

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-18
DA Number	DA29/20
LGA	Lockhart
Proposed Development	The proposed development involves the construction and operation of a 10 megawatt (MW) photovoltaic solar farm including installation of a 25MWh battery storage system.
Street Address	119 Lockhart Kywong Road, Lockhart NSW
Applicant/Owner	Better Energy Technology/Samuel Bender
Date of DA lodgement	09/12/2019
Number of Submissions	2
Recommendation	Approval with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Capital Investment Value > \$5M - Private infrastructure and community facilities
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Lockhart Local Environmental Plan 2012 • Lockhart Development Control Plan 2016 • S7.12 Development contributions Plan for the Council of Lockhart Shire • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Primary Production and Rural Development) 2019 • State Environmental Planning Policy No 55—Remediation of Land • State Environmental Planning Policy No 44 - Koala Habitat Protection
List all documents submitted with this report for the Panel's consideration	Appendix 1 - Site Photos Appendix 2 - Site Plan Appendix 3 - Transport for NSW response to concurrence request. Appendix 4 - Essential Energy response to concurrence request. Appendix 5 -Submissions received from public exhibition.
Report prepared by	Alan Gundrill
Report date	18 February 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Not Applicable

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (\$7.24)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

DEVELOPMENT APPLICATION 29/20

Section 4.15 Assessment, Environmental Planning & Assessment Act 1979

Prepared by Alan Gundrill – Manager Environmental Services, Lockhart Shire Council

Lot 2 DP228460 – 119 Lockhart Kywong Road, Lockhart NSW

Applicant: Better Energy Technology

Executive Summary

On 9 December 2019, development application 29/20 was lodged with Council seeking development consent to construct and operate 10-megawatt solar farm and 25-megawatt hour battery storage facility.

Located less than 1 kilometre north of the township of Lockhart NSW, it is proposed there will be 28,000 solar photovoltaic panels installed, in addition to 4 containerised inverters and 6 containers of batteries, with transmission lines connecting to the adjacent electrical substation. The site is zoned RU1 Primary Production, and currently cleared for agriculture purposes – predominantly cropping.

The proposal was placed on public exhibition from 18 December 2019 to 24 January 2020 in accordance with the Lockhart Shire Council Community Participation Plan. Two submissions were received during the notification period, raising concerns about the proximity of the site entry to existing residential developments, and the quality and adequacy of content detailed in the Statement of Environmental Effects which was lodged as part of the application.

Given the likely minimal impact on the natural and built environments, the development application is recommended for approval with conditions which, once implemented, will satisfy local and state regulatory requirements.

Under the State Environmental Planning Policy (State and Regional Development) 2011 the proposal is classified as regionally significant development being 'private infrastructure and community facilities' with a capital investment over \$5 million. Consequently, the development application needs to be determined by a Joint Regional Planning Panel.

Report

Description of Proposal and Location

The development site, identified as Lot 2 DP228460, measures approximately 16 hectares in size, and is located at 119 Lockhart Kywong Road, less than 1 kilometre north of the Lockhart township. Zoned RU1 Primary Production and primarily used for broadacre cropping, the land is gently undulating and generally void of significant pockets of native, remnant vegetation (Appendix 1).

To the northern extent of the subject allotment, it is proposed that approximately 28,000 solar photovoltaic panels installed, in addition to 4 containerised inverters and 6 containers of batteries. Ancillary structures will include a site shed, electrical power poles and transmission lines, and underground water storage tanks.

There is one existing dwelling on the land, which is occupied by the landowner, and there are multiple other occupied dwellings located less than 500 metres from the development site (refer Appendix 2). The site entrance is directly adjacent to the RU5 Village zone of the Lockhart township.

There is an Essential Energy substation located directly adjacent to the development site, while a 45 metre-wide easement, designated for electricity transmission lines, also intersects the site.

The Lockhart Kywong Road, a classified road as defined by the Roads Act 1993, runs along the eastern boundary of the subject site, and provides the only access to the site for all pre and post-construction vehicular traffic.

Community Consultation, Exhibition, Notification and Referrals

Prior to lodgement of the application, the developer hosted multiple community consultation sessions, most recently in November 2019, with more than 100 people attending overall. The developer also engaged with government agencies during preparation of the application, including the Rural Fire Service and Transport for NSW (formerly Roads and Maritime Services).

In accordance with the requirements of the Environmental Planning & Assessment Act 1979 (EP&A Act) and EP&A Regulation the development application and accompanying Statement of Environmental Effects was placed on public exhibition for 28 days from 18 December 2019 until 24 January 2020. A total of 25 adjoining and nearby property owners were notified in writing, and public notices placed in the Daily Advertiser, Border Morning Mail and Eastern Riverina Chronicle newspapers. Notice of the development application was also given to Transport for NSW for their concurrence.

