

DATE OF DETERMINATION	6 September 2021
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett
APOLOGIES	None
DECLARATIONS OF INTEREST	Stephen Bartlett served as a member of the Tamworth St Nicholas Catholic Parish, Finance Committee and a member of that Committee is Phillip Heffernan, who is the father of one of the objectors to the DA, Todd Heffernan. The Panel agreed that this did not constitute a conflict of interest that precluded Mr Bartlett's involvement.

Papers circulated electronically on 18 August 2021.

MATTER DETERMINED

PPSNTH-84 – Tamworth – DA2021-0295 at 329 Country Rd, Warral – solar farm (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application for the following reasons:

1. The proposal is a permissible use and is consistent with relevant zone objectives.
2. The proposal is consistent with relevant provisions of the New England Regional Plan and strategic plans for the area, both of which encourage appropriate development of renewable energy facilities.
3. The site is suitable for the proposed development; it is appropriately zoned, has satisfactory road access and proximity to the electricity transmission network, is sufficiently separated from surrounding residences and is largely free of environmental constraints.
4. The consent granted for the proposal is time-limited meaning that the proposal will not inhibit any suitable longer term use of the site including those envisaged in the Tamworth Regional Blueprint 100.
5. The proposal, with the incorporated safeguards and those imposed by conditions, will have no material adverse impacts on the built or natural environments including on surrounding land uses.
6. The proposal will provide competitively priced electricity from a non-polluting source and significant local employment during its construction phase. As such it will be socially beneficial.
7. For the reasons given above, approval of the application is in the public interest.

CONDITIONS

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

- Condition 6) – Amended to provide more detail regarding information to be included in decommissioning plan regarding rehabilitation of site.
- Condition 16) – New condition regarding amended landscape to include large trees (minimum 10 in height) along southern boundary of lease area;
- Condition 42) – New condition requiring remediation of the site to be placed on the title of the subject site.
- Condition 55) – Amended condition requiring the site to be decommissioned within 6 months of cessation of operations.


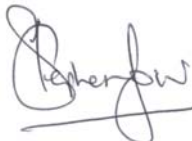



The amended conditions are attached as Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Visual impact
- Flooding and stormwater
- Devaluation of properties
- Adequacy of landscaping
- Decommissioning of development
- Country Road
- Fire risk
- Inconsistent with Blueprint 100
- Weed and pest control
- Right to farm
- Connection to electrical infrastructure
- Public exhibition not in accordance with EP&A Act
- Lighting
- Lack of consultation by the developer
- Dust
- Glare
- Further expansion of solar farm
- Water
- Fencing
- Consultation with external agencies
- Council transparency

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during verbal submissions.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-84 – Tamworth – DA2021-0295
2	PROPOSED DEVELOPMENT	Construction and use of a 5MW solar PV electricity generation plant with associated infrastructure
3	STREET ADDRESS	Lot 4 DP 1049145, 329 Country Road, Warral
4	APPLICANT OWNER	NSW Community Renewables (Warral) Pty Ltd C/- KDC Pty Ltd Mr M & Mrs J Cameron
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (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 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Tamworth Regional Development Control Plan 2010 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 18 August 2021 Written submissions during public exhibition: five (5)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 17 June 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow, James Treloar and Stephen Bartlett <u>Council assessment staff</u>: Mitch Gillogly, Anna La and Sam Lobsey <u>Department staff</u>: Carolyn Hunt and Lisa Foley Final briefing to discuss council's recommendation: 26 August 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett <u>Council assessment staff</u>: Mitch Gillogly and Sam Lobsey <u>Department staff</u>: Carolyn Hunt and Lisa Foley Submitter Briefing: 26 August 2021

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett ○ <u>Council assessment staff</u>: Mitch Gillogly and Sam Lobsey ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ○ <u>Submitters</u>: Michelle Bryan, Todd Heffernan and Jade Heffernan <u>Note</u>: the submitter briefing was requested to respond to the recommendation in the council assessment report <ul style="list-style-type: none"> • Applicant Briefing: 26 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow, James Treloar and Stephen Bartlett ○ <u>Council assessment staff</u>: Mitch Gillogly and Sam Lobsey ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ○ <u>Applicant representatives</u>: Jeremy Every, Rachel Pettitt, Jason Gao, Patrick Quinlan, Shane Humphreys, <u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

