

Attachment 5: Draft Conditions of Consent

Draft Conditions – DA0283/2019 – Gulgong Solar Farm – 129 Old Mill Road, Gulgong

APPROVED PLANS

1. The development is to be carried out generally in accordance with the following stamped plans except where amended as required by the following conditions. Approved documentation may include any Planning or Engineering reports submitted with and in support of the Application as detailed below.

Drawing No.	Plan Title	Sheet	Date
GLG2A-G-040, REV 1	Location Plan	-	11/10/2019
GLG2A-G-210, REV 2	General Arrangement	-	11/10/2019
GLG2A-C-130, REV 2	Site Elevation	-	11/10/2019
GLG2A-E-341, REV 1	Typical Array Detail	-	11/10/2019
GLG2A-E-430, REV 1	Typical Inverter Station Detail	-	11/10/2019

Any minor modification to the approved plans other than as required by following conditions will require the lodgement and consideration by Council of amended plans and lodgement of a Modification Application.

2. For clarity, this development consent provides approval for a 5MW electricity generating works (solar farm) with ancillary infrastructure. No battery storage or advertising signage is authorised by this development consent.

GENERAL

3. All vehicular traffic associated with the construction and use of the development must travel to and from the site using Caledonia Street, Rouse Street and Old Mill Road. No access is permitted directly to the site from the Castlereagh Highway or from the western end of Old Mill Road.
4. There shall be no clearing of native vegetation other than to the extent nominated within the application without the prior consent of Council.
5. The land to the west of Lot 460 DP755434 forms part of a Crown Reserve (R755434 for Future Public Requirements) and the land to the east of Lot 464 DP755434 is a Crown road. The Applicant is to ensure that there are no works on or occupation of these lands as part of the proposed development without the prior approval of the NSW Department of Industry – Crown Lands.
6. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment, Energy and Science (OESS) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the (OESS).
7. All earthworks, filling, building, driveways or other works, are to be designed and constructed to ensure that at no time any ponding of stormwater occurs on the subject

site or adjoining land as a result of this development. Design must also ensure that no diversion of runoff onto other adjacent properties occurs.

8. The only waste derived fill material that may be received at the development site must be:
 - Virgin excavated natural material, within the meaning of the *Protection of the Environment Operations Act 1997*; and
 - Any other waste-derived material the subject of a resource recovery exemption under cl.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.
9. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
10. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to Council's satisfaction and at no cost to Council.
11. Where required, all private sanitary drainage and water supply works which require Council's permit and private stormwater drainage works must be carried out in strict accordance with AS/NZS 3500, Plumbing and Drainage Act 2002 and Plumbing and Drainage Regulations to the complete satisfaction of the Plumbing and Drainage Inspector.
12. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the Protection of the Environment Operations Act 1997.
13. Where required, the developer must construct at no cost to Mid-Western Regional Council all external roadwork, external stormwater drainage, external water infrastructure and external sewerage infrastructure where necessary that may be required to service the development.
14. The Applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Registry Services and Council.
15. To reduce the likelihood of air emissions, dust and noise impacts, the Applicant shall ensure that all the plant and equipment used at the site is:
 - a) maintained in a proper and efficient condition; and,
 - b) operated in a proper and efficient manner.
16. The developer and / or the landowner, as relevant, is responsible for all costs associated with construction and rehabilitation of the site.
17. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009), or its latest version.

18. The Applicant must minimise the dust generated by the development at all times.

19. The Applicant must:

- minimise the off-site visual impacts of the development, including the potential for any glare or reflection;
- ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
- not mount any advertising signs or logos on site, except where this is required for identification or safety purposes.

20. The Applicant must establish and maintain a mature vegetation buffer around the site to the satisfaction of Council.

21. The Applicant must:

- ensure the solar panels and ancillary infrastructure (including security fencing) are designed, constructed and maintained to reduce impacts on localised flooding and groundwater at the site;
- minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version; and
- ensure the solar panels and ancillary infrastructure are designed, constructed and maintained to avoid causing any erosion on site.