Referral to government agencies

As mentioned, the development application and accompanying documentation has been referred to Transport for NSW for their concurrence, and a copy of their response is included within Appendix 3.

The Transport for NSW have issued their concurrence to the traffic impacts of the proposed development subject to 12 conditions of approval. The documentation received from Transport for NSW indicates that the development satisfies their requirements. Correspondence from Transport for NSW also indicates that they are mainly concerned with the provision of safe access between the subject site and the public road network and the impact of the development on the safety and efficiency of the classified road network that includes the Lockhart Kywong Road (MR370).

Concurrence has been sought from Essential Energy, noting that the state-owned electricity infrastructure company maintains an existing electrical substation directly adjacent to the site, and that their high-voltage electrical transmission lines intercept the site. Essential Energy have provided their concurrence to the development (Appendix 4), on the provision that mitigating conditions be included in the development consent.

Statutory Framework

CONSENT AUTHORITY

In accordance with the EP&A Act, the Southern Regional Planning Panel is the 'consent authority'.

INTEGRATED DEVELOPMENT

The project is not Integrated Development under Section 91 of the EP&A Act.

DEVELOPMENT CONTRIBUTIONS PLAN

Under Section 7.12 (formerly 94A) of the EP&A Act Council has in place a development contributions plan that requires a financial contribution for most development applications. If development consent is granted for the proposal, then a contribution amounting to 1% of the cost of the development is applicable. Based on the cost of development, the value of contributions applicable for this development amounts to \$220,000.

Assessment

The following constitutes an assessment of the proposal against the relevant matters in Section 4.15 (1) of the EP&A Act.

(a)(i) The provisions of any environmental planning instrument

STATE ENVIRONMENTAL PLANNING POLICIES (SEPP's)

State Environmental Planning Policy (Infrastructure) 2007 – (Infrastructure SEPP)

Clause 101 of the Infrastructure SEPP refers to development with frontage to a classified road. The objectives of this clause are—

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

Furthermore, the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

As the proposed development has direct frontage and access to Lockhart Kywong Road (a classified road), the concurrence of Transport for NSW as the appropriate roads authority was sought. Council received concurrence from Transport for NSW on 23 January 2020, along with conditions of consent aimed at minimising potential impacts on the classified road, such as vehicle movements to and from the site, and glare from solar panels. This response enables Council to be satisfied in regards to Section 101(2).

Furthermore, clause 34(1) of the Infrastructure SEPP states that development for the purpose of electricity generating works may be carried out by any person with consent on land in a prescribed rural, industrial or special use zone. Clause 34(7) also states that development for the purpose of a solar energy system may be carried out by any person with consent on any land.

State Environmental Planning Policy (State and Regional Development) 2011 – (State and Regional Development SEPP)

Clause 20 of the State and Regional Development SEPP states that development specified in Schedule 7 is declared to be regionally significant development for the purposes of the Act. As per section 5 of Schedule 7 of the State and Regional Development SEPP, the proposal is classified as private infrastructure and community facilities over \$5 million (with a capital investment value of \$22 million dollars) and is therefore considered to be regionally significant development. This necessitates the application be determined by a JRPP.

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

The aims of the Rural Development SEPP are:

- a) to facilitate the orderly economic use and development of lands for primary production,*
- b) to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water resources,*
- c) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,*
- d) to simplify the regulatory process for smaller-scale low risk artificial waterbodies, and routine maintenance of artificial water supply or drainage, in irrigation areas and districts, and for routine and emergency work in irrigation areas and districts,*
- e) to encourage sustainable agriculture, including sustainable aquaculture,*
- f) to require consideration of the effects of all proposed development in the State on oyster aquaculture,*
- g) to identify aquaculture that is to be treated as designated development using a well-defined and concise development assessment regime based on environment risks associated with site and operational factors.*

The development intends to meet these aims by remaining separated from existing rural dwellings, and not impacting on the ability of adjoining and nearby landholders to carry out normal farming operations. The development is restricted to a comparatively small area of primary production land, and upon decommissioning, the land can revert to farmland with no perceived environmental impacts.

State Environmental Planning Policy No 55—Remediation of Land

SEPP55 requires Council to consider whether land to which a development application relates is potentially contaminated, and whether further investigation/remediation is necessary. Council's records confirm that the subject land is not potentially contaminated because of its use since non-indigenous settlement for broad acre agriculture, being an activity unlikely to result in the contamination of land. Further investigation of the site for potential contamination is not necessary.

