with the application which identifies runoff from the solar panels gravel hardstand area will be captured by existing swales and conveyed to the proposed detention basin and existing watercourses. The approved point of discharge for the development site is defined as the ephemeral drainage line adjacent to the northern boundary of the site (See Figures 10 and 11). The basin will reduce flows to pre-developed flows. Council's Development Engineering has reviewed the stormwater management plan and recommended conditions of consent have been included.



Figure 10 – Location of detention basin (Detail B)

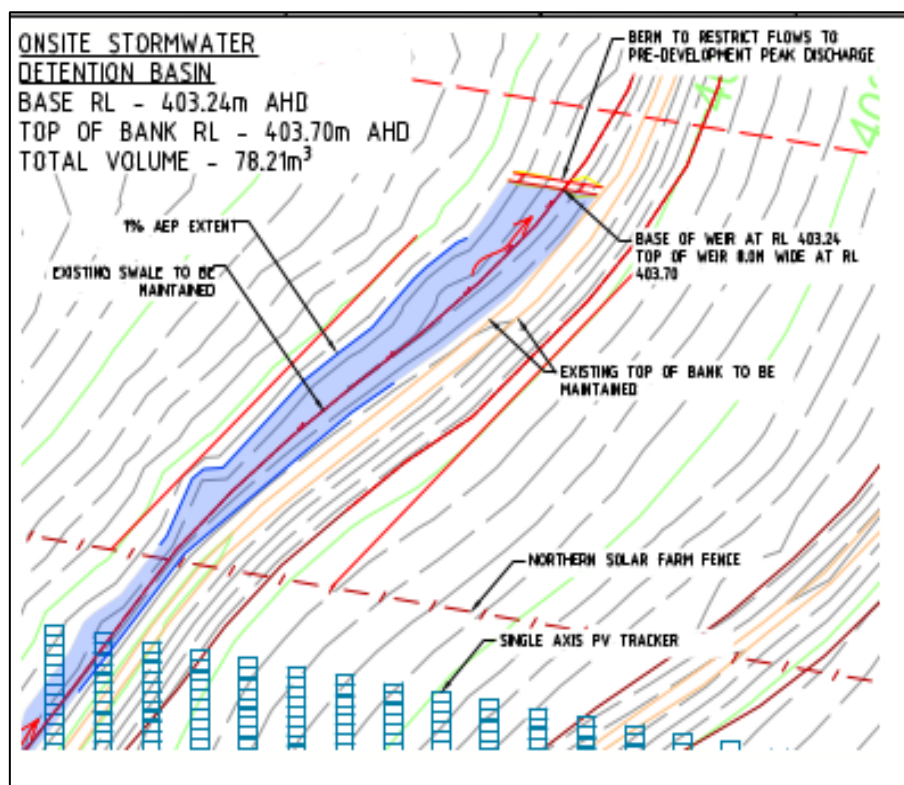


Figure 11 – Details detention basin

- **Air** – Dust will be generated as part of the construction works, however this will be temporary in nature and restricted to the 6 months construction period. Dust mitigation, such as the use of watering trucks, will form part of the site environmental management plan which forms part of the recommended conditions of consent.