22. The Applicant must:

- a) minimise the fire risks of the development;
- b) ensure that:
 - there is defensible space of at least 10 metre around the perimeter of the solar arrays that permits unobstructed vehicle access;
 - the defensible space and solar array areas are managed as an Asset Protection Zone;
 - the development complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection (or equivalent)* and *Standards for Asset Protection Zones*;
 - the Asset Protection Zone for the development is wholly contained within the development footprint;
 - the development is suitably equipped to respond to any fires on site including provision of a minimum of 20,000 litre water supply tank fitted with a 65 mm Storz fitting and compatible suction connection located adjacent to the internal access road.
- c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
- d) notify the relevant local emergency management committee following construction of the development, and prior to commencing operations.

23. The Applicant must:

- a) store and handle all dangerous or hazardous materials on site in accordance with AS1940-2004: The storage and handling of flammable and combustible liquids, or its latest version;
- b) ensure the materials or goods stored are suitably banded; and

- c) minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.
24. The Applicant must commission and pay the full cost of Independent Environmental Audits of the development. The audits must:
- a) be led and conducted by a suitably qualified, experienced and independent team of experts;
 - b) be prepared, unless otherwise agreed with Council:
 - i. within 3 months of commencing construction;
 - ii. within 3 months of commencement of operations; and
 - iii. as directed by Council;
 - c) be carried out in consultation with the relevant agencies;
 - d) assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and
 - e) recommend appropriate measures or actions to improve the environmental performance of the development and any strategy, plan or program required under this consent.

Within 3 months of commencing an Independent Environmental Audit, or unless otherwise agreed, a copy of the audit report must be submitted to Council, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations of the Independent Environmental Audit must be implemented to the satisfaction of Council.

25. All internal driveways and access tracks must be constructed of compacted gravel to a suitable standard to sustain all construction and future maintenance traffic requirements. Pavement must be wide enough to allow two vehicles to safely pass or with provision made for localized widening. Where necessary culverts or suitable erosion protection measures must be made for stormwater drainage.
26. Car parking areas must be provided of sufficient size to allow for one car parking space per two employees for the life of the proposal. Car parking areas must generally provide sufficient space for parking and manoeuvring as specified in AS2890.1 - Parking facilities – Part 1: Off-street car parking.
27. Access entrance for B-double vehicles is to provide sufficient turning paths with gateways set back 20 metres from the fence line to Old Mill Road. Access driveways and pavements must be maintained to the satisfaction of Council at all times.
28. The approved development must not interfere with the natural flow of stormwater over the land and must not cause ponding or concentration of stormwater runoff on the subject land or adjoining roads and railway.
29. Stormwater runoff from pavement areas must be managed within the site and dispersed to landscaped areas.
30. The site shall be graded so that it is free draining.
31. Any permanent facilities on the site must provide for adequate treatment of waste water. No treated waste water contaminated with oil, grease or other contaminants is

permitted to discharge into any natural water course or/and Council stormwater system.

32. Separate approval shall be obtained from the current Rail Authority - John Holland Rail should cranes be required to be used within the air space of the rail corridor.
33. The Applicant must obtain approval from John Holland Rail and RailCorp to any future modifications to the extent that access is proposed to use Castlereagh Highway, which would inevitably require a level crossing or a bridge at the intersection between the rail corridor and Castlereagh Highway.
34. The boundary fences along the rail corridor should be installed during construction and operation in accordance with John Holland Rail's engineering standards which are available at <http://John.Holland.Railcrn.com.au/media/2071/crn-cp-511-v1-1.pdf>. In addition, the Applicant is required to submit an application to install the boundary fences to John Holland Rail for its endorsement and for RailCorp's approval. Please contact the John Holland Rail Third party works team via CRN.3rdpartyworks@jhrg.com.au for more information or the John Holland Rail website; <http://www.jhrcrn.com.au/what-we-do/property-services/third-party-work-enquiries/>.
35. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
36. As part of the development, if required by Essential Energy, easement/s are to be created for any new or existing electrical infrastructure, using Essential Energy's standard easement terms current at the time.
37. All new vegetation proposed to be planted should remain outside Essential Energy's easement area. If such planting will be within the easement area, provision of landscaping plans/specifications (as to the type and location of the planting) must be submitted to Essential Energy for approval prior to any works commencing.
38. The proposed boundary security fencing must not hinder Essential Energy's access to its existing electrical infrastructure and/or easement on the property. Such access is required 24 hours a day, 7 days a week.
39. Satisfactory arrangements are to be made with Essential Energy for the provision of power with respect to the proposed development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions. Refer to Essential Energy's Contestable Works team for requirements via email contestableworks@essentialenergy.com.au.
40. Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar farm which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreement/s and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer Essential Energy's Network Connections team for requirements via email networkconnections@essentialenergy.com.au.
41. Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements*