1) Approved Plans and Supporting Documentation

The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

Plan/Report Title	Reference No	Revision	Prepared by	Date
General Arrangement Overview	10040-G-GAD-02-1	G	Providence Asset Group	12/07/2020
General Arrangement	10040-G-GAD-02-2	F	Providence Asset Group	12/09/2020
Civil Detail	10040-C-DET-01-1	B	Providence Asset Group	12/09/2020
Road Section Detail	10040-C-DET-06-1	A	Providence Asset Group	12/08/2020
Site Elevation Detail	10040-G-DET-01-1	C	Providence Asset Group	12/07/2020
Security Fencing Detail	10040-C-DET-02-1	C	Providence Asset Group	12/07/2020
PV Mounting System Detail	10040-E-DET-06-1	D	Providence Asset Group	12/07/2020
Power Conversion Station	10040-E-DET-02-1	C	Providence Asset Group	12/07/2020
Shed Detail	10040-C-DET-05-1	C	Providence Asset Group	12/07/2020
Landscape Plan	Pages 20, 21, 26 and 27	V0.3	SLR Consulting	July 2021
Stormwater Management Plan	CIV01	C	DRB Consulting	10/12/2020
Proposed Basin Plan	CIV02	C	DRB Consulting	10/12/2020
Statement of Environmental Effects	20400_SEE_Warral December2020	-	KDC	December 2020
Waste Management Plan	20399_WMP_Boggabri December2020	-	KDC	December 2020
Visual Assessment, Landscape Concept and Reflectivity Statement	631.00000-20400-v0.3	V0.3	SLR Consulting	July 2021

All recommendations made within specialist reports and supporting documents to the Statement of Environmental Effects shall be implemented as part of the development.

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail. In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

Reason: To ensure the development proceeds in the manner assessed by Council and all parties are aware of the approved plans and supporting documentation that applies to the development.

2) Signage

A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

Reason: To ensure any signage is assessed in accordance with the planning controls.

3) **Compliance with the Building Code of Australia**

All building work shall be carried out in accordance with the provisions of the Building Code of Australia. A reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

Reason: Prescribed Condition under Clause 98 of the *Environmental Planning and Assessment Regulation 2000*.

4) **Lapsing of consent**

This consent is limited to a period of 5 years from the date of the Notice of Determination unless the works associated with the development have physically commenced.

Reason: To ensure compliance with Section 4.53 of the *Environmental Planning and Assessment Act 1979*.

5) **Limit on Approval Timeframe**

To confirm and clarify the terms of Council's approval and as provided for by Section 4.17(d) of the *Environmental Planning and Assessment Act 1979*, the use of the site for the solar farm is limited to a period of thirty five (35) years from the release of an occupation certificate.

Reason: To limit the period during which the development may be carried out.

6) **Decommission Management Plan**

A Decommission Management Plan is required to be submitted to Council twelve (12) months prior to decommissioning occurring.

All decommissioning works, including site rehabilitation are to be undertaken in accordance with the approved Decommissioning Plan. Waste from solar panels must be recycled where possible.

The plan must include rehabilitation objectives and strategies, including:

- a) Description of the design criteria of the final landuse and landform;
- b) Indicators to guide the return of the land back to agricultural production;
- c) Expected timeline for the rehabilitation program;
- d) Management controls regarding decommissioning and removal of all solar arrays,

Reason: To ensure the decommissioning of the solar farm occurs in an orderly and sustainable manner, that the amenity of the area is maintained while the solar farm is being decommissioned and to ensure the site can be returned to its original condition.

7) **Electrical Infrastructure**

All works must ensure existing electrical is protected in accordance with the requirements of Essential Energy;

- a) Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- b) The proposal/proposed improvements should remain clear of any registered easement on title. However, if there is no registered easement, then the proposed improvements must

maintain a minimum of 10.0 metres clearance from the centreline of the powerline to the nearest structure.

