

COUNCIL ASSESSMENT REPORT

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH-97 – DA2021/0049
PROPOSAL	Establishment of a 5MW Solar PV Electricity Generation Facility with Associated Infrastructure
ADDRESS	LOT: 151 DP: 755475 [211 Vine Lane, Boggabri NSW 2382]
APPLICANT	NSW Community Renewables (Boggabri) Pty Ltd c/- KDC Pty Ltd
OWNER	Paul James Bell and Joanne Clara Bell
DA LODGEMENT DATE	15 January 2021
APPLICATION TYPE	Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 5, Schedule 7 of the <i>State Environmental Planning Policy (State and Regional Development) 2011</i> : Private infrastructure and community facilities over \$5 million
CIV	\$6,075,674 (excluding GST)
CLAUSE 4.6 REQUESTS	Not applicable
KEY SEPP/LEP	<ul style="list-style-type: none"> • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land • State Environmental Planning Policy (Koala Habitat Protection) 2020 • State Environmental Planning Policy (Primary Production and Rural Development) 2019 • State Environmental Planning Policy (Infrastructure) 2007 • Narrabri Local Environmental Plan 2012 • Narrabri Shire Council Development Control Plans
TOTAL & UNIQUE SUBMISSIONS & KEY ISSUES IN SUBMISSIONS	No Submissions received
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Annexure A - Development Plans including Design, Stormwater Plans and Landscape Plan; • Annexure B – Recommended Conditions of Consent; • Annexure C – Internal and External Referral Responses; and, • Annexure D – Support Documents and Reports.

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	No
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	23 September 2021
PREPARED BY	Mr. Günther Weidenmann - Development Planner, Narrabri Shire Council
DATE OF REPORT	28 July 2021

EXECUTIVE SUMMARY

Description of the Proposal

Development Application (DA) 2021/0049 seeks development consent for the establishment of a 5MW solar electricity generation facility with associated infrastructure on LOT: 151 DP: 755475, known as 211 Vine Lane, Boggabri NSW 2382. According to the Statement of Environmental Effects (SoEE) accompanying the subject application, the proposed development entails the following:

- Establishment of a grid-connected solar photovoltaic (PV) plant including associated electrical generation, supplying no greater than 5 megawatts (MW AC);
- New 3-5.5m wide access road at the eastern boundary of the site;
- High chain link security fencing 2.3m high; and,
- Other associated works as shown on the submitted plans.

During the construction period there is estimated to be up to 30 personnel on site for up to six (6) months. The solar PV farm would operate 24 hours a day, 7 days a week, with no permanent staff on site. Maintenance inspections will be undertaken daily or on an as needs basis.

Site Description & Surrounding Land Uses

The land is legally known as Lot 151 in DP 755475 and is situated on Vine Lane, Boggabri NSW 2382. The site is primarily flat agricultural lands with scattered vegetation and is located approx. 3.2km north of the Boggabri town centre within the Narrabri Shire Council Local Government Area (LGA). Surrounding lands are similar to the proposed site area, consisting of agricultural land with rural dwellings, sheds, dams, and scattered remnant vegetation. There is an unnamed watercourse running through the site east to west, immediately south of the development area. The closest residential dwellings to the proposed development site are to the south of the site on LOT: 150 DP: 755475 and west on LOT: 153 DP: 755475.

Permissibility

The proposed development is identified as being 'electricity generating works' which is defined under the Narrabri Local Environmental Plan 2012 as follows:

electricity generating works means a building or place used for the purpose of—

(a) making or generating electricity, or

(b) electricity storage.

Although 'electricity generating works' are prohibited in the RU1 zone, the development is permissible by virtue of Clauses 34(1)(b) and 34(7) under the *State Environmental Planning Policy (Infrastructure) 2007*.

Consultation

Notification and referral requirements have been complied with as a part of the assessment of DA 2021/0049. The DA was notified to adjoining landowners and advertised in "The Courier" and Council's website for a period of fourteen (14) days, commencing 28 June 2021 and ending 16 July 2021. No submissions were received during the public consultation period.

The DA was also referred to Essential Energy and Council's Technical Officers for comment – all of which raised no objections to the proposal subject to the imposition of suitable conditions of development consent.

Recommendation

It is recommended that DA 2021/0049 be approved subject to the recommended conditions of consent contain in **Annexure B**.

1. THE SITE AND LOCALITY

The proposed development will be situated on Lot 151 in DP 755475, known as 211 Vine Lane, Boggabri NSW 2382.

The site is primarily flat agricultural lands with scattered vegetation and is located approx. 3.2km north of the Boggabri town centre within the Narrabri Shire Council Local Government Area (LGA) (**Figure 1**). The proposed development is located in the northern section of LOT: 151 DP:755475, comprising approx. 13.5 hectares with a frontage of approx.400 metres to Vine Lane (**Figure 2**).

Surrounding lands are similar to the proposed site area, consisting of agricultural land with rural dwellings, sheds, dams, and scattered remnant vegetation. There is an unnamed watercourse running through the site east to west, immediately south of the development area (**Figure 3**). The closest residential dwellings to the proposed development site are to the south of the site on LOT: 150 DP: 755475 and west on LOT: 153 DP: 755475 (**Figure 4**). 150 DP: 755475 have the same owners as the development allotment and LOT: 153 DP: 755475 is currently owned by a Coal company.

The subject lot is not classified as bush fire prone land nor is it liable to inundation by flooding. There are no items of environmental, cultural, scientific or scenic significance known to be located on the site.



Figure 1: Location plan.



Figure 2: Site plan.