and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

42. Prior to issue of a Construction Certificate, amended plans shall be provided to the Certifying Authority detailing fencing and complete landscape screening of the site that achieves the following:
- a) All boundary fencing shall contain rural post and wire or timber fencing only, no greater than 1.8m in height;
 - b) Landscaping shall be planted between all rural boundary fencing and the internal security fencing which shall contain only native and endemic species of shrubs that will reach maturity of up to 3 metres and trees not less than 10 metres, with offset spacing in a minimum of 2 rows being not less than 2 metres apart;
 - c) All landscaping must be mature (i.e. not seedlings) at the time of planting;
 - d) Include full details of all species to be planted and maintenance, and replacement frequency over the life of the proposal to ensure mortality is kept low (a maximum of 10%), which must include a watering schedule to ensure survival;
 - e) Internal security fencing shall only consist of black powder coat steel fencing, being no greater than 2.1 metres in height.
43. Prior to issue of a Construction Certificate, the Applicant shall investigate and undertake all required measures, in consultation with Council, to provide a reticulated water service to the land for the purpose of maintaining the site during construction and operation, and to establish all landscaping.
44. Prior to issue of a Construction Certificate, amended plans shall be provided to the Certifying Authority to include a 10 metre defendable space around the full perimeter of the solar array area that permits unobstructed vehicle access.
45. Prior to issue of a Construction Certificate, the Applicant shall provide to Council for approval a workforce and accommodation strategy prepared by a qualified and independent expert, also incorporating the following:
- Written confirmation from local accommodation provider/s that they will have the capacity to meet the demand of the workforce generated by the proposal or alternative option/s are available; and
 - Demonstrate evidence of consultation with local recruitment providers to ensure employment opportunities are made available to existing Mid-Western Regional Council residents.
46. Prior to issue of a Construction Certificate, the Applicant shall provide John Holland Rail and Council with an assessment of the potential glare and glint from the solar farm confirming that the level of reflectivity and glare produced by any materials, lighting and external finishes of infrastructure necessarily required for the proposal will not have any impacts on the rail corridor and to surrounding lands. In addition, red and green lights are not to be used in any signs, lighting, building colour schemes on any part of a building which will face the rail corridor.
47. Prior to issue of a Construction Certificate, the Applicant shall prepare and provide John Holland Rail with a Risk Assessment/Management Plan and Safe Work Method

Statements detailing any impacts on the rail corridor in respect of construction of infrastructure and a Rehabilitation and Decommissioning Management Plan to describe how the infrastructure will be removed and how the land will be rehabilitated following removal of infrastructure.

48. Prior to issue of a Construction Certificate, the Applicant must prepare and provide John Holland Rail with an assessment of suitability of a prospective level crossing or a bridge at the intersection of the road/railway in the event that the railway line becomes completed and operational in the future.
49. As a result of previous unknown underground mine workings in the Gulgong area, a certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads, must be provided to the Certifying Authority prior to the issue of a Construction Certificate.
50. Evidence shall be provided to the Certifying Authority, prior to issue of the Construction Certificate, demonstrating that the solar panels have an anti-reflective coating.
51. Prior to issue of a Construction Certificate, the developer is to prepare, in consultation with all adjoining and adjacent landowners of the site, and submit to Council's satisfaction a comprehensive Site Environmental Management Plan that includes, but shall not be limited, to the following:
 - Management strategies to limit noise and vibration impacts during construction and operation on surrounding land;
 - Management strategies to limit traffic impacts on surrounding land;
 - Measures to reduce air emissions, including dust to surrounding land;
 - Management strategies to ensure groundwater is not contaminated;
 - Measures to conserve water during construction and operation such as during regular cleaning of the infrastructure during operation;
 - Measures to manage groundcover vegetation and reduce bushfire risks to surrounding land;
 - Management strategies to limit the spread and contamination of the site from all waste material including oil used in the integrated transformer and inverter stations along with full details of how each type of waste material will be disposed during construction and operation;
 - Measures to maintain site landscaping for the life of the operations;
 - Rehabilitation objectives and strategies for the site including timeframes for rehabilitation and decommissioning;
 - Specific measures to protect productive capacity including soil and erosion mitigation and weed management practices;
 - Topsoil management proposals to make best use of this resource and maximise rehabilitation and revegetation success;
 - Proposals to reform the landscape to blend with surrounding land and avoid land use conflicts; and,
 - Complaints management procedures and contact person for the site including notification processes to be implemented when the owner and / or operator of the site changes over time.
 - Access arrangements and restrictions including access requirements over any Crown Land or Railway Land.