State Environmental Planning Policy No 44 - Koala Habitat Protection

The site is located in the Lockhart Local Government Area, to which SEPP44 applies. SEPP 44 requires the consent authority to be satisfied that the development will not be detrimental to core Koala habitat. The statement of environmental effects does not address the requirements of this SEPP.

A part of the site is identified on the Terrestrial Biodiversity map of the Lockhart Local Environmental Plan, with patches of White Cypress Pine, Yellow Box and White Cypress Pine grassy woodland represented. Infrastructure to be installed as part of the proposed development is located away from this vegetation.

An isolated, hollow-bearing Bulloake tree is expected to be removed, however it does not provide significant, suitable Koala habitat. Having regard for the circumstances of the subject land, Council can be satisfied that the proposed development will not impact potential Koala habitat.

LOCKHART LOCAL ENVIRONMENTAL PLAN 2012 (LEP)

Under the LEP the land is within Zone RU1 Primary Production. The objectives of the zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area;*
- *To minimise the fragmentation and alienation of resource lands; and*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

2.3 Zone objectives and Land Use Table

In Zone RU1 “electricity generating works” (the definition to which the proposed development is most suitable) are prohibited. However, Clause 34(1) of the Infrastructure SEPP states that development for the purpose of electricity generating works may be carried out by any person with consent on land in a prescribed rural, industrial or special use zone. Clause 8(1) of the Infrastructure SEPP states that where there is an inconsistency between it and any other environmental planning instrument (including the Lockhart LEP), the SEPP prevails to the extent of the inconsistency.

The application has responded to the objectives of the zone through its proposed operations and management, detailed in the SEE.

6.2 Terrestrial biodiversity

A part of the lot subject to the development is identified on the Terrestrial Biodiversity map of the Lockhart Local Environmental Plan. The specific site of the development is on an area that is not mapped, however, as it has been largely subject to clearing and decades of broadacre farming activities. The development as proposed is not expected to have any significant effect on any existing, remnant vegetation, that is located on or adjacent to the lot.

(a)(ii) Any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority

Proposed new Remediation of Land SEPP. The changes to existing SEPP 55 proposed by this draft EPI have no bearing on the application.

(a)(iii) Any development control plan

LOCKHART SHIRE DEVELOPMENT CONTROL PLAN 2016

The Lockhart Shire Council Development Control Plan 2016 contains development control measures that are aimed at achieving the following:

- to reflect the objective of the Environmental Planning and Assessment Act 1979 (EP&A Act);
- to assist in the administration of Lockhart Local Environmental Plan 2012 (LEP); and
- to provide good planning outcomes for development in the shire.

Environmentally sensitive areas

A part of the land subject to the proposed development is identified on the Terrestrial Biodiversity map of the Lockhart Local Environmental Plan. However, the development itself is not expected to have any significant impact on terrestrial biodiversity, except for one existing tree which appears to be in poor condition and is under threat from constant farming activities. The site overall is not considered to be an environmentally sensitive area.

Erosion and sediment control

Erosion is likely to result from recurring traffic movements during the construction stage of the development, as well as from the installation of solar panels and rainwater storage tanks, and Council will require erosion and sediment controls to be established prior to commencement of works, and maintained, to ensure the impacts of erosion are minimized. There is no intention to

undertake ground clearing or land forming activities as part of the development. There are no waterways within close proximity to the site.

Rural Development

A review of the development control plan has been undertaken and the solar farm and battery storage facility does not contravene any of the requirements contained within the *Rural Development* chapter Development Control Plan.

(a)(iia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

Currently there are no planning agreements or draft planning agreements that have been offered by the developer.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

Assessment of the development proposal against the provision of the Environmental Planning and Assessment Regulations 2000 has revealed that the development proposal was notified in accordance with the requirements of the Regulations and that there are no other matters that affect the proposed development.

(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

The following table is an assessment against these impacts.

<p>Context and Setting:</p> <p>What impact the development will have (in both the regional and local context) in terms of:</p> <ul style="list-style-type: none"> • The scenic qualities and features of the landscape. • The character and amenity of the locality and streetscape. • The scale (bulk, height, mass) form, character, density and the design of the development in the locality. <p>What the potential impacts of the development are on adjacent properties in terms of:</p> <ul style="list-style-type: none"> • Relationship and compatibility of adjacent land uses. • Sunlight access (overshadowing). • Visual and acoustic privacy. • Views and vistas. • Edge conditions such as boundary treatments and fencing. 	<p>The proposal does represent a significant change to the rural landscape, which will change from cleared farmland to a large-scale electrical installation. The visual impact of such a change is subjective, and adjoining landholders have been notified of the proposed development.</p> <p>Infrastructure forming part of the development is generally low-lying and follows the contour of the land. There is an existing vegetation buffer around one side of the site which provides minimal screening from the Lockhart Kywong Road. A visual impact assessment of the development considers the landscape character of the vicinity and impacts to viewpoints. It concludes that a low or low-moderate visual impact will result with the aid of some existing natural vegetative screening, and a series of basic mitigation measures.</p> <p>Surrounding land remains cleared agricultural land with no significant structures, so the impacts of shadowing are negligible.</p>
<p>Access, transport and traffic</p> <p>Will the development provide:</p> <ul style="list-style-type: none"> • Accessibility and transport management measures for vehicles, bicycles and the 	<p>Road impact following construction of the development is expected to be minimal. However, there will be an increase in the number of heavy vehicles travelling through the Lockhart township and most especially along Lockhart Kywong Road during</p>