- c) Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar farm system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreements and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer Essential Energy's Network Connections team for requirements via email networkconnections@essentialenergy.com.au.
- d) Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- e) It is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.
- f) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

Reason: Protection of electrical infrastructure

PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

8) Construction Certificate

A Construction Certificate is required for the development in accordance with Section 6.7(1) of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

9) Payment of Security Deposits, Levies and Contributions

The fees listed below must be paid in accordance with the conditions of this consent and Council's adopted Fees and Charges applicable at the time of payment. Payments must be made prior to the issue of the Construction Certificate or prior to the commencement of work (if there is no associated Construction Certificate).

- (a) **Payment of building and construction industry long service levy** - The applicant must pay the long service levy as calculated at the date of this consent to the Long Service Corporation or Council under Section 34 of the Building and Construction Industry *Long Service Payments Act 1986* and provides proof of this payment to the certifier.
- (b) **Public liability insurance** - Prior to the commencement of any works on Council land including a public road, the applicant is to obtain Public Liability Insurance in the minimum amount of \$20 million. This insurance is to note Council's interest and is to remain current for at least the period from the issue of the Construction Certificate until the issue of a Compliance Certificate/Occupation Certificate for the works. Documentary evidence of the Certificate of Currency is to be provided to Council prior to the issuing of any Construction Certificate for access.
- (c) **Payment of development contributions** – The applicant must pay the following development contributions:

In accordance with Section 7.11 of the Environmental Planning and Assessment Act 1979 and the Tamworth Regional Council Section 7.11 (formerly s94A) Development Contributions Plan 2013, \$68,731.08 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development;

If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:

$$\text{\$C}_{PY} = \frac{\text{\$C}_{DC} \times \text{CPI}_{PY}}{\text{CPI}_{DC}}$$

Where:

- $\text{\$C}_{PY}$ is the amount of the contribution at the date of Payment;
- $\text{\$C}_{DC}$ is the amount of the contribution as set out in this development consent;
- CPI_{PY} is the latest release of the Consumer Price Index (Sydney - All Groups) for the financial year at the date of Payment as published by the ABS;
- CPI_{DC} is the Consumer Price Index (Sydney - All Groups) for the financial year at the date of this development consent.

The monetary contributions shall be paid to Council prior to the issue of the first Construction Certificate.

It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.

The Tamworth Regional Council Section 94A Development Contributions Plan may be viewed at www.tamworth.nsw.gov.au or a copy may be inspected at Council's Administration Centre during normal business hours.

Reason: To ensure payments are made in accordance with legislative requirements.

10) Site Environmental Management Plan

A site environmental management plan (SEMP) shall be submitted to Council for endorsement prior to the issue of a Construction Certificate. The SEMP shall address, at minimum, the following issues:

- a) Construction:
- i) Source and type of any imported fill;
 - ii) Dust management in consideration of the mitigation measures referred to in the submitted Flora & Fauna Assessment report, prepared by Kleinfelder, dated 21 May 2021;
 - iii) Noise management to be consistent with Interim Construction Noise Guideline, issued by the Environment Protection Authority and consider mitigation measures referred to in the submitted Noise Impact Assessment, prepared by Muller Acoustic Consulting, dated December 2020;

- iv) Erosion and sedimentation controls in consideration of the mitigation measures referred to in the submitted Flora & Fauna Assessment report, prepared by Kleinfelder, dated 21 May 2021;
 - v) Complaints management;
 - vi) Community consultation plan in consideration of the mitigation measures
 - vii) Traffic Management;
 - viii) Waste management in consideration of the mitigation measures referred to in the submitted Waste Management Plan, prepared by KDC, dated December 2020.
- b) Operation:
- i) Noise management;
 - ii) Dust management in consideration of the mitigation measures referred to in the submitted Flora & Fauna Assessment report, prepared by Kleinfelder, dated 21 May 2021;
 - iii) Weed and vermin management;
 - iv) Land management including vegetation management in consideration of the mitigation measures referred to in the submitted Flora & Fauna Assessment report, prepared by Kleinfelder, dated 21 May 2021;
 - v) Flooding and drainage issues and management;
 - vi) Management of potential contamination from dust mitigation or cleaning processes;
 - vii) Proposed methods of remediation at the cessation of the development;
 - viii) Complaints management;
 - ix) Community consultation in consideration of the mitigation measures.
- c) Post-Development
- i) Monitoring and mitigation measures for future rehabilitation remedial actions.