52. Prior to the issue of a Construction Certificate, the Developer shall obtain from Council a Section 138 approval for all road works and driveway works required to service the development.
53. Prior to issue of the Construction Certificate, the Applicant must provide John Holland Rail with a geotechnical report containing details of excavation for each construction activity and confirming that the development does not have adverse impact on the rail corridor in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure).
54. In accordance with the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 and Councils Contributions Plan 2019, Development Contributions must be paid to Council prior to the release of the Construction Certificate. Section 7.12 charges are 1% of the submitted estimated cost of the development where the value of work exceeds \$200,000. On the basis of the cost of works submitted with the application of \$6,600,000, the required contributions amount payable to Council is \$66,000. Should this amount change, a QSA is to be submitted confirming the total cost of the development prior to Council confirming the Development Contribution amount required to be paid.

Note 1 - Section 7.12 Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's Planning and Development Department regarding any adjustments.

Note 2 – Council's Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website www.midwestern.nsw.gov.au under Council Documents/Strategies and Plans.

Note 3 – This condition does not preclude the negotiation of a Voluntary Planning Agreement in accordance with the Contributions Plan 2019 and Section 7.4 of the Environmental Planning and Assessment Act 1979.

PRIOR TO COMMENCEMENT OF WORKS

55. No work shall commence until a Construction Certificate has been issued and the Applicant has notified Council of:
- a) the appointment of a Principal Certifying Authority and
 - b) the date on which work will commence.
- Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.
56. Prior to commencement of solar array construction activities, landscaping of the site boundaries shall be completed in accordance with the amended landscaping plan provided to the Certifying Authority.
57. Prior to commencement of works, the Applicant must prepare a Traffic Management Plan for the development in consultation with Transport for NSW (TfNSW) and Council, as may be appropriate and to the satisfaction of Council. This plan must include:
- a) details of the transport route to be used for all development-related traffic in accordance with the conditions of consent;

- b) a protocol for undertaking independent dilapidation surveys to assess the:
 - existing condition of the full length of Old Mill Road prior to the commencement of construction, and
- c) a protocol for the repair of Old Mill Road if dilapidation surveys identify the road to be damaged during construction, upgrading or decommissioning works;
- d) details of the measures that would be implemented to minimise traffic impacts during construction, upgrading or decommissioning works, including:
 - temporary traffic controls, including detours and signage;
 - notifying the local community about project-related traffic impacts;
 - procedures for receiving and addressing complaints from the community about development-related traffic;
 - minimising potential for conflict with school buses, other motorists and rail services as far as practicable;
 - minimising dirt tracked onto the public road network from development-related traffic;
 - details of any employee shuttle bus service and measures to ensure employee use of this service;
 - scheduling of haulage vehicle movements to minimise convoy length or platoons;
 - responding to local climate conditions that may affect road safety such as fog, dust and wet weather;
 - responding to any emergency repair or maintenance requirements; and
 - a traffic management system for managing over-dimensional vehicles;
- e) a driver's code of conduct that addresses:
 - travelling speeds;
 - driver fatigue;
 - procedures to ensure that drivers adhere to the designated transport routes; and
 - procedures to ensure that drivers implement safe driving practices;
- f) a program to ensure drivers working on the development receive suitable training on the code of conduct and any other relevant obligations under the Traffic Management Plan; and
- g) a flood response plan detailing procedures and options for safe access to and from the site in the event of flooding.

Following Council approval, the Applicant must implement the Traffic Management Plan during construction and operation.