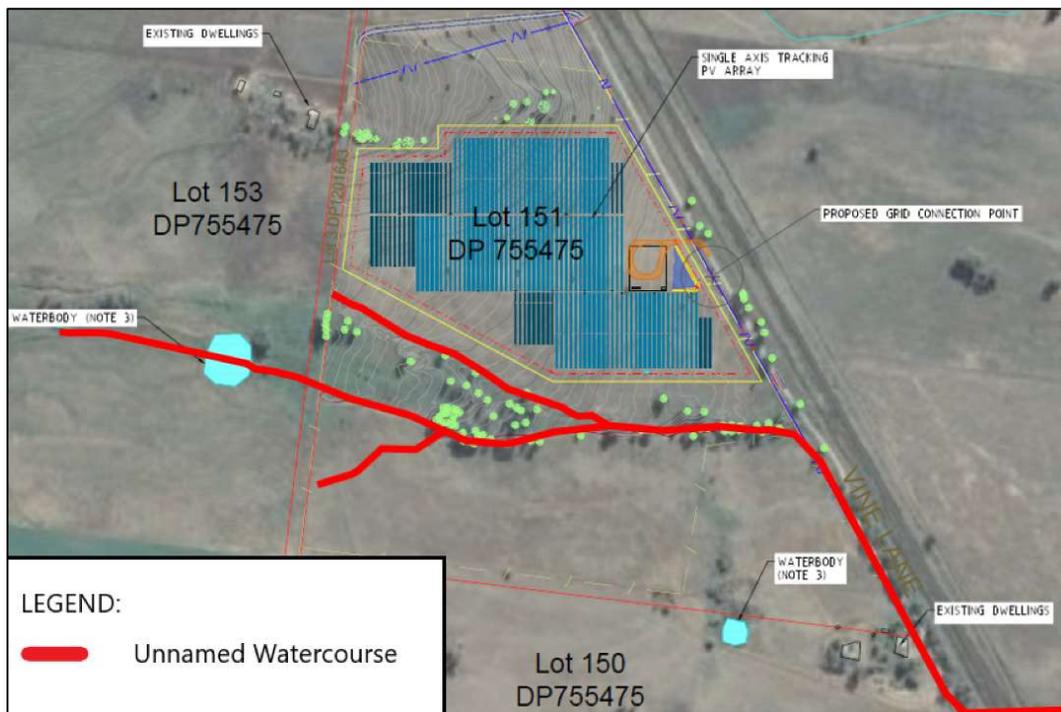


Figure 3: Location of unnamed watercourse.

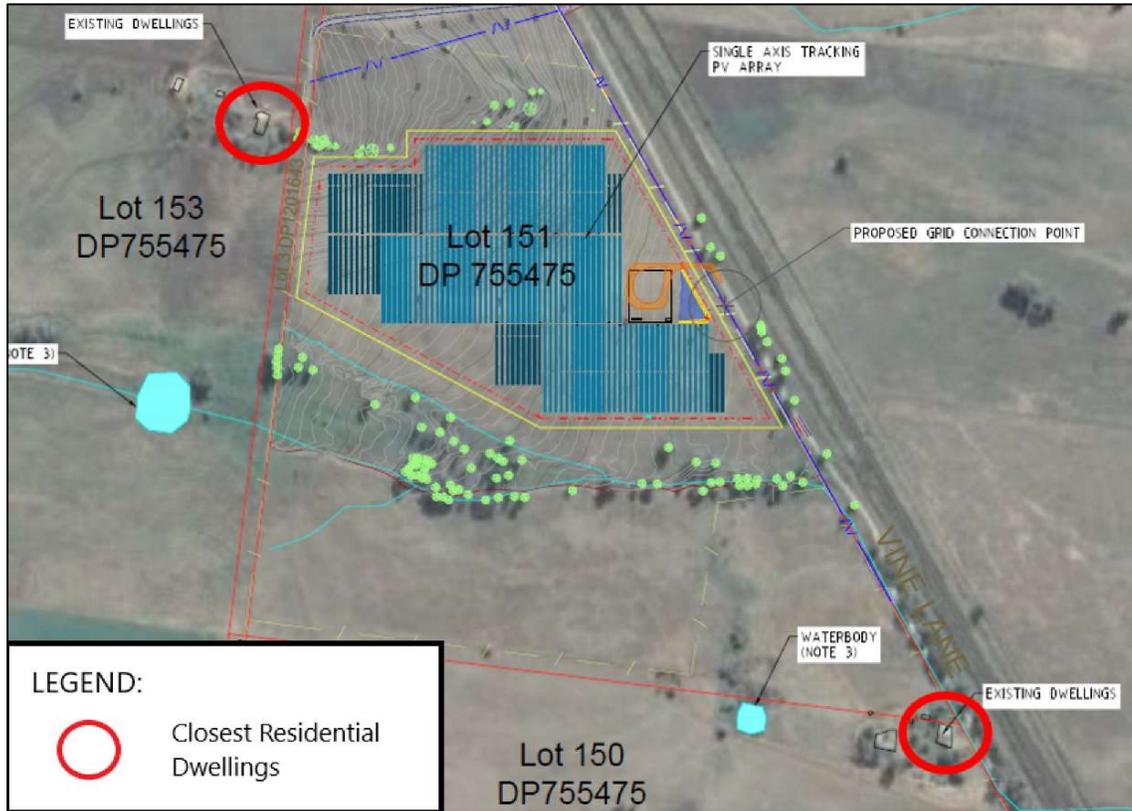


Figure 4: Location of closest residential dwellings.

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

Development Application (DA) 2021/0049 seeks development consent for the establishment of a 5MW solar electricity generation facility with associated infrastructure on Lot 151 in DP 755475, known as 211 Vine Lane, Boggabri NSW 2382.

The proposed development entails the following:

1. Establishment of a grid-connected solar photovoltaic (PV) plant including associated electrical generation, supplying no greater than 5 megawatts (MW);

The proposal includes a no larger than 5MW grid-connected solar PV installation. The solar farm will be connected to Essential Energy's network via an 11 kV distribution line running adjacent to the eastern boundary of the site.

The proposed development aims to erect an estimated 11,648 solar PV panels with a nameplate rating of 540W. Other electrical generation infrastructure is proposed on the site including a skid-mounted MV Power Station consisting of inverters, transformer and switchgear.

The PV arrangement will consist of 153 ground mounted single axis trackers. The PV arrays will have a clearance above the existing ground surface and extend to approximately 2.6m at

maximum tilt. The PV mounting structure would comprise steel posts driven to approximately 1.5m below ground using a small pile driver. Additional support structures will be attached to the piles, which would then support the PV panels.

2. New 3-5.5m wide access road:

A 5m wide access road is proposed connecting the solar farm off Vine Lane at the eastern boundary of the site.

3. High chain link security fencing 2.3m high; and

The solar farm will be fully fenced with a 2.3m security fencing including barbed wire at the top. Gate access to the site will be provided on the eastern border of the site.