- **Flora and fauna impacts** - A Ecological Assessment Report prepared by Kleinfelder accompanies the Development Application (**ANNEXURE D**). As discussed previously the subject vegetation is considered Category 1 – Exempt land as defined within the meaning of Part 5A of the *Local Land Services Act 2013*, and therefore the BOS doesn't apply.
- **Noise** - A Noise Impact Assessment (NIA) prepared by Muller Acoustic Consulting Pty Ltd accompanies the Development Application (**ANNEXURE D**). The NIA assessed the potential impacts of the construction and operation of the proposed solar farm on nearby sensitive receptors in accordance with the applicable NSW policies and guidelines. The assessment identifies the most significant noise emission would be due to piling activities and be of a short duration and temporary nature during the 6 months construction period. Other sources of noise generation will be via road traffic and operational. The report identifies 31 sensitive receivers which may be impact by the development. The NIA demonstrates that emission from the project can satisfy the relevant Project Noise Trigger Levels (PNTL) at all assessed sensitive receivers. In relation to road traffic noise, the proposal will add an additional 40 light vehicles and up to six heavy vehicles per day (worse case scenario). The modelling suggests the increase in traffic will increase traffic noise by 0.1db, which satisfies the criteria in the NSW Road Noise Policy by not increasing existing noise levels by more than 2db at any residential receiver along the proposed transport route. Therefore, whilst the development will lead to some form of noise intrusion, this is restricted to the construction phase and is considered reasonable.
- **Natural hazards** – The subject site is not mapped as bushfire or flood prone land. Nonetheless, the applicant will implement and maintain a 10m wide Asset protection Zone (APZ) around the perimeter of the solar farm. This will be located on the inside of the security fencing and enable access for emergency vehicles.
- **Safety, security and crime prevention** – The development will not an increase in anti social behaviour or safety concerns. The development will include the installation of security cameras and an 2.6m high perimeter security fence to reduce the likelihood of safety, crime and security issues.
- **Economic impact** – During the construction phase the development may have the potential to increase opportunity for local employment, 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 works and associated infrastructure are located approximately 350m from the closest residential receiver to minimise noise and dust nuisances. The amended landscape plans show a mixture of vegetation types to provide visual screening of the proposal from adjoining residential dwellings. It is noted, that full visual screening of the development is unlikely, however the vegetation screening will soften the visual impacts.
- **Cumulative impacts** – There are no potential cumulative impacts associated with the proposal. A solar farm was recently approved for the Northern Planning Panel to the north of the development site on Country Road. Cumulative traffic impacts have been considered. The development is considered to be generally consistent with the planning controls for the RU1 zone such that the development will not result in an adverse cumulative impact.

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

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

In considering the suitability of the site for the development Council should have regard to the zoning of the site and its objectives under the current environmental planning instrument (LEP) and the permissibility of the development under the LEP. Under the LEP, “electricity generating works” are permitted with consent in the RU4 zone.

In terms of assessing the various aspects of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW.

In assessing these impacts, Council has considered, the judgment of ***Davies v Penrith City Council [2013] NSWLEC 1141*** which provides the criteria for assessing impact on neighbouring properties within this Planning Principle.

The following questions are relevant to the assessment of impacts on neighbouring properties:

- *How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?*

Assessing Officer Comment: The impacts from the proposal would be limited in the context of a rural/ residential, general business and agricultural environment. Sunlight availability, views and privacy for adjacent lands are considered to be manageable issues.

- *How reasonable is the proposal causing the impact?*

Assessing Officer Comment: The proposal is considered to cause minimal impacts on adjacent lands. Solar farms are passive land uses that produce little noise, dust or odour impacts on neighbouring properties. Vegetative screening will be installed to address visual aspects of the solar farm. On this basis the proposal is considered to be reasonable.

- *How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?*

Assessing Officer Comment: The proposal would not act to reduce the development potential of adjacent lands.

- *Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?*

Assessing Officer Comment: The proposal is not considered to cause any significant impacts.

- *Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?*

Assessing Officer Comment: The proposal is in accordance with the relevant planning controls.

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

- The proposed development is considered to be generally compatible with its surrounds and provides for diversification of land uses on the property.
- The proposed development comprises a passive land use and would not cause land use conflict.

- Legal and practical access to the site is available from Country Road.
- The proposal will not impede the investigation of the area for potential residential purposes.
- 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 five (5) unique submissions, with all opposed to 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/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 5.