All required management plans are to be prepared in accordance with the Department of Infrastructure, Planning and Natural Resources' Guideline for the Preparation of Environmental Management Plans (2004).

A copy of the site environmental management plan is available to members of the public upon request.

Reason: To require details of measures that will protect the public and the surrounding environment during site works and construction.

11) Other Approvals

The following approvals are required where relevant:

- (a) **Roads Act 1993 approval** - The applicant is to submit an application to Council for any work within the road reserve (e.g. vehicular footpath crossings, utilities including stormwater, footpath paving, kerb and gutter etc) for local and regional roads or Transport for NSW for state roads, pursuant to Section 138 of the *Roads Act 1993*. Details must be provided with the Construction Certificate application.
- (b) **Section 68 of the Local Government Act 1993** – Any approvals required under Section 68, Parts A to F, including (but not limited to), any use of public property for crane operation, waste management or installation of a moveable dwelling. Applications are to be made to Council a minimum of six (6) weeks prior to the proposed activity being undertaken.

Reason: To ensure all work complies with relevant legislation.

12) Stormwater Management

A stormwater servicing strategy for the development site shall be prepared and submitted to Council for approval in accordance with the requirements of Minimum Standards for Stormwater Drainage of Council's current version of Engineering Design Minimum Standards for Subdivisions and Developments.

The stormwater servicing strategy for this development must also include calculations and associated commentary for the following:

- a) Stormwater from the driveway pavement shall be captured in appropriate gully pits and/or trench grates or other drainage structures as appropriate to the site.
- b) Stormwater from roofs shall be directed to appropriately sized eaves tanks with piped overflows directed to the approved point(s) of discharge.
- c) All plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage.
- d) Temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties.
- e) All overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent excess overland flows discharging onto adjoining properties shall be implemented.
- f) Any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property shall be avoided.
- g) Only a single point of discharge is approved for managed flows.

The approved point of discharge for the development site is defined as the ephemeral drainage line adjacent to the northern boundary of the site.

Reason: To ensure stormwater is appropriately managed on the site.

13) Safety of Aerodromes/Airports

The solar farm must comply with any requirements of the Civil Aviation Safety Authority, particularly in relation to glint and glare and any Obstacle Limitation Surface controls.

Reason: To ensure the development does not have an adverse impact on the nearby aerodrome/airport.

14) Car Parking

All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, AS 2890.1-2004: *Parking Facilities – Off-street Car Parking* and AS 2890.2:2018 - *Parking facilities Off-street commercial vehicle facilities*. Details are to be provided with the Construction Certificate application.

Reason: To ensure driveways, access ramps, vehicular crossings and car parking complies with the relevant Australian Standards.

15) Structural Engineers Certification

Certification from an appropriately qualified and practicing structural engineer is to be provided to the Certifying Authority, certifying the structural adequacy in accordance with the relevant Australian Standards of all reinforced concrete work, structural beams, columns & other structural members including structural drawings. The details are to be submitted to the Principal Certifying Authority for approval prior to construction of the specified works.

Reason: To ensure structural works are safe and built to the relevant specifications.

16) Landscape Plan

An amended landscape plan shall be submitted to Council for endorsement prior to the issue of a Construction Certificate. The landscape plan must include the planting of large trees (10m in height minimum) along the southern boundary of the lease area. The landscape plan must include the trees botanical names, common names, pot size, height and spacing.

(Reason: Local amenity)

PRIOR TO WORKS COMMENCING

17) Appointment of Principal Certifying Authority

Prior to the commencement of work, the person having the benefit of the development consent and a Construction Certificate shall:

- (a) Appoint a Principal Certifying Authority and notify the Council of the appointment (if Council is not appointed); and
- (b) Notify Council of their intention to commence building work (at least 2 days' notice is required).