<p>disabled within the development and locality.</p> <ul style="list-style-type: none"> • Safe vehicular access points. <p>What impacts will occur on:</p> <ul style="list-style-type: none"> • Traffic generation and the capacity of the local and main road network. • Ribbon development along roads. • Road surfaces. • Any traffic management schemes. • Vehicle parking spaces. 	<p>construction. Council's roads are pre-approved for heavy traffic to a certain size, with road manager approval required for any alternate route proposals.</p> <p>Council conduct a condition assessment of Lockhart Kywong Road prior to construction commencing and any deterioration of the road as a result of the development will be required to be repaired following completion of construction, to the satisfaction of Council.</p>
<p>Public Domain</p> <p>How the development would impact on:</p> <ul style="list-style-type: none"> • Public recreational opportunities in the locality. • Amount, location, design use and management of public spaces in and around the development. • Pedestrian linkages and access between development and public areas. 	<p>The proposed development is to be established and operated on private land, with access directly to a public road. The site is located away from the Lockhart township and any common public recreation areas or domains.</p>
<p>Utilities</p> <p>Does the development address:</p> <ul style="list-style-type: none"> • The availability and capacity of reticulated water supply, sewer, electricity and gas networks to accommodate the needs of the development. • The need to connect to reticulated utility services. • The appropriateness of alternatives to reticulated utility services. • The impact of utility provision on the environment. 	<p>It is anticipated that there will be minimal pressure on existing reticulated services, such as electricity, or water. No connection to mains water is required for the construction or operation of the site, with non-potable water sourced and trucked to site for dust suppression and cleaning of panels.</p> <p>The existing Essential Energy substation is located directly adjacent to the site, and consists partly of high voltage above-ground transmission lines which intersect the development site. The lines are protected by an easement, and concurrence has been sought from Essential Energy regarding works proposed on the site.</p>
<p>Heritage</p> <p>How the development would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic heritage significance of the property or adjacent properties, including:</p> <ul style="list-style-type: none"> • The heritage significance of items, landscapes, areas, places, relics and practices. • Whether a heritage study of the item or area is necessary to address any impact. 	<p>The Lockhart Local Environmental Plan 2012 does not identify any items of historical significance, including heritage conservation areas, on or within the vicinity of the site of the proposed development.</p> <p>A due diligence assessment for aboriginal cultural heritage was undertaken on the site and submitted with the application. No significant areas or archeological artifacts were identified as part of the assessment, most likely cleared as a result of an extensive farming history. The site may form part of an overall area of significance, used for hunting or gathering.</p>

<p>Land Resources</p> <p>Whether the development will have any effect on:</p> <ul style="list-style-type: none"> • The current and potential agricultural productivity of the land. • Reducing the area of available crop and pasture land. • The future recovery from known sources of minerals, sand, gravel or other extractive materials. • The ability of adjoining land to continue with agricultural activity. • Water supply catchments. • Land rehabilitation works. 	<p>The land has an extensive history of being used for agricultural purposes – predominantly cropping. As the development does not involve construction of permanent or potentially contaminating structures or activities, the land is reclaimable as farmland at the end of project life. Until such time, however, use of the land for cropping will not be possible, replaced instead by potential light grazing by livestock at the land managers discretion.</p> <p>No extraction of soil or minerals is proposed. Minimal land forming is required for site establishment, being required only for placement of shipping containers and construction of site shed.</p>
<p>Water</p> <p>Whether the development will impact on:</p> <ul style="list-style-type: none"> • The water needs of the development and the locality. • Water conservation using water saving or efficient devices or practices. • The source of water supply on the site and the locality. • Water quality through treatment, reuse and disposal of waste water and run-off. • Drainage flows within and from the site. • Groundwater. 	<p>No mains reticulated water is required for construction, operation or maintenance of the site. The developer proposes stormwater diversion drains for capture of overland flow of water, to be used for cleaning of panels and dust suppression during the construction phase. This water will either be captured on-site or trucked to the site. No groundwater extraction is required.</p> <p>Photovoltaic panels are spaced apart in rows, and there is ample opportunity for natural water infiltration into the soil profile.</p> <p>The land is not identified as being prone to flooding.</p>
<p>Soils</p> <p>Whether the development will impact on:</p> <ul style="list-style-type: none"> • soil qualities – erodability, salinity, fertility, contamination. • soil erosion and degradation. • sedimentation and pollution of water bodies. • agricultural productivity. • existing contaminated land. 	<p>There are no known records of soil contaminating activities on the site, nor will any such contamination result as a result of the proposed development. There are no known acid sulphate soils on the site, nor are there any significant salinity, erosion or waterlogging issues.</p> <p>Some erosion and soil compaction may result from heavy vehicle movements on the site during construction and maintenance.</p>
<p>Air</p> <p>Whether the development will impact on existing air quality through emissions of dust particles, fumes, gases and pollutants.</p> <p>What measures are proposed to prevent air pollution.</p>	<p>The site is in a rural setting, with reasonable air quality. Dust is likely to be a major issue during site establishment and construction, with water carts proposed as a mitigation measure for dust suppression.</p> <p>Otherwise, the proposed development will have negligible impact on the air and associated microclimate.</p>
<p>Flora and fauna</p>	<p>The site has been largely cleared of native vegetation for agricultural purposes. There are</p>