4. Other associated site improvements as shown on the submitted plans (see Annexure A and Figure 5).

A car park area, off load area and temporary construction office are indicatively shown on the General Arrangement Plan (refer to **Figure 5**).



Figure 5: Site Plan for the Proposed Development.

According to the SoEE, the solar farm PV will operate 24/7 with no permanent staff on the site. Inspections for maintenance would be undertaken as required.

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

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

3.1 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 (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019;*
- *State Environmental Planning Policy (Koala Habitat Protection) 2020; and,*
- *Narrabri Local Environmental Plan 2012.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies (SEPP) are outlined in **Table 1** and considered in more detail below.

Table 1: Summary of Applicable State Environmental Planning Policies
(Preconditions in **bold**)

EPI	Matters for Consideration	Comply (Y/N)
SEPP (State and Regional Development) 2011	<ul style="list-style-type: none"> • Clause 20(1) declares the proposal as regionally significant development pursuant to Clause 5 of Schedule 7. 	Y
SEPP (Infrastructure) 2007	<ul style="list-style-type: none"> • Clause 45 (Determination of development applications—other development) – electricity transmission - the proposal is satisfactory subject to conditions. • Clause 85 (Development adjacent to rail corridors) – adjacent to a rail corridor - the proposal is satisfactory. 	Y
SEPP No. 55 -	<ul style="list-style-type: none"> • Clause 7 - Contamination and remediation has 	Y

Remediation of Land	been considered in the Contamination Report and the proposal is satisfactory subject to conditions.	
SEPP (Primary Production and Rural Development) 2019	<ul style="list-style-type: none"> • Clause 3 (Aims of Policy) - the proposal is consistent with the aims of this Policy 	Y
SEPP (Koala Habitat Protection) 2020	<ul style="list-style-type: none"> • Clause 8 - the land is not a potential koala habitat 	Y
NLEP 2012	<ul style="list-style-type: none"> • Part 6 - Development is consistent with objectives and suitable conditions have been included where required 	Y

State Environmental Planning Policy (State and Regional Development) 2011

Pursuant to Clause 20(1) of *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP), the proposal is a regionally significant development as it satisfies the criteria in Clause 5(a) of Schedule 7 of the SRD SEPP as the proposal is development for 'electricity generating works' with a Capital Investment Value (CIV) over \$5 million. Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Infrastructure) 2007

Pursuant to cl.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. Due to the location and nature of the proposed development referral to the electricity supply authority, Essential Energy, was required during the assessment period. Essential Energy provided their response on 26 March 2021, which has been incorporated into the recommended terms of consent.

Clause 85 - 'Development adjacent to rail corridors'

The proposed development is not likely to have an adverse effect on rail safety; nor, does it involve the placing of a metal finish on a structure and the rail corridor or the use of a crane in air space above any rail corridor. Therefore, the proposed development is not affected by this Clause.

State Environmental Planning Policy No. 55 – Remediation of Land

The objective of this Policy is to provide a state-wide planning approach to the remediation of contaminated land. The SEPP requires consideration of previous land uses and promotes the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

In accordance with the provisions under Clause 7(1) of this Policy, it is considered that the development site is suitable for the proposed development and that no further investigation is required. The development site has been historically used for primary production and is currently used for the same purposes. A search of Council's records has not produced any approvals for activities listed under Table 1 of *Planning Guidelines SEPP 55 – Remediation of Contaminated Land 1998*. There are no known previous investigations about contamination on the subject land or land use restrictions issued by the NSW Environmental Protection Authority (EPA). A site inspection did not reveal any visual indications of contamination.

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

This Policy aims to facilitate the orderly economic use and development of lands for primary production, to reduce land use conflict and sterilisation of rural land, to identify State significant agricultural land and to encourage and protect aquaculture. This Policy applies to the State.

The proposed development is considered to be consistent with the aims of this Policy. Furthermore, the development site is not identified as being State significant agricultural land.

State Environmental Planning Policy (Koala Habitat Protection) (2020)

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. This Policy applies to each Local Government Area (LGA) listed in Schedule 1, which includes Narrabri Part 2 of this Policy applies as the land is:

- within a LGA listed under Schedule 1, being the Narrabri Shire Council LGA;
- subject to a DA; and,
- has an area of more than 1 Hectare.

In this regard, the provisions under Clause 8 require consideration and states that Council must be satisfied as to whether the land is potential koala habitat before granting consent. Additionally, Clause 8(2) specifies that Council may be satisfied as to whether the land is potential koala habitat only on information obtained by it; or, the applicant from a person who is qualified and experienced in tree identification.

An assessment undertaken by Kleinfelder has determined that there is no highly suitable koala habitat or core koala habitat on the site due to no evidence of a resident population of koalas and the isolated nature of the feed trees, which are in turn are unlikely to be fed upon by koalas.

Narrabri Local Environmental Plan 2012

The subject lands are zoned RU1 Primary Production pursuant to the provisions of the *Narrabri Local Environmental Plan 2012* (LEP). The objectives of the RU1 zone are as follows:

- *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 allow for non-agricultural land uses that will not restrict the use of other land for agricultural purposes.*

Under clause 2.3(2) of the LEP, the consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. It is considered that the proposed Solar Farm is generally consistent with the objectives of the zone.

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

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

Although 'electricity generating works' are prohibited in the RU1 zone, the development is permissible by virtue of Clauses 34(1)(b) and 34(7) under the ISEPP, as discussed in an earlier section of this assessment report. Clause 8(1) ISEPP also clarifies as follows:

8 Relationship to other environmental planning instruments

Note— This clause is subject to section 3.28(4) of the Act.

- (1) *Except as provided by subclause (2), if there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.*

The following local provisions under Part 6 of the LEP are of relevance to the subject application:

- Clause 6.1 'Earthworks'

Minimal earthworks are expected to be carried out in conjunction with the proposed development. Only minor earthworks are required for the underground cabling and supporting infrastructure (access roads, stormwater management etc). Suitable conditions have been included in the recommended terms of consent to address any adverse impacts that may arise during construction works.

- Clause 6.4 'Essential Services'

The proposed development is capable of being connected to the essential services listed under Clause 6.4. Suitable conditions have been included in the terms of consent in order to facilitate the arrangements for essential services.