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

Table 1: 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 on the impacts on biodiversity.</p> <p>Additional information was requested by the BCSD</p> <p>The BCSD has confirmed satisfaction with the evidence provided by the applicant in support of the land identified as Category 1 – Exempt land (as defined within the meaning of Part 5A of the Local Land Services Act 2013). As</p>	Yes

		<p>such, the development does not trigger entry into the Biodiversity Offset Scheme.</p> <p>The referral response is attached in ANNEXURE C of this report.</p>	
Referral/Consultation Agencies			
Electricity supply authority	CI 45 – Infrastructure SEPP Development near electrical infrastructure	<p>General advice has been provided with regards to existing responsibilities, clearance requirements, encroachment of electricity infrastructure, and arrangements to be made with the provider through a Connections Agreement. Conditions are recommended with respect to these matters.</p> <p>The referral response is attached in ANNEXURE C of this report.</p>	Y/N
Civil Aviation Safety Authority	CI 7.6 TRLEP – Development in flight path	<p>CASA has reviewed the proposal and concluded it is not likely to impact on pilots sight during the critical approach phase of a flight and therefore has no objection to the installation of the solar farm.</p> <p>The referral response is attached in ANNEXURE C of this report.</p>	Y/N
Air Services Australia	CI 7.6 TRLEP – Development in flight path	<p>ASA has reviewed the proposal and concluded it would not adversely impact on the safety, efficiency or regularity of existing, or future air transport operations into our out of Tamworth aerodrome.</p> <p>The referral response is attached in ANNEXURE C of this report.</p>	Y/N
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 Water Management Act 2000 (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.	N/A

		Therefore, for the purposes of the WM Act a controlled activity approval is not required for the proposed works.	
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4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 6**.

Table 2: Consideration of Council Referrals

Officer	Comments	Resolved
Development Engineering	Conditions of approval were provided for road, access, parking drainage and associated matters. A dilapidation report will be required to assess the current road formation and condition.	Yes
Tamworth Regional Airport	The Tamworth Regional Airport advised the proposed development is between 4 and 5 Km from the threshold of Runway 12R/30L and with no new structure more than approx. 2.575m AGL, the airport can see no impact on our operations.	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 development application (**DA**) was publicly notified as required by the provisions of the Environmental Planning & Assessment Act 1979 (EP&A Act), Environmental Planning & Assessment Regulations 2000 (EP&A Regs) and Tamworth Regional Council Community Participation Plan 2019.

The DA was publicly notified for a period of 14 days commencing 19 February 2021 and closing 5 March 2021. The notification included letters to property owners/occupiers if, in the opinion of the Planning and Compliance Department, the enjoyment of land adjoining the development may be detrimentally affected by the proposed development. Recent COVID 19 legislation amendments to the EP&A Act and EP&A Regs came into effect on 17 April 2020 and removed the requirement for Council to advertise developments in local newspapers contrary to the requirements Council's Community Participation (CCP). The amendment superseded the requirement of the CCP and sought to encourage the use of digital advertising. In this regard, the proposal was also publicly exhibited on Council's social media page (Facebook) and council website.