<p>Does the development address:</p> <ul style="list-style-type: none"> • protection and management of critical habitats and threatened species. • adjacent areas of natural habitat. • wildlife corridors and remnant vegetation. • weeds, feral animal activity vermin and disease. • native fauna and habitats. • the removal of native vegetation. • rehabilitation of natural habitat. 	<p>some existing remnant patches of vegetation on the site which will remain unaffected. There is one native Buloke (<i>Allocasuarina</i>) tree which is to be removed. The tree is in poor condition and is under threat from repeated agriculture activities. If the tree is cleared of hollow-bearing birds and mammals, it could be removed without causing a serious impact on the natural environment.</p>
<p>Waste</p> <p>Does the development provide appropriate waste facilities and controls for:</p> <ul style="list-style-type: none"> • solid, liquid and gaseous wastes and litter. • the generation, collection, storage and disposal of waste. • recycling and composting waste. • On-site disposal waste where reticulated sewer is not available. 	<p>While Council maintain a small unlicensed waste management facility within close proximity to the development site, the facility is not capable of receiving the anticipated large waste volumes resulting from the construction phase of the development. Photovoltaic panels are individually wrapped, leading to a large volume of (potentially) recyclable material. Furthermore, poor manufacturing leads to a shortened lifespan of panels, which will eventually be discarded and replaced. Currently there are no recycling initiatives in place for solar panels. Expired panels and associated packaging, along with all waste produced from the developed is proposed to be either taken to a recycling facility or taken to landfill in accordance with a Waste Management Plan.</p> <p>At the end of the 25-year lifespan a large volume of waste material will result from the decommissioning.</p>
<p>Noise</p> <p>Does the development have regard to the impact on</p> <ul style="list-style-type: none"> • ambient noise levels in the locality, considering prevailing meteorological conditions. • adjoining property. • hours of operation or duration of any noise generating source. 	<p>Despite the rural setting of the site, noise remains a likely issue which will be observed from the development - most prominently observed during the construction phase. The flat and open terrain, and close vicinity to existing residential premises suggests that traffic movements from large freight transport vehicles and earthmoving equipment will be audible from the site. Furthermore, it is anticipated the major contributor for noise will be observed as part of the panel installation, whereby steel mounting posts will be driven into the ground to support the panels. Noise levels will well exceed typical background noise levels for open agricultural areas.</p> <p>The developer states that construction times will be restricted to standard working hours, and a noise management plan prepared as part of the development will help to identify any mitigation measures</p>