58. Prior to the commencement of construction the Applicant must install, in accordance with TfNSW requirements and consent, suitably worded advanced warning signage on Castlereagh Highway, advising that all construction traffic must enter the Solar Farm Construction Site via Caledonian Street.
59. Prior to commencement of construction, a comprehensive Fire Management Plan (FMP) shall be prepared in consultation and to the satisfaction of NSW RFS District Fire Control Centre, Fire and Rescue NSW and Council. The FMP shall include:

- 24/7 contact details including alternative telephone contact;
- Site infrastructure plan;
- Firefighting water supply plan;
- Site access and internal road plan;
- Construction of asset protection zones and their continued maintenance;
- Location of hazards (Physical, Chemical and Electrical) that will impact on fire fighting operations and procedures to manage identified hazards during firefighting operations;
- Detail all site management activities including scheduling of site, infrastructure and vegetation maintenance and be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study'* guideline, the NSW Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*, the Department's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'*;
- Include procedures that would be implemented if there is a fire on-site or in the vicinity of the site; and,
- Such additional matters as required by the NSW RFS District Office, Fire and Rescue NSW or Council.

Following approval, the Applicant must keep two copies of the plan on-site in a prominent position adjacent to the site entry points at all times and must implement the measures described in the Fire Management Plan during both construction and operations.

60. Prior to commencing construction, the Applicant must submit detailed plans of the final layout of the development to Council, including details on the siting of solar panels and ancillary infrastructure.
61. Prior to commencement of works, the Applicant shall liaise with John Holland Rail in respect of the stormwater management and to obtain John Holland Rail and RailCorp's approval, if necessary, to ensure that it does not have adverse impacts on the rail corridor by way of its discharge from the site into the rail corridor.
62. Prior to the commencement of construction the Applicant must, in conjunction with Council, arrange for and undertake:
 - A pre-construction dilapidation survey of Caledonian / Rouse Streets and Old Mill Road to identify and record any existing defects or deficiencies for B-double vehicles;
 - Complete any works, including improved safety measures, required to upgrade the intersection of Caledonian / Rouse Streets and Old Mill Road to accommodate B-double vehicles;
 - Complete any upgrade works to roads identified with deficiencies to provide an adequate pavement configuration suitable for B-double vehicles,
 - Obtain any approvals that may be required from TfNSW for any intersection works, and
 - Complete the construction of an access crossover to the site in accordance with the Plan prepared by Triaxial Consulting and submitted with the application.
63. Prior to the commencement of work the Applicant must enter into an agreement with Council and lodge a Bank Guarantee, or other acceptable security, adequate funds to

remedy and repair, to Council satisfaction, any defects or damage that may be caused by construction traffic associated with the development.

64. Prior to the commencement of any onsite construction, the Applicant must construct the site entry point from Old Mill Road. Construction of the entry point must be generally in accordance with the proposed intersection treatment plan MX10595.00 SK01 prepared by Triaxial Consulting. Separate approval under the provisions of Section 138 of the Roads Act 1993 must be obtained prior to the commencement of this work.

65. The site shall be provided with a waste enclosure (minimum 1800mm X 1800mm X 1200mm) that has a lid or secure covering for the duration of the construction works to ensure that all wastes are contained on the site. The receptacle is to be emptied periodically to reduce the potential for rubbish to leave the site. Council encourages the separation and recycling of suitable materials.

NOTE: ALL WASTE GENERATED FROM THE CONSTRUCTION PROCESS IS TO BE CONTAINED ON-SITE.

66. A sign must be erected in a prominent position on any work site on which involved in the erection or demolition of a building is carried out;

- a) stating that unauthorised entry to the work site is prohibited, and
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.
- c) the name, address and telephone number of the principal certifying authority for the work,
- d) The sign shall be removed when the erection or demolition of the building has been completed.

67. The development site is to be managed for the entirety of work in the following manner:

- a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
- b) Appropriate dust control measures;
- c) Construction equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
- d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

68. If the work involved in the erection/demolition of the building;

- a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- b) building involves the enclosure of a public place

A hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

DURING CONSTRUCTION

69. During construction, all relevant requirements of the approved Site Environmental Management Plan shall be implemented at all times.
70. All building work must be carried out in accordance with the provisions of the National Construction Code, the Environmental Planning & Assessment Act 1979 and Regulations and all relevant Australian Standards.
71. All plumbing and drainage work must be carried out by a licensed plumber and drainer and must comply with the requirements of the Plumbing & Drainage Act 2011 and the Plumbing Code of Australia.
72. Construction work noise that is audible at other premises is to be restricted to the following times:
- Monday to Saturday - 7.00am to 5.00pm
- No construction work noise is permitted on Sundays or Public Holidays.
73. All mandatory inspections required by the Environmental Planning and Assessment Act 1979 and any other inspections deemed necessary by the Principal Certifier being carried out during the relevant stage of construction.
74. Vehicles must be clean and free of debris prior to leaving the site during construction. Deposited material may be ordered to be removed at the Applicant/operator's expense.
75. During construction the proponent must undertake measures to minimise dust and noise and ensure that the impact on neighbouring properties is minimised.
76. At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
77. All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the Work Health and Safety legislation) with broad-spectrum reversing alarms, subject to such alarms not causing an acoustic or amenity impact on adjoining or adjacent residents.
78. Movement of heavy vehicles associated with the development must not coincide with local school bus pick up/drop off times and shall only occur in accordance with the approved Traffic Management Plan.
79. Any fill material that is imported to the site must be analysed and classified by an appropriately qualified and experienced environmental consultant in accordance with the relevant NSW EPA Guidelines, including the *Waste Classification Guidelines* (2014). To ensure that fill material is suitable for the proposed use, only material classified as Virgin Excavated Natural Material (VENM) or Excavated Natural Material (ENM) is permitted to be imported onsite.
80. If unexpected soil contaminants are discovered during works which has the potential to alter previous conclusions regarding site contamination; work must cease and Council or NSW Environmental Protection Authority must be notified immediately.

The contaminates located are to be evaluated by a supervising environmental consultant and an appropriate response determined in consultation with the developer, which is agreed to by Council.

Note – Council may also request that a NSW Environmental Protection Authority accredited site auditor is involved to assist with the assessment of the contaminated land situation and review and new contamination information. The developer must also adhere to any additional conditions which may be imposed by the accredited site auditor.

81. The Applicant must:

- a) minimise the waste generated by the development;
- b) classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
- c) store and handle all waste on site in accordance with its classification;
- d) not receive or dispose of any waste on site; and
- e) remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal, capable of receiving such waste.

PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE / COMMENCEMENT OF USE

82. Prior to the occupation of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the erection of the building.
83. Prior to issue of an Occupation Certificate, all approved car parking, road and associated driveway works are to be completed.
84. Prior to issue of an Occupation Certificate, Lots 460, 461, 462, 463 and 464 DP 755434 shall be consolidated with all easements required to service the development included for the purposes of ensuring the development footprint is retained and adequately maintained as one lot for the life of the operations.
85. A compliance certificate prepared by an appropriately qualified and practising structural engineer, certifying that the structures have been constructed in accordance with the approved plans shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
86. Council must be notified of the completion of the works and the site must be rehabilitated and stabilised. Surplus construction materials and temporary structures (other than silt fences and other erosion and sediment control devices) installed during the course of the works must be removed.
87. At the completion of construction works and prior to commencement of use or commissioning of the development, the Applicant must, in conjunction with Council arrange for a post-construction dilapidation survey to identify any apparent defects caused by construction activities and repair any defects to the satisfaction of Council within 28 days or other period as may be agreed.
88. Prior to commencing operations, or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to Council.

89. Prior to issue of an Occupation Certificate, a Rehabilitation and Decommissioning/Closure Plan must be prepared and submitted for approval by Council. The plan must include rehabilitation objectives and strategies, including:
- a) description of the design criteria of the final landuse and landform;
 - b) indicators to guide the return of the land back to agricultural production;
 - c) expected timeline for the rehabilitation program;
 - d) management controls regarding decommissioning and removal of all solar arrays and ancillary infrastructure, including methods, responsibilities of personnel and locations proposed for all waste disposal; and
 - e) a commitment to remove all solar farm infrastructure including all works installed below the surface of the site.