- Clause 7.5 'Airspace Operations'

As the development site is located approximately 45km away from Narrabri Airport, it will not have any impact on the Obstacle Limitation or Operations Surface. An assessment undertaken by SLR Consulting has determined that the glare from the solar arrays on aviation will be negligible.

Other Relevant Legislation

National Parks and Wildlife Act 1974

The National Parks and Wildlife Act 1974 includes provisions for the protection and recording of Aboriginal objects in NSW.

An Aboriginal site investigation has been undertaken by Virtus Heritage, in accordance with the provisions of the *National Parks and Wildlife Regulations 2009* and the accompanying Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (OEH 2010). The Report advises that one (1) new Aboriginal site recording has been undertaken for the project area to archival standards and will be submitted to AHIMS. The new recording will be consolidated with the previous four artefact scatters along the creekline and banks, into one single site that will be managed within a potential archaeological deposit. The Report also notes that the presence of the new site and the richness of the artefact assemblage suggests that unexpected finds during works in the central paddock areas is likely. The Report suggests preparation of an Aboriginal Cultural Heritage Assessment and Archaeological Assessment (ACHA/AA) to assist with AHIP application. This will cover unexpected finds and additional Aboriginal objects found in the future during community collection when ground disturbing works occur and also may need to consider potential for archaeological testing/salvage if triggered.

A condition has been incorporated into the recommended conditions of consent to ensure compliance in this regard.

Water Management Act 2000

According to the SoEE, there is an unnamed watercourse running through the site east to west, immediately south of the development area. The proposed development does not involve works on waterfront land, as the proposed works will be between 46m and 67m from the unnamed watercourse. A Controlled Activity Approval from NSW NRAR is therefore not required.

Biodiversity Conservation Act 2016 & Biodiversity Conservation Regulation 2017

The *Biodiversity Conservation Act 2016* (BC Act) aims to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development. A Biodiversity Development Assessment Report (BDAR) is required to accompany a DA if the proposal will 'significantly affect threatened species' and the Biodiversity Offset Scheme (BOS) will apply.

Under Section 7.2 of the BC Act, a development will 'significantly affect threatened species' if:

- a. It is likely to affect threatened species or ecological communities, or their habitats, according to the test in Section 7.3; or,

- b. The development exceeds the BOS threshold if the BOS applies to the impacts of the development on biodiversity values; or,
- c. It is carried out in a declared area of outstanding biodiversity value.

Section 7.2(1)(b) of the BC Act and Clause 7.1 of the *Biodiversity Conservation Regulation 2017* (BC Regulation) sets-out the BOS threshold, being whether:

- a. The amount of native vegetation being cleared exceeds a threshold area;
- b. The development involves the clearing of native vegetation or prescribed impacts on an area mapped on the biodiversity values map.

The Flora and Fauna Assessment Report prepared by Kleinfelder advises that a BDAR and entry into the BOS is not required for the proposed development. This is based on the following rationale:

- The proposal is not State Significant Development;
- The proposal will not impact an Area of Outstanding Biodiversity Value, as listed under Part 3 of the BC Act;
- The proposal is unlikely to cause a significant impact on threatened species, population or ecological communities, as listed under Schedules 1 and 2 of the NSW BC Act, as determined by application of a five-part-test of significance under Section 7.3 of the NSW BC Act. The proposal will not impact areas identified as having 'high biodiversity value' on the biodiversity values map; and,
- The proposed development will not impact areas mapped as having 'high biodiversity value' as indicated by the NSW Biodiversity Values Map (BV Map).
- The proposed development will directly remove 0.54 ha of low condition derived native grassland (further discussed in Section 5.1.1). The project will not exceed the BOS threshold for the site (1 ha threshold for a minimum lot size of 100 ha) as determined by the NSW Biodiversity Conservation Regulation 2017.

It is considered that the above rationale satisfies the provisions under the BC Act and BC Regulation. A BDAR and entry into BOS is not required.

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

At the time of submission of this Report, there were no draft environmental planning instruments that applied to the subject lands.

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

- *Development Control Plan – Industrial Development Code (DCP)*
The following Table outlines the relevant Chapters / provisions of the DCP that have been considered in connection with the assessment of DA 2021/0049.

4.3 Open Storage and Work Areas		
(a) Where any work or storage of materials is proposed to be undertaken outside the confines of a building, full details of those	Not Applicable. No open work or storage areas are proposed.	Y

parts of the site to be used, and of the materials to be stored, are to be provided with the application.		
(b) Approved open work and storage areas are to be located at the rear of industrial developments and screened from view by the use of landscaping and screen fencing. Such fencing is to be constructed of masonry materials or pre-coloured metal cladding, having a minimum height of 2.0 metres.	Not Applicable. No open work or storage areas are proposed.	Y
4.4 Security Fencing		
Security fencing should be visually unobtrusive and, wherever practicable, should be located behind the landscape setback area.	A 2.3m high security fence will be located around the site area. It will be visually unobtrusive in design.	Y
4.6 Building Setbacks		
4.6.1 Setbacks		
A front building setback of eight (8) metres from the property boundary should be provided. This eight (8) metre front setback is to be intensively landscaped.	A 10m front setback area is proposed from the existing fence onsite to the proposed security fence.	Y
Side and rear setbacks will be determined by the requirements of Ordinance 70 under the Local Government Act, 1919.	A 10m rear setback is proposed and appropriate side setbacks are proposed, with no development in proximity to the sides of the site.	Y
4.7 Landscaped Treatment		
4.7.1 Areas required to be landscaped		
The following areas should be landscaped: (a) The front building setback; (b) Side and rear setbacks where visible from a public place or an adjoining residential area; (c) Areas adjacent to building entrances and pedestrian access points; (d) The perimeter of all approved open storage areas and staff/visitor parking areas. (See also Section 4.3 of this Code). Large car parking areas should be interspersed with internal planting bays to reduce the visual impact of large areas of paved	A natural buffer has been provided with shrub planting proposed to screen views from the Highway. A landscaping plan has been submitted as part of the application.	Y