		<p>surrounding residential dwellings are at an elevated position which will result in some form of visual impact which cannot be addressed with the proposed landscape screening.</p> <p>In terms of assessing the visual impact of the proposal, direction has been taken from the planning principles adopted by the Land and Environment Court of NSW. In assessing these impacts, Council has considered, the judgment of Tenacity Consulting v Warringah Council [2004] NSWLEC 140. The four part assessment considered the likely impacts of the development on the existing view of surrounding sensitive receivers. Whilst it is acknowledge there will be some form of visual impact the existing views and vistas from all adjoining properties will remain significantly unchanged in consideration of the separation distances between the solar farm site and nearby dwellings; elevation; landscaping and location on the edge of the urban fringe. The solar farm will become visible in existing views, however the highly valued views will remain unimpeded by the low scale development and only form a small portion of the future vista.</p>
<p>Flooding and stormwater</p> <p>Submissions raised concern the development will adversely impact flooding within the locality.</p>	2	<p>A stormwater management plan has been submitted with the application which identifies runoff from the solar panels will be directed to the ground during rainfall events and captured by existing swales and conveyed to the proposed onsite detention basin and existing watercourses as re developed flows Council's Development Engineering has reviewed the stormwater management plan and recommended conditions of consent have been included.</p>
<p>Devaluation of properties</p> <p>Submissions raised concern the development would devalue neighbouring properties.</p>	4	<p>The solar farm site would be bordered by vegetative screening to minimise the visual impact of the development on neighbouring properties. While land values are not a consideration under the Environmental Planning & Assessment Act 1979 there is no direct evidence that land values in the area would be negatively impacted.</p>
<p>Adequacy of landscaping</p> <p>Submissions raised concern the proposed landscaping is inadequate.</p>	3	<p>A Landscape Concept Plan has been submitted by the applicant and is attached in ANNEXURE D. Council request additional information regarding the watering schedules, types of planting, replacement of dead plants and detailed landscape plans in order to adequately assess the proposed landscaping. The amended landscape plan includes a 3-4m wide buffer on the outside of the security fencing and will consist of a mixture of native species with a</p>

		<p>mature height of between 1-4m. The vegetative screen would include tree and shrub species such as Hedge Wattle, Western Silver Wattle, Velvet Mock Olive, Sticky Hop Bush, Honey Myrtle and Black Tea Tree.</p> <p>A landscaping contractor shall be responsible for the maintenance of the landscaping from planting under handover (2 approx) which will then transfer over to the operator for the lifetime of the asset. maintenance will include weed and pest control, replacement of dead/failing plants, watering, fertilising and management of grass.</p> <p>The landscape plan is considered adequate, with a recommended condition of consent requiring all landscaping and maintenance to be undertaken in accordance with the approved landscape plan.</p>
<p>Decommissioning of development</p> <p>Submissions raised concern on decommissioning of solar farm when panel life has ended.</p>	1	<p>When solar developments are decommissioned the panels and infrastructure are able to be removed from the site.</p> <p>A condition has been drafted requiring the applicant to develop a Rehabilitation and Decommissioning/Closure Plan. The Plan would include rehabilitation objectives, restoration strategies and would require the removal of all solar infrastructure.</p>
<p>Country Road</p> <p>Submissions raised concern regarding the suitability of Country Road as an access.</p>	1	<p>The development will utilise the unsealed section of Country Road. Council's Development Engineering has reviewed the proposal and determined an upgrade of Country Road is not deemed necessary. This is based on the increase in vehicle movements will be largely restricted to the construction phase (6 months) with minimal increase impact as part of the operational phase. Furthermore, Country Road is of a suitable width and standard to accommodate the anticipated vehicle movements. A dilapidation survey of Country Road must be undertaken prior to works commencing as per the recommended conditions of consent.</p>
<p>Fire risk</p> <p>Submission raised concern the development will lead to an increase in fire risk.</p>	1	<p>The subject is not identified a bushfire prone on Council's mapping. Nonetheless, an asset protection zone of 10m between fence and solar panels will be established. The management of the asset protection zone will form part of the recommended conditions of consent.</p>
<p>Inconsistent with Blueprint 100</p>	2	<p>As outline in section 3.1 the proposal is generally consistent with Blueprint and contributes to</p>