DURING OPERATION

90. The site must be monitored and maintained to a satisfactory condition by maintenance staff, for the management of grass and weed growth including maintenance of ground cover, and any indications of erosion. Particular attention must be given to site management during the annual Bushfire Danger Period.
91. All requirements of the Site Environmental Management Plan shall be implemented onsite for the life of the development.
92. All requirements of the Fire Management Plan shall be implemented onsite for the life of the development.
93. All requirements of the Traffic Management Plan shall be implemented onsite for the life of the development.
94. Should the site operator / manager change at any time over the life of the proposal, Council shall be notified immediately.
95. If any of the vegetation comprising the approved landscaping dies or is removed, it must be replaced with vegetation of the same species and the same maturity, as the vegetation that died or was removed.
96. All vehicles entering or leaving the subject property shall be driven in a forward direction.
97. The loading and unloading of all vehicles and equipment must be done entirely within the property and not upon the road reserve.
98. The internal access road/driveway is to be maintained so that it is trafficable to all vehicles including fire-fighting trucks and emergency services (two-wheel drive traffic), at all times.
99. The development must ensure that the water supply is accessible and reliable for firefighting purposes for the life of operations.
100. A complaints register is to be maintained by the operator for the life of the development. Details of the date, time, complainant contact details (if offered), nature of the complaint and adopted corrective actions are to be recorded in the complaints register. A copy of the complaints register is to be given to Council upon request.

101.No materials are permitted to be disposed of or stored on Crown land, roads or waterways at any time.

102.Over the life of the proposal, the Applicant may upgrade the solar panels and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site and will not increase the height or overall size of the solar panels or ancillary infrastructure. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to Council incorporating the proposed upgrades. Should the upgrades change the approved development configuration, a modification application is to be submitted and approved by Council prior to upgrade works commencing onsite.

OTHER APPROVALS

N/A

ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
2. Underground assets may exist in the area that is subject to the application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures. If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary.
3. 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. SafeWorkNSW (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 Underground Assets.
4. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
5. The land upon which the subject building is to be constructed may be affected by restrictive covenants. This approval is issued without enquiry by Council as to whether any restrictive covenant affecting the land would be breached by the construction of the building, the subject of this approval. Persons to whom this approval is issued must rely on their own enquiries as to whether or not the building breaches any such covenant.
6. Division 8.2 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 6 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
7. If you are dissatisfied with this decision section 8. 7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.
8. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&AAct.



Kayla Robson

Mid-Western Regional Council

Via email Kayla.Robson@midwestern.nsw.gov.au

19th June 2020

RE: DRAFT CONDITIONS OF CONSENT FOR DA 0283/2019

Thank you for the opportunity to provide comments on the draft conditions of consent that have been prepared for the Western Regional Planning Panel regarding DA 0283/2019 Gulgong Solar Farm at 129 old Mill Road, Gulgong. Below are some comments and suggestions regarding the draft conditions.

- **Condition 1** is a standard condition requiring the development to comply with stamped approved plans. **Condition 60** requires detailed plans of the final layout including the siting of solar panels and ancillary infrastructure to be submitted to Council prior to commencing construction. **Condition 60** is not necessary as the plans submitted with the DA and specified in **Condition 1** indicate the final layout.
- **Condition 3** requires all vehicular traffic associated with construction and operation of the solar farm to utilise Caledonia Street, Rouse Street and Old Mill Road. No access to the site is permitted from the Castlereagh Highway or the western end of Old Mill Road. **Condition 48** requires ITP Development to prepare an assessment of the suitability of a level crossing or bridge at the intersection of the road and railway if the rail line is used. **Condition 48** is not necessary given that access from the Castlereagh Highway is not permitted by **Condition 3** and a level crossing over the rail land is not proposed.
- **Condition 20** is unclear and ambiguous. There is no standard referenced, e.g. to define mature vegetation, and it is not stated how council will measure compliance with the condition. The requirements of this condition also conflict with **Condition 22** which requires defendable space around the perimeter of the solar arrays and there is a further conflict with **Condition 1** requiring the development to be in accordance with stamped approved plans. Further comments are made below regarding other conditions that relate to landscaping.
- A search was carried out during preparation of DA documentation of the Department of Planning, Industry and Environment's Planning Portal and the RFS website to determine whether the site is mapped as bushfire prone land. The findings have since been checked and it is confirmed that the site is not mapped as bushfire prone land. The recent issue of the revised *Planning for Bushfire Protection Guideline 2019* contains guidelines for solar farms, however, the guideline applies only to development on land mapped as bushfire prone. It is considered that there is no legal basis to impose such onerous requirements in relation to bushfire protection and the imposition of **Conditions 22, 44, 59, 76 and 99** is unreasonable. For example, part (c) of **Condition 22** requires *the applicant to assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site*. The vicinity of the site and the type of assistance to be provided are undefined. This requirement would breach

council's duty of care and may place solar farm personnel who may not be trained or experienced in firefighting in harm's way.