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

18) Signs on site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifier for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed Condition under Clause 98A(2) and (3) of the Regulation.

19) Aboriginal Artefact Scatter Protection Measures

Before the commencement of any site or building work, the principal certifier must ensure the protection of the Aboriginal artefact scatter (WSF001) is marked as no-go zones on all construction plans with a 10m exclusion buffer put in place by way of fencing to prevent inadvertent impact.

Reason: To protect the Aboriginal artefact scatter during works.

20) Dilapidation Report

A dilapidation survey of both the sealed and unsealed portions of Country Road shall be undertaken prior to commencement of construction. A Management plan for the ongoing maintenance of Country Road shall be agreed with Council prior to commencement of construction, with the objective of maintaining a suitable level of service for all users, and minimising dust and noise nuisance to adjoining landowners.

Advisory Note: The management plan shall include lodging a suitable performance bond with Council

Reason: Protection of Council infrastructure

21) Toilet facilities

Toilet facilities are to be provided at, or in the vicinity of the site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the Council or some other sewage management facility approved by the Council.

Reason: To provide appropriate on-site amenities during demolition and construction work.

22) Traffic Management Plan

A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Tamworth Regional Council for approval. Where the TMP is of a level of complexity that TCP's are required, the TCP's shall be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-2009 and the RMS current version of the "Traffic Control at Worksites" manual.

The TMP must include, but not necessarily be limited to, the following;

- Consideration for construction, operational and decommissioning phases.
- A weekly vehicle movement schedule identifying expected trip generation.
- Details of the site access location and relevant road safety considerations.
- An induction process for onsite staff and visitors with regular toolbox meetings.
- A complaint resolution and disciplinary procedure.
- Any community consultation measures proposed for peak periods
- Detail appropriate safety measures to minimise delay for vehicles entering the property and to effectively manage any project related traffic needing to enter and exit the site.

Reason: Access provision

23) Erosion and sediment control

Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) shall be prepared in accordance with the "Blue Book" Managing Urban Stormwater –Soils and Construction (Landcom 2004). THE ESCP is to be submitted to Council for approval and implemented prior to the commencement of any construction

Reason: Protection of the environment

DURING WORKS

24) Construction Hours

The hours of all construction activities shall be limited to the following hours:

- (a) Monday to Friday: 07:00 am to 05:00 pm;
- (b) Saturday: 08:00 am to 01:00 pm;
- (c) No Construction on Sundays or Public Holidays.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works. Note: Any variation to the hours of work requires Council's approval.

The Developer shall be responsible to instruct and control his contractors regarding the hours of work. Council will exercise its powers under the Protection of the Environment Operations Act 1997, in the event that the building operations cause noise to emanate from the property on Sundays or Public Holidays or otherwise than between the hours detailed above.

Reason: To ensure the amenity of the area is maintained during construction.

25) Compliance with Site Environmental Management Plan

The requirements of the approved Site Environmental Management Plan (SEMP) must be complied with and maintained prior to, and during, the construction works on the site. This includes, but is not limited to, the following:

- All practicable measures shall be undertaken to prevent and minimise harm to the environment and the amenity of the area as a result of the construction and operation of the development, particularly from wind-blown dust, debris, noise and the like.
- If the work involved in the construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the closure of a public place, approval from Council's Development Engineering Division is required.
- All building materials and equipment must be stored wholly within the site unless an approval to store them elsewhere has been granted.
- During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of the Council so as to ensure the integrity of Council's infrastructure.
- Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition.
- The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times.
- Erosion and sediment control measures shall be implemented at all times.

The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

Reason: To ensure the required site management measures are implemented during construction.

26) Responsibility for Changes to Public Infrastructure

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area).

Reason: To ensure payment of approved changes to public infrastructure.

27) Discovery of Aboriginal Objects

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Completion of an AHIMS site recording form from the artefact scatter and any associated deposits and submission to the AHIMS database to comply with Section 91 of the National Parks and Wildlife Act, in consultation with the Tamworth Local Aboriginal Land Council.