<p>Natural Hazards</p> <p>If the land is prone to flooding, is the land likely to:</p> <ul style="list-style-type: none"> • be above the one percent flood level. • change the flow of floodwaters to the detriment of other property. • endanger life or property in times of flood. • exacerbate the damage caused by floodwater. • pollute floodwaters. • maintain access in times of flood. • be capable of withstanding the force of floodwaters. <p>If the land or the development is considered to be a medium or high bushfire hazard, is there adequate:</p> <ul style="list-style-type: none"> • access for fire fighting vehicles. • precautions by way of fire breaks, escape routes, fire resistant building materials and the like. • water reserves available for fire fighting. 	<p>The Lockhart Local Environmental Plan 2012 identifies the subject site as land that is not subject to flooding. Furthermore, in accordance with the Lockhart Flood Study and Floodplain Risk Management Study and Plan, the land is neither in a flood planning area, and nor do flood planning controls apply.</p> <p>In conjunction with the NSW RFS Bushfire prone land mapping, the Lockhart Local Environmental Plan 2012 identifies the subject site as land as not being on bushfire prone land. Arguably, the site may be considered grassland in addition to managed land, and therefore still constitutes a fire threat. In consideration of these circumstances, the developer proposes the installation of water tanks on the site perimeter for firefighting purposes.</p>
<p>Social</p> <p>What impacts will the development have in terms of:</p> <ul style="list-style-type: none"> • the health and safety of the community. • community structure, character, values and beliefs. • community facilities. • population growth. 	<p>The project proposes generation of cleaner energy production for residents, with greater national energy security and potential for cost savings for end users.</p> <p>Contributions levied through the development provide opportunities for investment back into the local government area, on key infrastructure renewal and upgrade projects.</p>
<p>Economic</p> <p>What impacts will the development have in terms of:</p> <ul style="list-style-type: none"> • employment generation. • capital investment. • other businesses. • economic growth. 	<p>Opportunities for short term employment are available for both local and regional skilled workers and labourers, predominantly during the construction phase of the project.</p> <p>With the increase in new workers, there is potential for positive economic stimulation for existing local and regional businesses and service providers.</p>

Suitability of the site

The site is suitably positioned to take advantage of the relatively flat, open and cleared terrain, and with reasonable access to a well-managed road and transport infrastructure network. While located in close proximity to the residential zone of the Lockhart village, there is some existing vegetation along the allotment boundary, providing some natural screening between neighbours, road users and the solar panel infrastructure.

The existing electrical substation is directly adjacent to the subject site, thereby requiring minimal infrastructure to enable connection of the inverters to the electricity grid.

Any Submissions Made in Accordance with the Act or the Regulations

Two written submissions were submitted to Council in response to the notification of the development undertaken in accordance with the EPA Act and EPA Regulations.

Respondent	Concerns raised	Council response
G & S Smyth 117 Lockhart Kywong Road, Lockhart	Concerns regarding dust and noise from traffic entering the site directly adjacent to their existing dwelling house.	The site assessment by Council staff confirm that this is a likely issue. As a measure to mitigate the effects of noise, hours for construction and operation of the site shall be restricted. Furthermore, Transport for NSW require the access driveway to be sealed for at least 50 metres from the edge of Lockhart Kywong Road. Council will require the driveway to be sealed for an additional 100 metres, thereby extending well beyond the existing dwelling owned by the Smyth family and minimising the effects of dust.
M Talent Lot 110 Mid Western Highway, Hay	<p>What is the declared value of the project? Page 56 of the SEE indicates the development will cost \$29.5m while it appears the declared value is only \$22m. Which is the correct value?</p> <p>In what way is the project a “micro-grid”? It appears to be a standard distribution connected solar farm on the Essential Energy owned network.</p> <p>The noise assessment appears inadequate. Why were other receivers not considered? Other receivers would expected to receive significant disturbance during construction, but these receivers have not been included in the assessment. Why has only 1 receiver been considered? Why have road users and other neighbours not been considered?</p> <p>Why were the following standards not considered? AS2436, AS61672, AS60942, AS1055. Typically software is used perform</p>	<p>The capital investment value of the development application as submitted to Lockhart Shire Council was \$22,000,000.</p> <p>The town will remain connected to the grid but will be supplied by local renewable energy sources.</p> <p>Noted. Given the rural setting of the site and straightforward construction of the development, the noise assessment is sufficient for Council staff to perform their due diligence. Adjoining and nearby residents were notified of the development during the public exhibition period, and with no issues raised regarding noise.</p> <p>Noted. Given the rural setting of the site and straightforward construction of the</p>

	<p>calculations in accordance with ISO9613. What software was used?</p> <p>What are the expected traffic volumes during construction? The stated volumes do not appear consistent with the number of daily workers. The SEE mentions 50 workers but traffic volumes of only 15 personnel are considered.</p> <p>Why has no glint and glare assessment been completed? The fixed tilt array increases the likelihood of glare from the panels at certain times of day. This could be a problem for road users and neighbours.</p> <p>What are the set backs to neighbouring land? Why are these not shown on the general arrangement?</p>	<p>development, the noise assessment is sufficient for Council staff to perform their due diligence.</p> <p>Noted. The applicant confirms in the Statement of Environmental Effects that the traffic volumes are expected to be 3 heavy vehicles and 4 light commercial vehicles per day during the peak construction period.</p> <p>The applicant addresses glint and glare as part of the visual assessment of the development. The land and surroundings are generally flat, and the panels low rise and designed to not reflect light. Some screening is provided along Lockhart Kywong Road via native vegetation. Assessments of public and private viewpoints have indicated low impact.</p> <p>The proposed development will be set back 250 metres from adjoining land to the north, and is separated from adjoining land to the east by a public road reserve. All adjoining landholders have been notified as part of the public exhibition period.</p>
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The Public interest

Once constructed, it is expected that the solar farm will generate a cleaner and more affordable source of electricity in a local capacity, giving residents a sense of ownership and accountability for their energy usage. Reducing dependence on non-renewable sources of energy is also in the public interest. The public have been consulted extensively during the initial project design, and it is anticipated that there are no significant impacts on the livelihood of adjoining residents or the surrounding community.

