

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-167
DA Number	2022-26
LGA	Hay Shire
Proposed Development	Electricity Generating System (Solar Farm)
Street Address	Lots 9-11 DP 756755 19 Murray Street, Hay
Applicant/Owner	Applicant – Chris Smith & Associates Owner – J L Headon & L M Headon
Date of DA lodgement	19 September 2022
Total number of Submissions	• 0
Number of Unique Objections	• 0
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	5 Private infrastructure and community facilities over \$5 million Development that has a capital investment value of more than \$5 million for any of the following purposes— (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,
List of all relevant s4.15(1)(a) matters	• State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • Hay Local Environmental Plan (LEP) 2011.
List all documents submitted with this report for the Panel's consideration	Attachment A: Draft Conditions of Consent Attachment B: Green Gold Energy, Construction Environmental Management Plan (GG-CEMP) Attachment C: Chris Smith & Associates, Statement of Environmental Effects, August 2022 (Ref: 20158) Attachment D: Low Impact Development Consulting, Recycling & Waste Management Plan – demolition, construction and in-operation, Commercial Solar Farm, 15/11/2021 Attachment E: Aboriginal Cultural Heritage Due Diligence Assessment, Version 1 19/211/21 Attachment F: Traffic Works Pty Ltd Traffic Impact Assessment Report for Green Gold Energy Pty Ltd Project No 201077, Final Report 1/10/2021 Attachment G: Chris Smith & Associates Land Use Conflict Risk Assessment March 2023 (Ref 20158) Attachment G: Development Application DA Form_1671512386 Attachment H: Essential Energy response DA2022-26 EE response 4.1.23, 4th January 2023 Attachment I: Department of Primary Industries – Agriculture, CNR-49438 – DA 2022-26 Murray St Solar Farm, 20th December 2022

	Attachment J: NSW Rural Fire Service Response Development Application, Electricity Generating Works – 19 Murray Street Hay 2711, 22 nd December 2022 Attachment K: Chris Smith and Associates Response DA2022-26 Electricity Generating System (Solar Farm) 28 th March 2023
Clause 4.6 requests	No Variations
Summary of key submissions	
Report prepared by	Jack Terblanche
Report date	29 May 2023

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?

Yes

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 (S7.24)?

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

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

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

Yes

Executive Summary

The proposed solar farm is to be built on a portion of an existing farming property addressed as 19 Murray Street, Hay. This property consists of six (6) separately transferrable parcels within common ownership. Green Gold Energy has agreed to terms with the current farmer to lease the south-western portion of the property to develop it for a solar farm for a period of approximately thirty (30) years. The proposal relates to the western portion of Lot 9, 10 and 11 on DP756755, only. The lots are the three (3) southern lots fronting Cemetery Road. The application seeks Development Approval to develop approximately 13 hectares of land at 19 Murray Street for a 4.95MW solar farm.

The proposed development consists of:

- 11,664 solar panels, mounted on single axis tracking arrays
- One (1) high voltage power switchboard
- 1.8m high chain mesh perimeter fence around entire perimeter of facility
- Two Vehicle crossings (access points) from Cemetery Road
- Internal access track and associated facilities (car park, assembly area/ unloading bays, storage bays)
- Landscaping along western frontage
- Pole and 33kV overhead powerline connections
- One power station inverter.

The proposed development was advertised, with no submissions received. It was notified to several organisations, with no submissions received which would provide reasoning for not approving the development. These submissions were included in the Conditions of Approval.

In the determination of the Development Application, there were found to be no substantial issues according to Section 4.15(1) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'). There were no substantial issues identified in the provisions of environmental planning instruments. The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality was of limited concern. The suitability of the site for the development is seen as satisfactory. The submissions made in accordance with the Act and the regulations were incorporated in the Conditions of Approval, and the development is seen to be in the public interest.

It is recommended that the Development Application DA 2022-26 for the construction of an Electricity Generating System (Solar Farm) at 19 MURRAY STREET HAY 2711 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

1. THE SITE AND LOCALITY

1.1 The Site

The proposed solar farm is to be built on a portion of an existing farming property addressed as 19 Murray Street, Hay. This property consists of six (6) separately transferrable parcels within common ownership. Green Gold Energy has agreed to terms with the current farmer to lease the south-western portion of the property to develop it for a solar farm (see below figure) – for a period of approximately thirty (30) years.

This proposal relates to the western portion of Lot 9, 10 and 11 on DP756755, only. The lots are the three (3) southern lots fronting Cemetery Road.

The site is used for agricultural purposes (cropping and grazing), with the following uses directly adjoining the site:

- North – Cropping and Grazing
- East – Cropping and Grazing
- South – Cropping and Grazing
- West – Cropping and a Cemetery



Figure 1: Site Aerial Photo



Figure 2: View looking east towards the site, taken from Cemetery Road

1.2 The Locality

Further afield from the proposed development the uses include the Sturt Highway 800m south of the development, the Mid-Western Highway 1,7km north, Hay urban area 1km towards the west, and the Murrumbidgee River 340m to the east and south.