Reason: To ensure the protection of objects of potential significance during works

28) Aboriginal Heritage

Site officer representing Site officer representing Tamworth Local Aboriginal Land Council are to be notified of the commencement of construction works and invited to attend the site at commencement of Construction to ensure that further investigations can be undertaken as the grounded disturbed particularity (but not limited to) along the access road, machinery and material laydown area and the locations of the solar panel structure.

All onsite personal are to eb made aware of their obligation under the NSW National Parks and Wildlife Act 1974 which must be implemented through a heritage induction.

Reason: Heritage preservation

29) Discovery of Contamination

Should any contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the applicant and contractor shall ensure the appropriate regulatory authority is notified and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority.

Reason: To ensure contamination discovered during construction is dealt with as quickly as possible and to protect the health of the community and the environment.

30) Identification Survey

An identification survey prepared by a Registered Surveyor is to be prepared at set out stage of the construction works to ensure that the solar panels and fencing is generally sited in accordance with the approved site plan.

Reason: To ensure buildings are sited and positioned in the approved location.

31) Construction Noise

While construction work is being carried out, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A)

above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Reason: To protect the amenity of the neighbourhood.

32) Imported Fill

While construction work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's *Waste Classification Guidelines* before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier,
- (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

33) Critical Stage Inspections

Building work must be inspected on the occasions set out in clause 162A (Critical stage inspections for building work) under the *Environmental Planning and Assessment Regulation 2000*.

Reason: To require approval to proceed with building work following each critical stage inspection and comply with the Regulation.

PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

34) Occupation Certificate

Occupation and operation of the solar farm is not to occur until all work has been completed, all of the conditions of consent have been satisfied and an Occupation Certificate has been issued by the Principal Certifying Authority pursuant to Section 6.10 of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

35) Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, and is completed to the satisfaction of the relevant authority. Before the issue of the Occupation Certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

36) Post-construction dilapidation report

Before the issue of an Occupation Certificate, a post-construction dilapidation survey of both the sealed and unsealed portions of Country Road.

Before the issue of an Occupation Certificate, the Principal Certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier).

Reason: To identify damage to adjoining properties resulting from building work on the development site.

37) Repair of Infrastructure

Before the issue of an Occupation Certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council. Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

Reason: To ensure any damage to public infrastructure is rectified.

38) Removal of Waste upon Completion

Before the issue of an Occupation Certificate, the Principal Certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the Principal Certifier. Before the issue of a partial Occupation Certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved Waste Management Plan to the Principal Certifier's satisfaction.

Reason: To ensure waste material is appropriately disposed or satisfactorily stored

39) Completion of Landscaping

Before the issue of an Occupation Certificate, the Principal Certifier must be satisfied that all landscape and tree-works, including pruning in accordance with *AS 4373-2007 Pruning of Amenity Trees* and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.

Reason: To ensure the approved landscaping works have been completed before occupation, in accordance with the approved landscaping plan(s)

40) Structural adequacy

Certification from an appropriately qualified and practicing structural engineer that the structure(s) have been constructed in accordance with the approved plans and structural certification prior to the issue of an Occupation Certificate.

Reason: To ensure the development has been constructed in accordance with the conditions of this consent and in accordance with the relevant Australian Standards and requirements.

41) Drainage works

All drainage works required to be undertaken in accordance with this consent shall be completed prior to the issue of an Occupation Certificate for the development.

Reason: To ensure adequate arrangements have been made for the collection, conveyance, storage and discharge of stormwater on the site.

42) Decommission and Remediation of Land

Prior to the issue of any Occupation Certificate, the Applicant must ensure that there is a notation registered on the subject land (Lot 4, DP 1048145) ensuring that the property will be required to be remediated at the cessation of operation of the solar farm in accordance with the development

consent (DA2021-0295). Any such notation must be approved by Tamworth Regional Council prior to lodgement with the NSW Land Registry Services.

Reason: Site remediation

OPERATIONAL CONDITIONS

43) Site Environmental Management Plan

The approved Site Environmental Management Plan (SEMP) for the development shall be complied with throughout the operation of the solar farm.