<p>Submissions raised concern the development is inconsistent with Blueprint 100.</p>		<p>expanding Tamworth Region's identity to include renewable energy generation.</p> <p>The development site is located in the Stage 3 Option Growth Area as identified in the Local strategic Planning Statement. This growth area is currently not zoned for residential purposes nor any services provided to the site. This area is flagged for potential future investigation but with significant servicing constraints (sewer, flooding, access) already known which may prohibit the development of this area for residential purposes. At a best case scenario, the growth area would likely be development in 30-40 years, however this would be dependent on future population growth rates and investigation of other future residential areas. The solar farm expected life span is a minimum of 25 years with a lease option enabling life extension to a maximum of 35 years. A recommended condition of consent of restrict the operation of the solar farm to a period not exceeding 35 years from the issue of an occupation certificate. The location of the solar farm in the potential growth area has been raised in the submission, however based on the above, it is not expected to have any long-term detrimental impacts on the land which would inhibit any future growth on the site or the surrounding area if the area was deemed suitable for residential development in the future.</p>
<p>Weed and Pest Control</p> <p>Submissions raised concern the development may lead to an increase in weed and pest issues</p>	2	<p>The pest and weed management plan will form part of the conditions Site Environmental Management Plan to be submitted and approved by Council prior to the release of a construction certificate. The management of pest and weeds is an important component of the operations to minimise potential damage to the infrastructure by vermin and for the establishment of landscaping.</p>
<p>Right to Farm</p> <p>Submission raised concern the development will impact their ability to carry out agricultural pursuits.</p>	1	<p>The Right to Farm Act 2019 provides protection for farmers carrying out agricultural activities. The Act protects farmer in areas of new development from complaints or actions about what are deemed to be normal farm practices. It is unlikely the establishment of the solar farm will inhibit the ability of the adjoining landholders to continue to carrying out their existing agricultural pursuits.</p>

<p>Connection to electrical infrastructure</p> <p>Submission raised concern regarding the legality of connecting into the existing electrical infrastructure.</p>	<p>1</p>	<p>An existing easement in favour of Country Energy (now Essential Energy) borders the southern boundary of the project over Lots 3 and 4 of DP1048145. This easement is currently used for high voltage supply to Lots 3 and 4 of DP1048145. As the easement is in favour of Essential Energy and the existing network infrastructure is owned and operated by Essential Energy, permission to connect is required from Essential Energy.</p> <p>The proposal was referred to Essential Energy who as part of the response requires a the applicant to enter into a connection agreement with Essential Energy. The project's network connection shall be completed under a contestable works program with any network augmentations/additions to be subsequently gifted to Essential Energy, who will be responsible for ownership and maintenance.</p> <p>Therefore, consent of the landowner is not required for connection into the existing electrical infrastructure.</p>
<p>Public exhibition not in accordance with EP&A Act</p> <p>Submission raised concern the development was placed on public exhibition in a accordance with EP&A Act</p>	<p>1</p>	<p>The development application (DA) was publicly notified in accordance with the EP&A Act, EP&A Regs and the Tamworth Regional Council Community Participation Plan 2019.</p> <p>The DA was publicly notified for a period of 30 days commencing 19 February 2021 and closing 5 March 2021. The notification included letters to property owners/occupiers if, in the opinion of the Planning and Compliance Department, the enjoyment of land adjoining the development may be detrimentally affected by the proposed development.</p> <p>Recent COVID 19 legislation amendments to the EP&A Act and EP&A Regs came into effect on 17 April 2020 and removed the requirement for Council to advertise developments in local newspapers contrary to the requirements Council's Community Participation (CCP). The amendment superseded the requirement of the CCP and seek to encourage the use of digital advertising. In this regard, the proposal was also publicly exhibited on Council's social media page (Facebook) and council website.</p>
<p>Lighting</p> <p>Submission raised concern on the development regarding increase lightning</p>	<p>1</p>	<p>A recommended condition of consent requires any lighting used on the site in connection with the development is to comply with <i>AS 4282 – Control of the obtrusive effects of Outdoor lighting</i>. The applicant must minimise off-site lighting impacts arising from the development and any external</p>