surfaces.		
4.7.2 Landscape Guidelines		
(a) Landscaped areas are to be an integral part of the site, and may, due to the size and scale of development proposed, require the incorporation of mounding to add visual relief to the development.	<p>The following mitigation measures are proposed:</p> <ul style="list-style-type: none"> • Shrub planting (native species to 3m) outside of security fence and within the lease boundary on the eastern side only that screens (or primarily screens) views from the viewpoint. <p>According to the Visual Impact Assessment, the implementation of the mitigation measures will provide an effective visual buffer compatible with the rural landscape of the Boggabri area enhancing the visual amenity for local residents and visitors to the area.</p> <p>The Landscape Plan aims to provide screening of the development from Vine Lane and Kamilaroi Highway and nearby residences through the provision of screening trees along the eastern boundary.</p>	Y
(b) Landscaped areas should be planted and maintained with suitable trees, shrubs and ground cover in accordance with a landscape plan, which must be submitted for approval prior to the release of building plans.		
(c) Landscaping should be completed in accordance with the approved landscape plan prior to the occupation of the development and shall be suitably maintained throughout the life of the development.		
(d) Every effort should be made to preserve existing trees on proposed development sites. All existing trees should be shown on the plan submitted with the application, and those which are required to be removed should be clearly highlighted.		
(e) Trees shall be planted on the Council footpath, 900mm in from the kerb, along the entire frontage of the property, at intervals of approximately 10 metres (making allowance for the location of the driveways). The tree types that can be used are included in Annexure 1, and shall be approved by the Shire Engineer.		
4.8 Access, Parking and Off Street Loading / Unloading Facilities		
4.8.1 General Requirements		
(a) The design, layout and construction of access, parking and service areas for all industrial development shall be in accordance with the requirements of the Narrabri	The proposed development is not considered a 'traffic generating development' and due to the nature of the development, no prescribed parking rate is applicable.	Y

Shire Parking Code.		
(b) Council is required to consult the NSW Traffic Authority to obtain advice on traffic and safety aspects for major traffic generating developments. This consultation is a statutory requirement prescribed by State Environmental Planning Policy No. 11. Additional information about the consultation procedure can be obtained by contacting Council's Environmental Services Section.	Not Applicable. The proposed development is not considered a 'traffic generating development'. Therefore, concurrence from TfNSW and/or RMS is not required.	Y
(c) Industrial development should be designed to ensure that all vehicles can enter and leave the site in a forward direction. Details of vehicle size and manoeuvring areas should be submitted with the development application to enable an adequate assessment of these aspects.	The proposed access and turning circle proposed for the site will allow all vehicles to enter and exit the site in a forward direction.	Y
(d) Individual parking bays should be clearly delineated and have minimum dimensions of 2.6 metres x 5.5 metres, except where it is adjacent to a solid obstruction when a 3.0 metre width should be provided.	According to the submitted SoEE, the proposed parking bay for the site will be constructed according to parking requirements.	Y
4.8.2 Access and Road Construction Requirements		
(a) The following road works are generally required in conjunction with industrial development: Industrial type vehicular gutter crossings; Construction of kerb, gutter and road shoulder between the lip of the gutter and the edge of the existing bitumen seal, footway formation and paving and associated road drainage for the fill frontage of the site.	Road works are proposed with the proposed development, which includes: - vehicle access road via Vine Lane (which is suitable for B-Double access); and, - a turning circle. The new vehicle access road is proposed approximately 400 metres from the Vine Lane and Boston Street intersection.	Y
(b) Access drives to have a minimum width of six (6) metres; <i>Note – major traffic generating developments may require a greater access width divided at the property line.</i>	Conditions have been included in the terms of consent in line with the advice received from Council's Engineering Department.	

<p>(c) The location of access driveways at intersections shall be in accordance with the Traffic Authority of NSW 'Policy, Guidelines and Procedures for Traffic Generating Developments', however the minimum distance shall be 6.0 metres from the intersecting boundaries;</p>		
<p>(d) Access driveways across the footpath should hard sealed, consisting of either concrete, two coat bitumen seal, asphaltic concrete, paving blocks or other approved material.</p>		
<p>(e) All driveways, parking areas, loading bays and vehicular turning areas are to be constructed with a base course of adequate depth to suite design traffic, and are to be sealed with either bitumen asphaltic concrete, concrete or interlocking pavers. Full details should be indicated on the plans submitted with the Development Application.</p>		
<p>4.8.3 Parking Requirements</p>		
<p>(a) On-site car parking should be provided in accordance with Council's adopted Car Parking Code, copies of which are available from Council.</p>	<p>Due to the nature of the development, no prescribed parking rate is applicable.</p>	<p>Y</p>
<p>4.8.4 Loading / Unloading Facilities</p>		
<p>(a) Adequate provision should be made on site for the loading and unloading of delivery vehicles within designated loading bays.</p>	<p>Not Applicable.</p>	<p>Y</p>
<p>(b) Loading and unloading facilities appropriate to the particular development are to be provided on site such that service vehicles are located wholly within the site and are not required to reverse to or from the street.</p>	<p>Not Applicable.</p>	<p>Y</p>
<p>4.10 Services and Drainage</p>		

(a) To ensure that services provided are adequate for the scale of the development proposed. (b) To ensure adequate drainage facilities are provided within the site to collect and carry stormwater to external drainage systems; (c) To reduce the hazard of flooding and the diversion or concentration of water onto adjoining properties.	A Stormwater Management Plan has been provided with the application, detailing the stormwater drainage strategy during both pre-development and post-development.	Y
4.10.1 Water Supply		
All development shall be connected to Council's Water Supply. Details of flow pressure can be obtained from Council's Engineering Services Section.	Not Applicable.	Y
4.10.2 Sewer		
Where Council sewer is available, a Sewer Headworks Charge based on the size and type of Development may be charged.	Not Applicable.	Y
4.10.3 Trade Waste		
A Trade Waste Application will be required where liquid wastes other than sewerage are to be discharged to Council's sewerage system. Council levies a charge for the disposal of the Trade Waste to the sewer based on the volume and strength of the discharge.	No liquid waste is expected to be produced.	Y
4.10.4 Drainage		
(a) Stormwater runoff from roofs and paved areas is to be collected and disposed of to the street drainage or direct to Council's underground system.	A Stormwater Management Plan has been provided with the application, detailing the stormwater drainage strategy during both pre-development and post-development.	Y
(b) The Council will not permit the erection of buildings over drainage easements under its control.		
(c) A contribution towards Downstream Drainage may be required based on the increased run-off generated by the development.		