- **Condition 24** requires that an Independent Environmental Audit of the development be carried out. ITP Development have proposed to prepare an environmental management plan which will be based on the mitigation measures identified in the various expert reports prepared to support the application. The EMP is sufficient to monitor environmental performance and compliance with conditions of consent. An environmental audit would be a duplication of the tasks involved in the EMP and amounts to Council's abrogation of duties. It is seen as unnecessary and cost-shifting to ITP Development.
- **Condition 30** requires the site to be graded and free draining. The purpose of this condition and the standard by which compliance is measured is unclear.
- **Condition 42** requires the developer to plant two rows of plants no less than 2 metres apart along all boundaries. It also requires plants to be mature at the time of planting. ITP Development propose to plant shrubs between the boundary and the security fence with 5 metres separation between plants along the eastern, northern and southern boundaries. Land to the south is a rehabilitation reserve and already heavily vegetated which provides ample screening. It is unclear whether **Condition 42** requires 2 metres separation between plants, or between rows of plants, or both. Regardless, the requirement for additional fencing and plantings will impose substantial costs on the developer with no additional benefits in terms of screening. It is not best practice to plant mature plants. Seedlings or young plants have a higher survival rate and it is difficult for mature plants to gain traction and survive particularly in dry climatic conditions. It is requested that **Condition 42** be deleted.
- **Condition 43** requires a reticulated water service to be provided to the site to maintain the site and establish landscaping. ITP Development propose to bring water to the site by means of tanks on the trays of utility vehicles for these purposes. The nearest point of the development site to the edge of the urban area of Gulgong which is serviced with reticulated water supply is approximately 900 metres away. Provision of mains lines extensions and connecting infrastructure would impose an unreasonable cost on the developer. It is not usual practice to supply reticulated water to a rural property and would not conform with any development servicing plan that Council has in place to direct the installation of water infrastructure to urban growth areas. The use of Gulgong's potable water supply on a solar farm to maintain plants would pose a risk to the township in terms of untended use and a waste of a valuable resource in times of drought. This condition also conflicts with **Condition 22** which includes a requirement to install a 20,000 litre water tank for fire-fighting purposes under **Condition 43** and is unreasonable and unnecessary.
- **Condition 45** requires a workforce and accommodation strategy. This condition is imposed to enforce commitments given in the assessment of social and economic impacts in the Statement of Environmental Effects. Written confirmation of the availability of accommodation and evidence of consultation with local recruitment providers can be provided. However, the contents of a workforce and accommodation strategy, the qualifications required to be an independent expert in preparing such a strategy, and the criteria by which council would assess and approve such a strategy are unknown. This condition is unreasonable as it would impose additional costs and delays.
- **Condition 49** requires engineering certification of the ability of the site to withstand loadings as it may be affected by underground mine workings. The farm machinery used to till, sow and harvest crops on the site would have exposed any potential for subsidence. The site is not

identified as being located within a mine subsidence district on the state government's Planning Portal. This condition should be deleted.

- **Condition 56** requires an amended landscaping plan (see **Condition 42**) to be provided to the PCA. It is suggested that **Condition 42** be deleted therefore **Condition 56** is unnecessary.
- **Condition 84** requires the consolidation of the five lots on which the development is proposed. This is not considered necessary as it would have no material impact on the development but would prevent future land management options available to the land owner following decommissioning of the solar farm.
- **Condition 94** requires notice to be given to the council if the site operator or manager changes. The intent of this condition is unclear and ambiguous and therefore unreasonable. Council does not need to maintain a register of business owners or managers other than for rating purposes.
- **Condition 95** requires replacement of dead or removed vegetation with plants of the same species and maturity. This is acceptable so long as the replacement plants are not required to be mature plants as per **Condition 42**. The survival rate of mature plants is low compared to seedlings or young plants.
- **Condition 98** requires internal access roads to be trafficable by two-wheel drive vehicles. Fire-fighting trucks and emergency services vehicles are generally four-wheel drive. Maintenance vehicles accessing the site will be four-wheel drive utilities. This condition is unnecessary.
- **Condition 100** requires the developer to maintain an ongoing complaints register. This would be an onerous task given that during the operational phase there would be nil activity on the site that would disturb nearby residents or cause noxious emissions. Maintenance crews that would visit the site every two to three months and the regular watering of plants are not activities that are likely to generate complaints. This condition should be deleted.



Mishka Talent