Reason: To ensure the solar farm is operated in accordance with relevant Australian Standards and best practice.

44) Vehicle Management, Car Parking and Access

All loading and unloading of vehicles must be undertaken wholly within the site and all vehicles must enter and leave the site a forward direction. Sufficient car parking is to be provided on the site, with no car parking to occur on the public road network in the vicinity of the site. The entry and exit points are to be clearly signposted and visible from both the street and the site at all times. The vehicle crossover and vehicular parking areas are to be maintained at all times and clear of obstruction and be used exclusively for the purposes of car parking and vehicle access

Reason: To ensure the operation of the solar farm does not adversely affect the surrounding road network.

45) Landscape Screening

The planting associated with the landscape screen as outlined on the approved Landscape Plan must be maintained while the solar farm is in operation at the site. On-going monitoring of the health and performance of the visual plant screen during the life operation of the solar farm must be undertaken, including replacement of plant stock whenever necessary to ensure the screen continues to act as an effective visual buffer. Following construction, the applicant must restore the ground cover of the site as soon as practicable using suitable species and maintain ground cover.

Reason: To ensure the provision of a landscape screen to reduce the visual impact of the development.

46) External lighting

Any lighting used on the site in connection with the development is to comply with AS 4282 – *Control of the obtrusive effects of Outdoor lighting*. The applicant must minimise off-site lighting impacts arising from the development and any external lighting is installed as low intensity lighting except where required for safety or emergency purposes.

Reason: To protect the amenity of the surrounding area.

47) Minimise Harm to the Environment

The applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment or to the amenity of the area that may result from the construction, operation or decommissioning of the development, including dust and weed control.

Reason: To minimise harm to the environment.

48) Visual Impacts

The applicant must:

- a) Minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
- b) Ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
- c) Not mount any advertising signs or logos on site, except where this is required for safety purposes.

Reason: To minimise the visual impact of the development.

49) Bushfire Protection Measures

During occupation of the development, the applicant must ensure the site is managed, in accordance with *Planning for Bushfire Protection 2019* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*. Any required bushfire protection measures are to be maintained throughout the operation of the solar farm at the site.

Reason: To reduce the impact of bushfires.

50) Storage of hazardous materials

The applicant must store and handle all dangerous and hazardous materials on site in accordance with *AS 1940-2004: The storage and handling of flammable and combustible liquids*. The storage of any dangerous and hazardous materials must be provided in a suitably bunded and impervious area and in such a way as to minimise spills of hazardous materials or hydrocarbons. Clean up any spills must occur as soon as possible.

Reason: To minimise harm to the environment.

51) Maintenance of Stormwater System

During occupation and ongoing use of the building, the applicant must ensure all stormwater treatment devices (including drainage systems, swales, and on-site detention) are regularly maintained and not no result in the diversion of overland surface water onto adjoining properties.

Reason: To ensure stormwater systems are maintained and functioning as required.

52) Noise Control During Operation

Any noise generated from the operation of the solar farm, including noise from any substation and associated infrastructure, must not be intrusive or constitute offensive noise as defined by the *Protection of the Environment Operations Act 1997* at any private residential receiver. The operation of the solar farm must satisfy the EPA maximum noise criteria pursuant to the EPA's *Noise Policy for Industry (2017)*. If, at any time, these levels are exceeded, operation of the solar farm shall immediately be modified, including suspension of operations if necessary, to ensure compliance.

Reason: To protect the amenity of the area while the solar farm is in operation.

53) Waste materials

All solid waste from construction and operation of the development shall be assessed, classified and disposed of in accordance with the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste*, November 2014. All hazardous building materials must be disposed of in accordance with the relevant statutory requirements.

Reason: To protect the environment.

54) Reflectivity

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.

Reason: To protect the private and public domain.

AT COMPLETION OF USE OF THE DEVELOPMENT/LAND

55) Post development remediation

Within 6 months of the cessation of operation, unless Council agrees otherwise, the operator and/or the landowner must rehabilitate the site in accordance with the approved Decommission Management Plan.

Reason: Site remediation