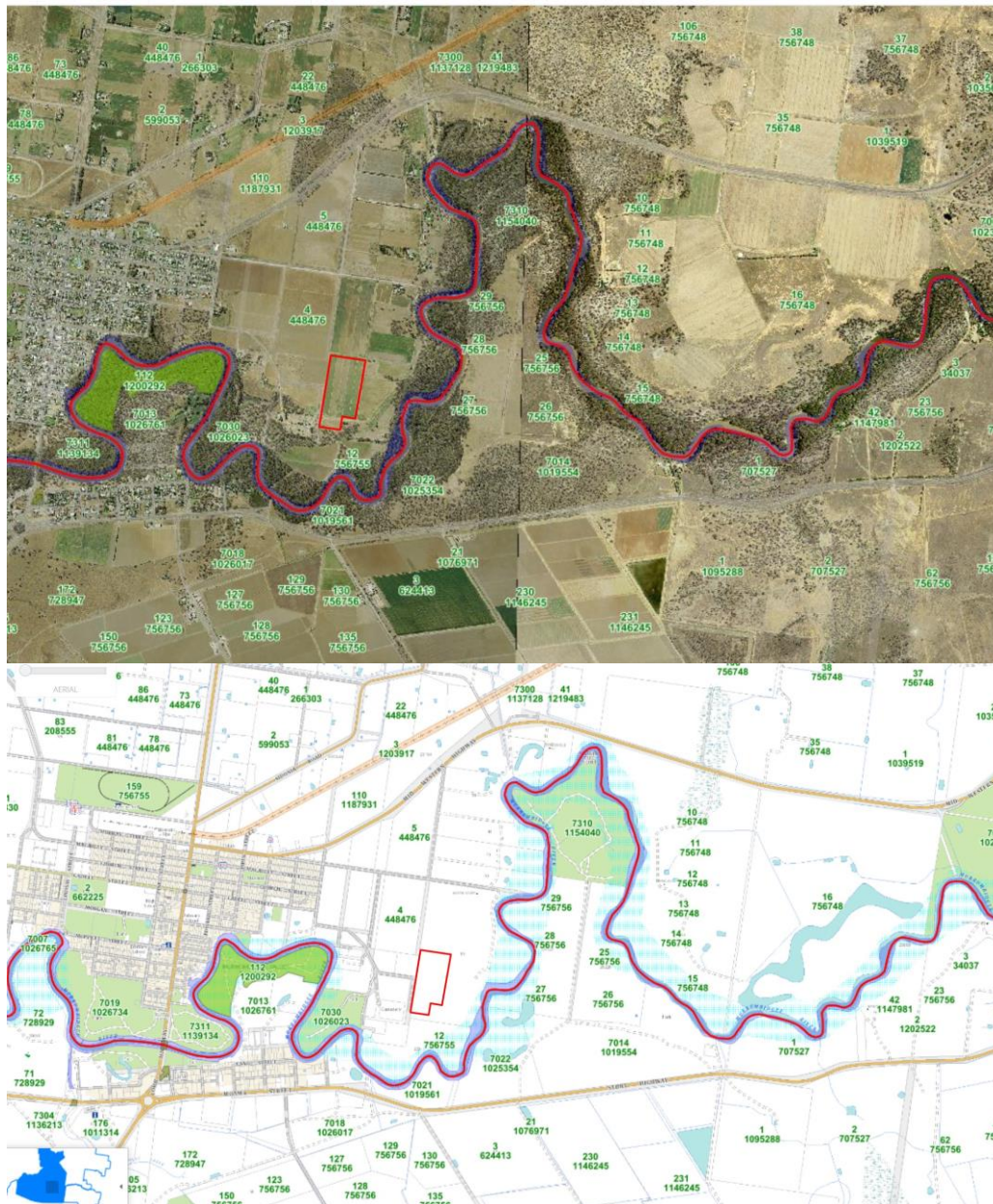


Figure 3: Location plan of subject land on aerial photo (top) and topographical extract (bottom).

2. THE PROPOSAL

This application seeks Development Approval to develop approximately 13 hectares of land at 19 Murray Street for a 4.95MW solar farm – as shown on the attached plans and figures, below.

