

DATE OF DETERMINATION	27 July 2023
DATE OF PANEL DECISION	26 July 2023
DATE OF PANEL MEETING	17 July 2023
PANEL MEMBERS	Garry Fielding (Chair), Clare Brown, Donna Rygate, Paul Phillips
APOLOGIES	Graham Brown, Peter Harris
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 13 July 2023 (Council Supplementary Assessment Report).

MATTER DETERMINED

PPSWES-165 – DA2022/50 – Lachlan - 210 Lake Cargelligo Road, Lake Cargelligo 8247 Wyalong Road Lake Cargelligo, Electricity generating works, hydrogen production, tank-based aquaculture, intensive plant agriculture and agricultural produce industry operations (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 listed at item 8 in Schedule 1.

Development Application

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Supplementary Assessment Report dated 13 July 2023. In doing so, the Panel notes the following –

- The description of the proposal needs to include the production of hydrogen to read as below –
Electricity generating works in the form of a 3MW solar photovoltaic farm coupled with energy storage systems (battery energy storage, thermal energy storage and hydrogen energy storage), hydrogen production, as well as tank-based aquaculture (fish farm) and greenhouse horticulture. The proposal also includes demolition of existing electricity generating works and ancillary buildings.
- The proposed development is subject to all the RFS general conditions as outlined in its advice dated 13 July 2023.

The Panel also notes the typographical error in the 2nd column of the table on page 11 of the Council Supplementary Assessment Report which indicates the proposal is Designated Development. As stated elsewhere in the table, the proposal is not Designated Development.

CONDITIONS

The Development Application is approved subject to the recommended conditions of consent in Attachment 1 to the Council's Supplementary Assessment Report dated 13 July 2023, together with the following additions/amendments:

Conditions

- An additional condition requiring that there be no electrical generation or hydrogen production equipment manufacture on or distributed from the site, as follows:

Condition 148 - Product Manufacture and Distribution

Electrical generation or hydrogen production equipment manufacture and or distribution outside of on-site use or for research and development is not permitted from the site without further consent or approval.

- Plan drawing DA-0003 'future expansion' is to be deleted from condition 3 as there has been no assessment undertaken of this element.

Condition 3 Plans is to read as follows –

Reference/Dwg No.	Title/Description	Prepared By	Date
Rev B – CA22015	Statement of Environmental Effects	Currajong Pty Ltd	4 November 2022
	DA2022/50 – Response to Additional Information Request	Currajong Pty Ltd	7 July 2023
12543_DA-0004[5] Issue 5	Staging Plan	Nettletontribe	06/10/2022
12543_DA-0001, 002, 011, 1001, 1111, 1121, 2001, 3001, 4001, 4111, 4121, 9111, 9121, 9211, 9221, 9999	Development Plans – Lake Sustainable Energy Precinct	Nettletontribe	As listed on each plan
V3.0 - 3607	Aboriginal Cultural Heritage Assessment Report - Lake Sustainable Energy Project Lake Cargelligo	OzArk Environment & Heritage	19 April 2023
V3.0 - 3508	Biodiversity Assessment Report - Lake Sustainable Energy Project Lake Cargelligo	OzArk Environment & Heritage	26 October 2022
GE109-RPT-58003	Water Services Strategy	Graphite Energy	01/09/2022
GE109-RPT-58002	Services Strategy	Graphite Energy	22/07/2022
Issue 2	Traffic Impact Assessment	PTC	12/10/2022
220844	Civil Engineering Package Development Application	Northrop	As listed on each plan
-	DA Cost Estimate Report	GHQS Quantity Surveying & Project Management	07/11/2022

- Condition 8 is to be replaced with a condition requiring a notice of modification under Section 67 of the EP&A Regulation 2021 to be submitted in relation to DA 2008/0063 being the development for the Solar Thermal Power Generation and Research Facility applying to the subject land, as follows:

Condition 8 - Modification of Development Consent DA2008/0063

The applicant is to submit to the Council a written notice of modification to DA2008/0063 in accordance

with Section 67 of the Environmental Planning and Assessment Regulation 2021 prior to the completion of Stage one works and commencement of any other works. detailing the required modifications to achieve consistency with this consent.