In this instance, the project has potential to deliver an economic boost to the town, at least during the site establishment and construction phase, and upon decommission, the infrastructure is entirely removable, indicating that there is no permanent loss of productive farmland from within the district.

Based on this assessment, it can be determined that the proposed development is not inconsistent with the public interest.

Conclusion

In making a decision as the consent authority under the EP&A Act, the Panel can:

1. approve the application, subject to conditions;
2. defer the application for further information; or
3. refuse the application.

After considering the requirements of Section 4.15(1) of the EP&A Act, the proposal is recommended for approval subject to conditions.

Recommendation:

That the NSW Southern Regional Planning Panel approve the application for development consent 29/20 for the construction of a solar farm and battery storage facility on Lot 2 DP 228460, located at 119 Lockhart Kywong Road, Lockhart NSW, subject to the following conditions:

1. **COMPLIANCE WITH THE BUILDING CODE OF AUSTRALIA**
All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant Construction Certificate or Complying Development Certificate was made). This provision applies irrespective of the details contained in or omitted from the plans and specifications.
2. **COMPLIANCE WITH PLANS AND CONDITIONS**
The development shall take place in accordance with the approved Statement of Environmental Effects – SY19082 Lockhart Microgrid Stage 1, by Pitt and Sherry, dated 5 December 2019, and accompanying information, except as modified in by Council and/or any conditions of this consent.
3. **SIGNS TO BE ERECTED ON ALL BUILDING AND DEMOLITION SITES**
Prior to works commencing, a sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - stating that unauthorised entry to the site is prohibited, and
 - showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside work hours
 - the development consent or complying development consent number, the name and contact details of the Principal Certifying Authority.

Any sign must be removed when the work has been completed.

REASON: To ensure the development complies with the requirements imposed under the Environmental Planning and Assessment Regulations 2000, as amended, and the Environmental Planning and Assessment Act 1979, as amended.

4. **NOTICE OF COMMENCEMENT OF WORKS**
At least two (2) days prior to the commencement of any works, notice of commencement of building or subdivision works is to be provided to Council and, in the event of a private certifier, the principle certifying authority.

REASON: Because it is in the public interest that Council receive notification in accordance with the provisions of the Environmental Planning and Assessment Act 1979, as amended.

5. SITE DIMENSIONS AND MEASUREMENTS

It is the responsibility of the owner of the land to ensure that all site dimensions and measurements are accurate.

6. LOADING OF VEHICLES (DURING WORKS)

For the purposes of safety and preventing obstruction, all vehicles being loaded and/or unloaded shall stand wholly within the premises.

7. ADVERSE EFFECTS

The development is to be carried out in a manner so as not to cause any adverse effects or interfere with the amenity of the neighbourhood by way of smoke, fumes, exhausts, dust, noise or the like.

8. PROTECTION TO COUNCILS ASSET

The applicant shall ensure that suitable protection is given to the Council's assets, including paving, to ensure no damage is incurred during activities on the site. The applicant shall be responsible for any re-instatement costs incurred.

9. EROSION & SEDIMENT CONTROL

Prior to commencement of works erosion & sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. Such measures are to remain in place until the project has been completed and the land suitably rehabilitated and stabilised.

10. TOILET FACILITIES

Prior to the commencement of any works on site, toilet facilities are to be provided at or in the vicinity of the work site.

11. BUILDING DEBRIS

Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind-blown. All building debris and rubbish shall be removed to an approved waste disposal facility.

12. PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

No works may commence on the site prior to the issue of a construction certificate by a Certifying Authority. The Certifying Authority can be either Lockhart Shire Council or an Accredited Certifier. All necessary information to comply with the following conditions of consent must be submitted with the application for a construction certificate.

13. SECTION 7.12 LEVY DEVELOPMENT CONTRIBUTIONS

Prior to the issue of a construction certificate, a receipt for the payment to Lockhart Shire Council of Section 7.12 Levy Contributions shall be submitted to the Certifying Authority.

The Section 7.12 Levy is calculated at 1% of the cost of development, as determined at the date of this consent. The total contribution to be paid has been calculated at \$220,000.

