

## DETERMINATION AND STATEMENT OF REASONS

### SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Tuesday, 14 April 2020
<b>PANEL MEMBERS</b>	Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and Andrew Crakanthorp
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p>Rodger Schirmer: Has previously expressed in principle for the project.</p> <p>Greg Verdon: Has previously expressed in principle for the project.</p> <p>Peter Veneris: Has previously expressed in principle for the project.</p> <p>Johan Louw: Will be presenting to the panel as the assessing officer.</p> <p>Andrew Crakanthorp: I am in a friendship with the people who live in Lockhart and have relatives of my wife's family who live in Lockhart. I am not conflicted by those relationships as those people mentioned are not associated directly with the applicant or the DA itself.</p>

Public meeting held at Teleconference Call on 14 April 2020, opened at 10:30am and closed at 11:00am.

#### MATTER DETERMINED

PPSSTH-18 – Lockhart Shire Council – DA29/20 at 119 Lockhart Kywong Road, Lockhart – The proposed development involves the construction and operation of a 10 megawatt (MW) photovoltaic solar farm including installation of a 25MWh battery storage system. (as described in Schedule 1)

#### PANEL CONSIDERATION AND DECISION

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

#### Development application

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

The decision was unanimous.

#### REASONS FOR THE DECISION

- The proposed development is permissible with consent by virtue of *State Environmental Planning Policy (Infrastructure) 2007*;
- The site is suitable for the development, taking into consideration the proximity of the site to existing electricity infrastructure;
- The proposed development is consistent with Direction 11 of *Riverina Murray Regional Plan 2036* that promotes the diversification of energy supplies through encouraging renewable energy projects;
- The visual impact of the proposed development can be suitably screened from public roads by setbacks and enhanced landscaping;
- Construction traffic impacts are able to be managed through the implementation of road upgrades at the intersection of the site and the Lockhart Kywong Road and the implementation of a Construction Environmental Management Plan;
- A condition of consent will require the proponent to decommission the development and return the site to agricultural land at the end of its operational period.

## CONDITIONS

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

- Amend the wording of Condition 5:

### 5. SITE DIMENSIONS AND MEASUREMENTS

*Prior to the issue of a Construction Certificate for the development, the Applicant shall submit for Council approval revised plans for the development with accurate site dimensions and measurements including the location of inverters, batteries and ancillary structures, the perimeter fence, setbacks from the boundary for landscaping, distances between rows of solar panels and vehicular access routes within the site.*

- Amend Condition 7 to require the submissions of a Construction Environmental Management Plan:

### 7. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

*A Construction Environmental Management Plan (CEMP) is to be prepared and submitted for approval by Council/Accredited Certifier. The Plan must be implemented during the construction of the solar electricity system and must include the range of measures as outlined in the approved SEE which include but are not limited to:*

- a) Construction Traffic Management;*
- b) Waste Management;*
- c) Erosion and Sediment Control;*
- d) Noise Management;*
- e) Dust Management;*
- f) Construction Hours;*
- g) Complaints handling.*

- Amend Condition 16 to specify the standard for the access road construction:

### 16. DRIVEWAY CONSTRUCTION

*As a minimum, the driveway providing site access shall be a 6 metre wide, 2 coat sealed road for a distance of at least 150 metres into the property from the allotment boundary, to the satisfaction of Council.*

- Include a new condition requiring the preparation and implementation of a Site Environmental Management Plan:

### SITE ENVIRONMENTAL MANAGEMENT PLAN

*A Site Environmental Management Plan (SEMP) shall be submitted to Council for endorsement prior to the issue of any Occupation Certificate. The SEMP shall address, at minimum, the following issues:*

- a) Operation*
- b) Bushfire management*
- c) Noise management;*
- d) Dust management;*
- e) Weed and vermin management;*
- f) Traffic Management;*
- g) Written notification to Council when decommissioning is to take place.*

- Include a new condition requiring the provision of a Landscape Plan to address visual screening of the development:

### LANDSCAPE MANAGEMENT PLAN

*A Landscape Management Plan shall be submitted to and approved by Council prior to the issue of the Construction Certificate for Building works. The landscape plan will address tree planting within*

*the property in the buffer area between the development and the Lockhart Kywong Road Reserve. The plan shall include details of tree planting of native tree species and shrubs that are suitable - in terms of height, density of foliage for the screening of the solar panels from the Lockhart Kywong and dwellings on adjoining properties. The plan shall include a Management Program to ensure adequate maintenance for sustained growth and effectiveness of the native trees and shrubs to provide a visual screen.*

- Include a new condition requiring decommissioning of the site:

#### **DECOMMISSIONING**




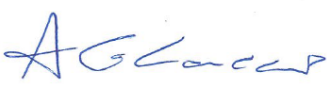
*Within 18 months of the site being decommissioned, the site shall be returned, as far as practicable, to its condition prior to the commencement of construction including the restoration of land capability to pre-existing agricultural use. All solar panels and associated above ground structures including but not necessarily limited to, the battery storage facility, inverters, site facilities building and electrical infrastructure, including underground infrastructure to a depth of 300 millimetres, shall be removed from the site and disposed of appropriately unless otherwise agreed by the Council. All other elements associated with the project, including site roads, shall be removed unless otherwise agreed to by the Council.*

#### **CONSIDERATION OF COMMUNITY VIEWS**

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

- Dust and noise associated with traffic using the access road
- Road safety associated with the proximity of the site access intersection on the Lockhart Kywong Road and a private driveway,
- Construction noise assessment
- Traffic volumes during construction
- Glint and glare associated with the development
- Lack of clarity on setbacks to adjoining land.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and through additional conditions of consent and that no new issues requiring assessment were raised during the public meeting. The panel notes that in addressing these issues appropriate conditions have been imposed addressing these issues including the requirement for a Construction Environmental Management Plan, sealing of the site access road for 150m and the requirement for a Landscape Management Plan and Site Environmental Management Plan.

PANEL MEMBERS	
 Gordon Kirby (Chair)	 Renata Brooks
 Tim Fletcher	 Andrew Crakanthorp

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-18 – Lockhart Shire Council – DA29/20
2	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.
3	STREET ADDRESS	119 Lockhart Kywong Road, Lockhart NSW
4	APPLICANT/OWNER	Better Energy Technology/Samuel Bender
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Lockhart Local Environmental Plan 2012</li> <li>S7.12 Development contributions Plan for the Council of Lockhart Shire</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Primary Production and Rural Development) 2019</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy No 44 – Koala Habitat Protection</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Lockhart Development Control Plan 2016</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 18 February 2020</li> <li>Written submissions during public exhibition: 2</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>In support – Rodger Schirmer</li> <li>In objection – Sarah Smyth</li> <li>Council assessment officer – Johan Louw</li> <li>On behalf of the applicant – Gordon Hinds</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<p>Final briefing to discuss council's recommendation, Tuesday, 14 April 2020 9:30am. Attendees:</p> <ul style="list-style-type: none"> <li><u>Panel members</u>: Gordon Kirkby (Chair), Tim Fletcher, Renata Brooks and Andrew Crankanthorp</li> <li><u>Council assessment staff</u>: Johan Louw</li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report