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCP's they are required to be considered):

- *Narrabri Shire Section 7.12 – Fixed Development Consent Levies Contributions Plan 2011*

Council may levy contributions for the proposed development in accordance with its adopted Section 7.12 Contributions Plan. According to the cost summary report by RPS (dated 27 November 2020), the cost of the development is \$6,683,242 (incl. GST) and therefore a 1% levy will apply. A condition has been included in the recommended terms of consent requiring the Section 7.12 Contribution to be paid to Council prior to the issue of a Construction Certificate.

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

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

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

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

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

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

The following Table outlines the likely impacts of the proposed development that have been considered in connection with the assessment of DA 49/2020.

Primary Matters	Comments
Context & Setting	<ul style="list-style-type: none"> ➤ Glare/Reflectivity <p>A Reflective Glare Assessment (RGA) prepared by SLR Consulting has been submitted to support the proposed development. The Report advises that the proposal is unlikely to have significant glare impacts with respect to aviation, road operations, rail operations, industrial and heavy machinery operations, and residential Amenity. The Report states that:</p> <ul style="list-style-type: none"> ○ glare resulting from onsite lighting will be mitigated in accordance with AS4282-1997 <i>Control of the Obtrusive Effect of Outdoor Lighting</i> effectively controlling potential for light spill and glare generated by the proposed development; and, ○ due to the use of high-quality solar tracking systems and site buffer distances to surrounding receivers and transport networks, potential for glare impacts on the surrounding area is considered to be negligible.

	<p>➤ Views & vistas</p> <p>A Visual Impact Assessment (VIA) prepared by SLR Consulting has been submitted as part of the application to assess the potential visual amenity changes which may occur as a result of the proposed development</p> <p>The subject site is a relatively short distance from Boggabri. According to the VIA, the views of the existing site from public viewpoints are very limited due to the presence of obstructions such as topographic features, vegetation and built elements.</p> <p>It is therefore considered that the proposed development would have a 'minor' visual impact rating on the existing landscape character and values of the site and its local context.</p> <p>The Landscape Plan submitted with the application, aims to provide screening of the development from Vine Lane and Kamilaroi Highway and nearby residences through the provision of screening trees along the eastern boundary.</p> <p>It is therefore considered that the proposed development is appropriate for the site and surrounding locality, subject to the implementation of measures to ameliorate visual impacts. Conditions have been included in the recommended terms of consent to this effect.</p>
<p>Site Design & Internal Design</p>	<p>The proposed development has been designed and located with consideration to the constraints of the site and potential environmental impacts, as discussed throughout this assessment report.</p>
<p>Access, Transport & Traffic</p>	<p>A Traffic Impact Assessment (TIA) has been prepared by Intersect Traffic has been submitted to support the subject application.</p> <p>It is noted that, the majority of traffic movements associated with the development will occur during the construction of the solar farm (approximate 6-month period) with the delivery of panels and prefabricated structural supports.</p> <p>The TIA provides rates of traffic likely to be generated from the proposed development (both during construction and once operational) and provides the following advices:</p> <ul style="list-style-type: none"> • Deliveries during construction works would be expected to be within rigid and articulated vehicles. • Peak hour construction traffic has been calculated with a predicted peak of 18 vehicle trips per hour consisting of: <ul style="list-style-type: none"> ○ 10 light vehicles, ○ 3 roadwork vehicles, and ○ 2 delivery vehicles. • Based on the data collected from traffic surveys the surrounding road network has sufficient capacity to cater to the projected construction traffic. • The construction traffic will be managed through a future Construction Management Plan. <p>Conditions in regards to traffic and access have been included in the</p>

	terms of consent in line with the advice received from Council's Engineering Department.
Public Domain	The proposed development is expected to have negligible impact on the public domain in terms of public recreation opportunities, public spaces and pedestrian linkages.
Utilities	It is considered that the proposed development is unlikely to have an adverse impact on the availability and capacity of utilities. Minimal utilities are expected to be required for the project as construction will be short-term and there will be no permanent staff on the site, nor any permanent buildings.
Heritage	<p><u>Indigenous Cultural Heritage</u></p> <p>Virtus Heritage undertook preliminary Aboriginal archaeological advice for the proposed development area.</p> <ul style="list-style-type: none"> • A site inspection was undertaken on 27 October 2020 within the Red Chief Local Aboriginal Lands Council (LALC) area. • One new Aboriginal site recording has been undertaken for the project area to archival standards. Four artefact scatter objects, including tool types and materials, found along the creek line and banks were consolidated into one single site to be managed. • The highest artefact density was at the confluence between the two creek lines. The second creek line was too overgrown to be assessed. • With the presence of the new site, it is expected that during works within the development area, unexpected findings are likely. • Based on the site inspection findings and due diligence process, an Aboriginal Cultural Heritage Assessment (ACHA) and Archaeological Assessment (AA) application will be undertaken in parallel with this development application. <p>A condition has been included in the recommended terms of consent requiring that ACHA and AA be completed prior to the commencement of works.</p> <p><u>European Heritage</u></p> <p>The site does not contain any listed heritage items under Schedule 5 of the Narrabri LEP 2012, nor is it located within a heritage conservation area. No other heritage items are located in proximity to the site.</p>
Other Land Resources	The proposed development is not expected to have an adverse impact on the conservation and use of land resources, including productive agricultural land, mineral and extractive resources and water supply catchments.
Water	<p>A Stormwater Management Report prepared by DRB Consulting Engineers accompanies the Development Application (Annexure D).</p> <p>The stormwater drainage strategy for the development can be summarised as:</p> <ul style="list-style-type: none"> • All impervious runoff from the proposed Photovoltaic Arrays will discharge to the existing ground surface where the natural flow regime will be maintained. • Runoff from the proposed gravel/hardstand area catchment will