NOTE: This amount may change if there is a delay with payment of the levy, as the cost of works is to be indexed before payment to reflect quarterly variations in the Consumer Price Index (CPI).

14. WASTE MANAGEMENT

A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site. The waste management plan must:

- (a) identify all waste (including excavation, demolition and construction waste materials) that will be generated by the work on the site, and
- (b) identify the quantity of waste material in tonnes and cubic metres to be:
 - i) reused on-site, and
 - ii) recycled on-site and off-site, and
 - iii) disposed of off-site, and
- (c) if waste materials are to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
- (d) if waste materials are to be disposed of or recycled off-site—specify the contractor who will be transporting the materials and the waste facility or recycling outlet to which the materials will be taken.

15. PONDING TO NEIGHBOURS (DURING CONSTRUCTION)

All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.

16. DRIVEWAY CONSTRUCTION

As a minimum the driveway providing site access shall be sealed for at least 150 metres into the property from the allotment boundary, to the satisfaction of Council.

17. TRANSPORT FOR NSW CONDITONS

- 17.1 The proposed development shall be accessed via the existing driveway from Lockhart-Kywong Road. Creation of additional driveways from Lockhart-Kywong Road to access the proposed development shall not be permitted.
- 17.2 As a minimum the driveway to Lockhart-Kywong Road shall be constructed as a “Rural Property Access” type treatment in accordance with the Austroads Guide to Road Design as amended by Transport for NSW supplements. The driveway shall be designed and constructed so that vehicles turning between Lockhart-Kywong Road and the driveway are not required to cross to the opposing travel lane in order to perform a turning maneuver.
- 17.3 As a minimum the new driveway shall be sealed for 50 metres from its intersection with the carriageway of Lockhart-Kywong Road in accordance with the Austroads Guide to Road Design to the satisfaction of Council.
- 17.4 The intersection of the proposed access driveway with Lockhart-Kywong Road shall be designed and constructed so as not to interfere with the capacity of the current roadside drainage network and to prevent water from proceeding onto, or ponding within, the carriageway. If a culvert is to be installed and is to be located within the required clear zone for the posted speed limit it is to be constructed with a traversable type headwall.
- 17.5 The entry gate to the proposed allotment from Lockhart-Kywong Road shall be located at least 30 metres from the edge of seal of the carriageway. This is to allow for the standing of large vehicles when gates are to be opened.

- 17.6 Any damage or disturbance to the road reserve of Lockhart-Kywong Road is to be restored to match surrounding landform in accordance with Council requirements. Any redundant driveways or gates to the subject property from Lockhart-Kywong Road shall be removed.
- 17.7 A management plan to provide measures to suppress dust generation from the development site and the transportation route shall be prepared and implemented to the satisfaction of Council and Transport for NSW.
- 17.8 No external lighting of any infrastructure associated with the project is permitted at night that may cause distraction to road users other than low intensity security lighting.
- 17.9 Glint and glare from the solar panels shall not cause a nuisance, disturbance or hazard to the travelling public on the public road network. In the event of glint or glare from the solar plant being evident from a public road, the proponent shall immediately implement glare mitigation measures such as construction of a barrier (e.g. fence) or other approved device to remove any nuisance, distraction and/or hazard caused as a result of glare from the solar panels.
- 17.10 Prior to the commencement of construction on-site, the Proponent must undertake all works to upgrade any road, its associated road reserve and any public infrastructure in that road reserve, to a standard suitable for use by heavy vehicles to meet any reasonable requirements that may be specified by the relevant roads authority. The design and specifications, and construction, of these works must be completed and certified by an appropriately qualified person to be to a standard to accommodate the traffic generating requirements of the project. On Classified Roads the geometric road design and pavement design must be to the satisfaction of Transport for NSW.
- 17.11 Any works within the road reserve of the Lockhart-Kywong Road requires approval under Section 138 of the Roads Act, 1993 from the road authority (Council) and concurrence from Transport for NSW prior to commencement of any such works. The developer is responsible for all public utility adjustment/relocation works, necessitated by the development and as required by the various public utility authorities and/or their agents.
- 17.12 Any works associated with the development shall be at no cost to Transport for NSW.
18. ESSENTIAL ENERGY CONDITONS
- 18.1 No infrastructure is to be placed in Essential Energy's easement.
- 18.2 Road access to the solar farm will cross Essential Energy's 22kV and 66kV powerlines. if any works are to be completed on this access then Essential Energy will require confirmation that the ground clearance to the powerline meets Essential Energy's design requirements.
- 18.3 If the proposed development changes, there may be potential safety risks and Essential Energy shall be consulted for further comment.
- 18.4 Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

- 18.5 In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location 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.
- 18.6 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).
- 18.7 Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.