		lighting is installed as low intensity lighting except where required for safety or emergency purposes.
<p>Lack of consultation by the developer</p> <p>Submission raised concern by the lack of consultation by the developer.</p>	1	The applicant advised letters were issued to the neighbouring properties within 700m of the development site, approximately 4 weeks prior to lodgement of the application. The letter notified the residents of the proposed development, with plans and contact details provided for those seeking face to face discussions. No contact was made to the developer. It is noted, that this was undertaken by the developer and is not a requirement under a piece of legislation.
<p>Dust</p> <p>Submissions raised concern on the development regarding increase dust nuisance</p>	3	Dust will be generated as part of the construction works, however this will be temporary in nature and restricted to the 6 months construction period. A recommended condition of consent requires a Site Environmental Management Plan (SEMP) to be prepared prior to the release of a construction certificate. The SEMP will include the management of dust onsite which will include mitigation measures such use of a watering truck, dust suppressant and covering of stockpiles.
<p>Glare</p> <p>Submissions raised concern on the development regarding increase glare nuisance</p>	4	A Reflectivity Glare Assessment has been submitted by the applicant and is ATTACHED in ANNEXURE D . The Assessment concluded that the potential for adverse glare from the proposed facility will be negligible in all cases which relate to aviation, motorists, rail traffic and nearby residential receivers. This is in consideration of the single axis trackers designed to keep the panels perpendicular to the sun. Therefore, the reflection from the sun will be perpendicular to cell and direct back towards the sun. A recommended condition of consent requires that in any situation where the tracking action of the solar array is disabled, panels should not be left horizontal, but be left tilted either eastwards or westwards, with a minimum tilt angle of 15° or greater.
<p>Further expansion of solar farm</p> <p>Submissions raised concern on the development regarding future expansion</p>	1	If the operators seek to expand the solar farm, a new development application will need to be lodged with Council.

<p>Water</p> <p>Submission raised concern on the development regarding the sourcing of water</p>	1	<p>Water will be sourced from external sources via watering trucks. Water usage will generally be restricted dust mitigation measures and the watering of the landscape buffer.</p>
<p>Fencing</p> <p>Submission raised concern on the development regarding replacement of fencing</p>	1	<p>If changes to the existing boundary fencing is required to facilitate the development, then the developer will be responsible for the expenses. However, any changes the boundary fences outside of the scope of the development will be negotiated between the landowners.</p>
<p>Consultation with external agencies</p> <p>Submission raised concern on the development regarding consultation with external agencies</p>	1	<p>As outlined in section 4.1 of this report, consultation with external agencies was carried out in accordance with the EP&A Act. The development was not required to be referred to Transport for NSW given the proposal is not deemed traffic generating development or has frontage to a classified road.</p>
<p>Council transparency</p> <p>Submission raised concerning Council's transparency with regards to nearby Solar Farm approval</p>	1	<p>Council own a parcel of land (Lot 211 DP 1069964) approximately 1km north of the subject site on Country Road. Development consent was granted by the Northern Regional Planning Panel on 29 March 2021 for the construction of a solar farm on this site.</p> <p>A lack of transparency regarding Council's dealings with the developer for the approved solar farm has been raised in a submission. Providence Asset Group (PAG) are the developers for both solar farms.</p> <p>Council engaged an external consultant to assess and prepare the report and conditions of consent for the solar farm on Council land, to ensure that there was no potential conflict of interest. PAG has an option of a lease on the Council owned land site (Lot 211 DP 1069964), however a formal lease agreement is currently not in place.</p> <p>A merit-based assessment has been undertaken with submissions received from objectors and internal/external agencies taken into consideration as part of the assessment process.</p>

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The subject application has been supported with several technical assessments that identify potential impacts and mitigation measures for the development, which have been conditioned within the recommended terms of consent. Submissions from surrounding landowners concerned primarily with glare, visual and inconsistency with Blueprint 100 have been considered and addressed in this assessment report.

It is considered that the key issues have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **ANNEXURE A**.

6. RECOMMENDATION

That the Development Application DA2021-0295 for Construction and use of a 5MW solar PV electricity generation plant with associated infrastructure at 329 Country Road, Warral (Lot 4 DP 1048145) be **APPROVED** pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.