	<p>be conveyed via sheet flow to the proposed above ground onsite stormwater detention basin.</p> <ul style="list-style-type: none"> • Discharge from the above ground onsite stormwater detention basing will be limited to the predevelopment flow rates <p>Council's Engineering Officer reviewed the submitted Stormwater Management Plan and did not have any comments/conditions relating to the proposed development. However, a condition is recommended to be included in the Terms of Consent to ensure the suitable management of Stormwater.</p>
Soils	The proposed development is not expected to have an adverse impact on soil conversation. Erosion and sediment controls will be required to be installed prior to the commencement of works and maintained for the duration of construction works. Conditions have been included in the recommended terms of consent to this effect.
Air & Microclimate	It is considered that the proposed development will not result in adverse air and microclimatic conditions. The SoEE and supporting technical studies identify a range of measures to mitigate any dust that may be generated during construction and operation of the proposed development. Conditions have been incorporated into the recommended terms of consent to ensure compliance in this regard.
Flora & Fauna	<p>A Flora and Fauna prepared by Kleinfelder advises that the development site is mainly cleared of vegetation due to previous agricultural development. Removal of native vegetation within the site will be limited to the removal of 0.54 hectares of degraded native groundcover however, most of the grasslands will be retained. Field surveys undertaken by qualified ecologist(s) recorded no threatened flora or fauna species on the site with the proposed development unlikely to cause a significant impact to any threatened species, populations or ecological communities listed under the NSW BC Act. The report concludes that the Project is unlikely to have a significant impact on flora and fauna.</p> <p>In addition, the report has identified a number of avoidance and mitigation measures to reduce potential biodiversity impacts, including but not limited to erosion and dust control, vegetation protection, and weed and chemical spill management. Conditions have been incorporated in the recommended term of consent to ensure that the identified mitigation measures are implemented for the proposed development.</p>
Waste	A Waste Management Plan has been submitted with the subject application and identifies waste management measures for each stage of the development, including site preparation, construction and operations. Conditions have been included in the recommended terms of consent to ensure to that any waste generated by the development is appropriately managed.
Energy	The proposed development involves the establishment of renewable energy, being a 5MW photovoltaic electricity generating system and associated infrastructure.
Noise & Vibration	A Noise Impact Assessment (NIA) prepared by Muller Consulting Pty Ltd has been submitted with the subject application. The NIA concludes that the noise generated during the construction of the proposed development will have the potential to exceed the existing noise management levels for two (2) of the identified residential receivers in proximity to the site.

	Notwithstanding, the NIA has identified several mitigation measures that should be considered during the construction phase to reduce emissions to the surrounding community. The mitigation measures have been incorporated as a condition in the recommended terms of consent.
Natural Hazards	The subject lot is not classified as bush fire prone land nor is it liable to inundation by flooding.
Technological Hazards	The Flora and Fauna report by Kleinfelder identifies several measures to prevent chemical spills. Such measures include: the storage of chemicals in bunded areas, regular inspections for leaking oils or fuels from vehicles, and no re-fuelling, washing or maintenance of vehicles within 20m of natural drainage lines. A condition has been incorporated into the recommended terms of consent to ensure compliance in this regard.
Safety, Security & Crime Prevention	The proposed development is not expected to have an adverse impact on safety, security and crime prevention. The development site will be improved with security fencing.
Economic Impact on the Locality	It is anticipated that the proposal will have a positive economic impact on the locality, particularly during the construction phase of the development. This will potentially create more job opportunities for local tradespeople, and expenditure locally on groceries and meals.
Social Impacts	<p>The Social Impact of the proposed development has been addressed within the submitted SoEE. According to the SoEE, the proposed development is anticipated to have an ongoing positive social impact on the local area and broader Boggabri Community as it:</p> <ul style="list-style-type: none"> • Is consistent with the regulatory and business development framework, including state government legislation and the Narrabri Shire Council strategic plans; • Will have positive impacts intergenerational equity, with the provision of cleaner energy in the future; • Supports Commonwealth and NSW climate change commitments; • Will generate enough clean, renewable energy for about 2,000 homes; • Is an appropriate development in relation to the projected changes to population and demographics in the region; • Is unlikely to have significant negative social impacts to the locality and region; and, • Would be a benefit contributing to the overall community sustainability of the Boggabri community.
Construction	Conditions have been included in the recommended terms of consent to mitigate construction impacts. Such conditions relate to hours of work, parking and traffic management, waste, toilet facilities, noise and dust mitigation, and signage. A Construction Management Plan is also required to be prepared and implemented as a recommended condition of consent.
	Acceptable, as discussed throughout this assessment report and subject

Cumulative Impacts	to conditional approval.
Other?	No other impacts have been identified.

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

The subject lands are considered to be suitable for the proposed development for the following reasons:

- The proposed development is not expected to result in deleterious impacts, subject to the imposition of suitable conditions of consent;
- The attributes of the subject lands are conducive for the purposes of the proposed development; and,
- The proposed development is permitted with development consent under Clause 34 of the ISEPP.

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

The DA was notified to adjoining landowners and advertised in “The Courier” and Council’s website for a period of fourteen (14) days, commencing 28 June 2021 and ending 16 July 2021. No submissions were received during the public consultation period.

3.9 Section 4.15(1)(e) - Public interest

The proposed development has been assessed to be in the public interest as detailed throughout this Report, subject to the imposition of appropriate conditions of development consent. The proposed development is not expected to have a negative impact on the health and safety of the public.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

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

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed. The Internal and External Referral Responses are attached to this report (**Annexure C**)

Table 2: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Not Applicable			

Referral/Consultation Agencies			
Essential Energy	Clause 45(2) – ISEPP 'Determination of development applications—other development'	<ul style="list-style-type: none"> Essential Energy's comments were received by Council on 26 March 2021 and will be incorporated as conditions and advice in the recommended terms of consent. 	Y
Integrated Development (S 4.46 of the EP&A Act)			
Not Applicable.			

The development application has been referred to various Council officers for technical review as outlined **Table 3**.

Table 3: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer reviewed the submitted Stormwater Management Plan and Traffic Impact Assessment. Conditions will be included in the term of consent regarding stormwater drainage and traffic during the construction phase.	Yes
Waste	Council's Manager of Waste Services reviewed the submitted Waste Management Plan. Conditions will be included in the recommended terms of consent to ensure to that any waste generated by the development is appropriately managed.	Yes

4.2 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 28 June 2021 until 12 July 2021. No submissions were received during the notification period.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Visual impacts

A Visual Impact Assessment (VIA) prepared by SLR Consulting has been submitted with the subject application. The VIA has considered landscape character and scenic qualities in the locality, stakeholder values regarding visual amenity and potential impacts from public viewpoints (Kamilaroi Highway, Caloola Road and Vine Lane).