- A condition requiring details of proposed soil stabilisation and management below the photovoltaic cells over the life of the solar farm, as follows:

Condition 149 - Soil Stabilisation and Management

Soil stabilisation and management below the photovoltaic cells must be satisfactorily managed over the life of the solar farm to the satisfaction of the Council. Details of the proposed works are to be submitted to Council prior to completion of Stage 3 works and at any time at the request of Council.

- Condition 15 Landscape plan is to be amended to ensure compliance with the requirements of the RFS in respect of the Asset Protection Zone, as follows:





Condition 15 - Landscape Plan

Prior to the issue of a Construction Certificate, the applicant must submit a Landscape Plan covering the four development stages for approval by Council that provides suitable landscaping within the development including tree and screen planting. The requirements of the NSW Rural Fire Service in Conditions listed within this consent must be incorporated in the landscape plan, with the landscaping complying with the required Asset Protection Zones.

- The RFS conditions as per its advice dated 13 July 2023 are to be included immediately before the Prescribed Conditions in the Notice of Determination of the DA.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel noted that no written submissions were made during public exhibition.

PANEL MEMBERS	
	
Garry Fielding (Chair)	Clare Brown
	
Donna Rygate	Paul Phillips

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-165 – DA2022/50 – Lachlan
2	PROPOSED DEVELOPMENT	Electricity generating works, hydrogen production, tank-based aquaculture, intensive plant agriculture and agricultural produce
3	STREET ADDRESS	210 Lake Cargelligo Road, Lake Cargelligo 8247 Wyalong Road Lake
4	APPLICANT/OWNER	Applicant: Peter Lemich - GRAPHITE ENERGY PTY LTD Owner: Peter Skipworth and Elizabeth Skipworth

5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Private infrastructure and community facilities
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6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: • State Environmental Planning Policy (Primary Production) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Resources and Energy) 2021 • Lachlan Local Environmental Plan 2013 • Drab environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ◦ Lachlan Development Control Plan 2013 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: NA • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental and Assessment Act 1979 or regulations</i> • The public interest, including the principles of ecologically sustainable development
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7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report with recommended conditions of consent. • Council Supplementary Assessment Report dated 13 July 2023 with revised Conditions of Consent • Combined Plan Set – Nettletontribe – Lake Sustainable Energy Precinct – 12543_DA-0001 – DA-0023. 06/10/2022 • Statement of Environmental Effects - Currajong – Rev B – CA22015 - 04/11/2022 • Aboriginal Cultural Heritage Impact Assessment Report – OzArk Environment and Heritage - Lake Sustainable Energy Precinct – V3.0 – 08/03/2023 • Biodiversity Assessment Report – OzArk Environment & Heritage - Lake Sustainable Energy Precinct – V3.0 _ 26/10/2022 • Civil Engineering Package Development Application – Northrop – Lake Sustainable Energy Precinct - 220844 • DA Cost Estimate Report – GHQS Quantity Surveying & Project Management – 07/11/2022 • Water Services Strategy – Lake Sustainable Energy Precinct - GE109-RPT-58003 – Rev B - 07/07/2023 • Services Strategy – Lake Sustainable Energy Precinct – GE109-RPT-58002 – 22/07/2022 • Traffic Impact Assessment – PTC - Lake Sustainable Energy Precinct - Issue 2 – 12/10/2022 • DA2022/50 – Response to Additional Information Request – Graphite Energy - 7 July 2023 • Review of the Lake Cargelligo Bush Fire Management Plan and HV Installation Safety Management Plan - Rev C - 13 September 2021 • Geotechnical Investigation – Jeffery and Katauskas Pty Ltd – Ref 22606VTrpt – 22 January 2009 • Geotechnical Investigation – Aitken Rowe Geotechnical Engineering – 20 February 2023
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • 11 April 2023 Site Inspection Council briefing: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Clare Brown, Paul Phillips ○ <u>Council assessment staff</u>: Jon Shillito ○ <u>Applicant representatives</u>: Peter Lemmich, Michael Carter • 27 June 2023 – Electronic determination – Panel decision (Deferral). <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Donna Rygate and Paul Phillips • 17 July 2023 - Electronic determination and Final briefing to discuss council's recommendation: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Donna Rygate, Clare Brown, Paul Phillips ○ <u>Council assessment staff</u>: Bryce Koop, Jon Shillito ○ <u>Applicant representatives</u>: Peter Lemich, Michael Carter
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attachment 1 submitted with Council's Supplementary Assessment Report dated 13 July 2023