The VIA identifies that the views of the site from public viewpoints were from Kamilaroi Highway, Caloola Road and Vine Lane. The VIA therefore recommends the following mitigation measure:

- shrub planting (native species to 3m) outside of security fence and within the lease boundary on the eastern side.



Figure 6: Indicative landscape layout for the proposed development.

The VIA concludes that the implementation of the mitigation measures will provide an effective visual buffer compatible with the rural landscape of the Boggabri area enhancing the visual amenity for local residents and visitors to the area.

Resolution: The issue has been resolved through recommended conditions of consent.

5.2 Decommissioning

A Waste Management Plan has been submitted with the subject application and identifies waste management measures for each stage of the development, including site preparation, construction and operations. Conditions have been included in the recommended terms of consent to ensure to that any waste generated by the development is appropriately managed and that a Decommission Management Plan be submitted to Council prior to decommissioning occurring.

Resolution: The issue has been resolved through recommended conditions of consent.

6. COSULTATION WITH APPLICANT

The Draft Recommended Conditions of Consent was sent to the applicant on 6 September 2021. The applicant revied the Draft Conditions and requested the following:

Condition

Construction Management Plan

e. Noise

ii. where possible use localised mobile screens or construction hoarding around piling rig/plant to act as barriers between construction works and receivers, particularly where equipment is near the site boundary and/or a residential receiver including areas in constant or regular use (e.g. unloading and laydown areas);

Applicant's Response:

The applicant would like to suggest removing this condition. It is noted our acoustic consultant has suggested this however it is not practicable for piling works. Each pile will only take approximately 2 to 3 minutes so moving hoarding so frequently will not be practicable.

Council's Response:

As this was one of the considered mitigation measures in the submitted Noise Assessment Report, Council Officer requested that the Consultant that prepared the Noise Assessment Report confirm whether this condition should be removed.

The consultant recommended the following wording:

e. Noise

ii. where practical use localised mobile screens or construction hoarding around piling rig/plant to act as barriers between construction works and receivers, particularly where equipment is near the site boundary and/or a residential receiver.

Council has amended the condition as recommended above.

Condition

Road Maintenance Agreement

Prior to the issue of a Construction Certificate, the developer shall enter into a 'Road Maintenance Agreement' with Narrabri Shire Council.

Applicant's Response:

Can you please confirm if this is required if the dilapidation survey reveals no damage?

Council's Response:

After consultation with Council's Engineering Department, it was agreed to remove the condition and to replace it with the following:

PRIOR TO COMMENCEMENT OF WORKS

Dilapidation Survey

A dilapidation survey of Vine Lane shall be undertaken in conjunction with a Council Officer prior to commencement of works. A Management plan for the ongoing

maintenance of Vine Lane during the construction period shall be agreed with Council, 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.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

A post works dilapidation survey of Vine Lane shall be undertaken in conjunction with a Council Officer. A final Dilapidation Comparison Report comparing the Pre-Construction dilapidation report with the Post-Construction dilapidation report is to be submitted to and approved by Council prior to commencement of operation.

The report is to identify any faults and dilapidation that may have occurred within Council's Road reserves during the construction period of the development. The report is to detail measures that will be undertaken by the developer to rectify any faults and dilapidation identified within the report.

Any identified areas requiring rectification are also to be completed prior to commencement of operation.

WITHIN 6 MONTHS OF COMMENCEMENT OF OPERATION

Any dilapidation as confirmed through the Dilapidation Comparison Report is to be rectified within 6 months of the commencement of operation.

This shall include obtaining any Section 138 Roads Act approval or related permits.

Condition

Native Vegetation

There must be no removal or disturbance of native vegetation except as authorised by this consent, including canopy trees, understorey and ground cover vegetation without the prior written consent of Council.

Applicant's Response:

Can you please confirm what removal/disturbance is authorised?

General ground cover will contain some native species but will be required to be impacted given the nature of the site and construction works.

Council's Response:

It was decided to reword the condition to the following:

There must be no removal or disturbance of native vegetation outside of the approved development site, including canopy trees, understorey and ground cover vegetation without the prior written consent of Council.

Condition

Reflectivity

In any situation where the panels should not be left horizontal, but be left with a slightly eastwards fixed tilt angle of at least 10°.

Applicant's Response:

The applicant would like to suggest changing the word to:

In any situation where the panels remain stationary for extended periods of time (e.g. maintenance), they should not be left horizontal.

Council's Response:

Council Officer requested that the Consultant that prepared the Reflective Glare Assessment, confirm whether the suggested wording would be suitable.

The consultant recommended the following wording:

In the three-month period spanning the summer solstice (5th November to 5th February), panels should not be left in a horizontal position during morning daylight hours (eg during construction, for maintenance, at the start of the morning back-tracking cycle, etc). During this summer-morning period, panels should have a minimum eastwards tilt of 10°.

Council has amended the condition as recommended above.

**Condition
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 (15min) of 5Db(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Applicant's Response:

The Consultant that prepared the Noise Assessment Report requested that this condition be removed as it is not in accordance with the *Interim Construction Noise Guideline*. Noise Management Levels are background +10dB for standard hours and +5dB for out of hours.

Council's Response:

As a Construction Management Plan (CMP) is to be prepared and submitted for approval by Council/Accredited Certifier, which includes the range of mitigation measures as outlined in the Noise Assessment Report, it is considered that this condition can be removed.

7. 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, it is considered that the application can be supported.

8. RECOMMENDATION

That the Development Application 2021/0049 for the Establishment of a 5MW Solar PV Electricity Generation Facility with Associated Infrastructure at 211 Vine Lane, Boggabri NSW 2382 be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report as **Attachment B**.

The following attachments are provided:

- Annexure A - Development Plans including Design, Stormwater Plans and Landscape Plan;
- Annexure B – Recommended Conditions of Consent;
- Annexure C – Internal and External Referral Responses; and,
- Annexure D – Support Documents and Reports.