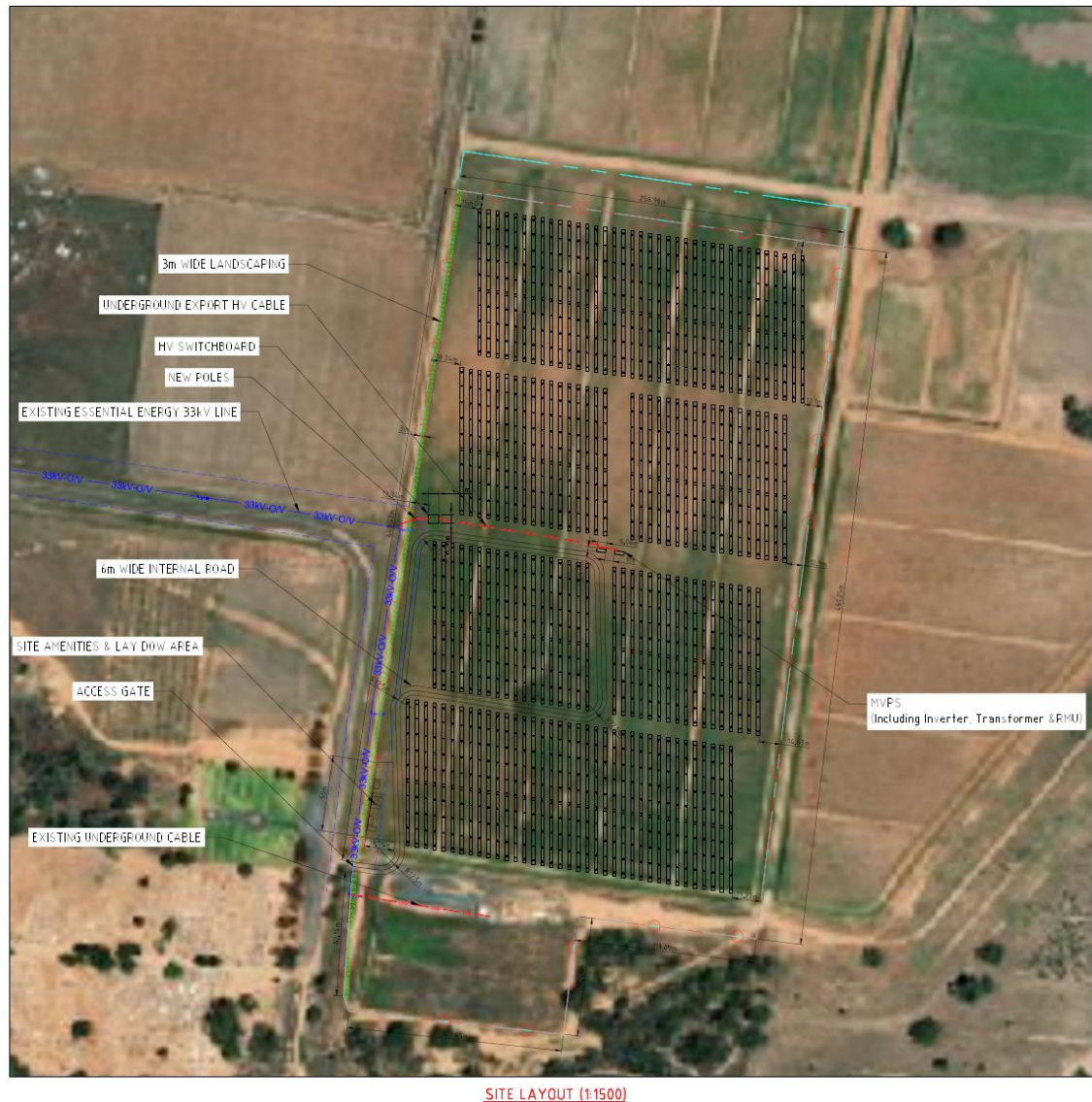


Figure 4: Site Layout

The proposed development will consist of:

- 11,664 solar panels, mounted on single axis tracking arrays, each having the following specification:
 - Nominal dimensions of 2.2m by 1.1m
 - Maximum height of 2.7m above ground (when at maximum rotation)
- One (1) high voltage power switchboard, positioned centrally at the front of the facility – along western edge of the facility.

- 1.8m high chain mesh perimeter fence around entire perimeter of facility, including two (2) gates – positioned to the front of compound.
- Two Vehicle crossings (access points) from Cemetery Road along western edge at the locations shown on the Site Plan.
- Internal access track and associated facilities (car park, assembly area/unloading bays, storage bays) for use during construction and for service operations and maintenance.
- Landscaping along western frontage, as shown on Landscape Plan, directly outside the compound fence, within the road reserve.
- Pole and 33kV overhead powerline connection to Essential Energy electricity distribution network and nearby Hay substations.
- One power station inverter positioned centrally within the facility – between panel arrays.

The facility does not include batteries and there is no intention to store any dangerous goods on site.

The facility is to be landscaped around the western perimeter of the facility to reduce potential for visual impact of the facility from any nearby public land; all equipment will be located within the compound – behind the proposed landscaping – which will consist of vegetation indigenous to the local area.

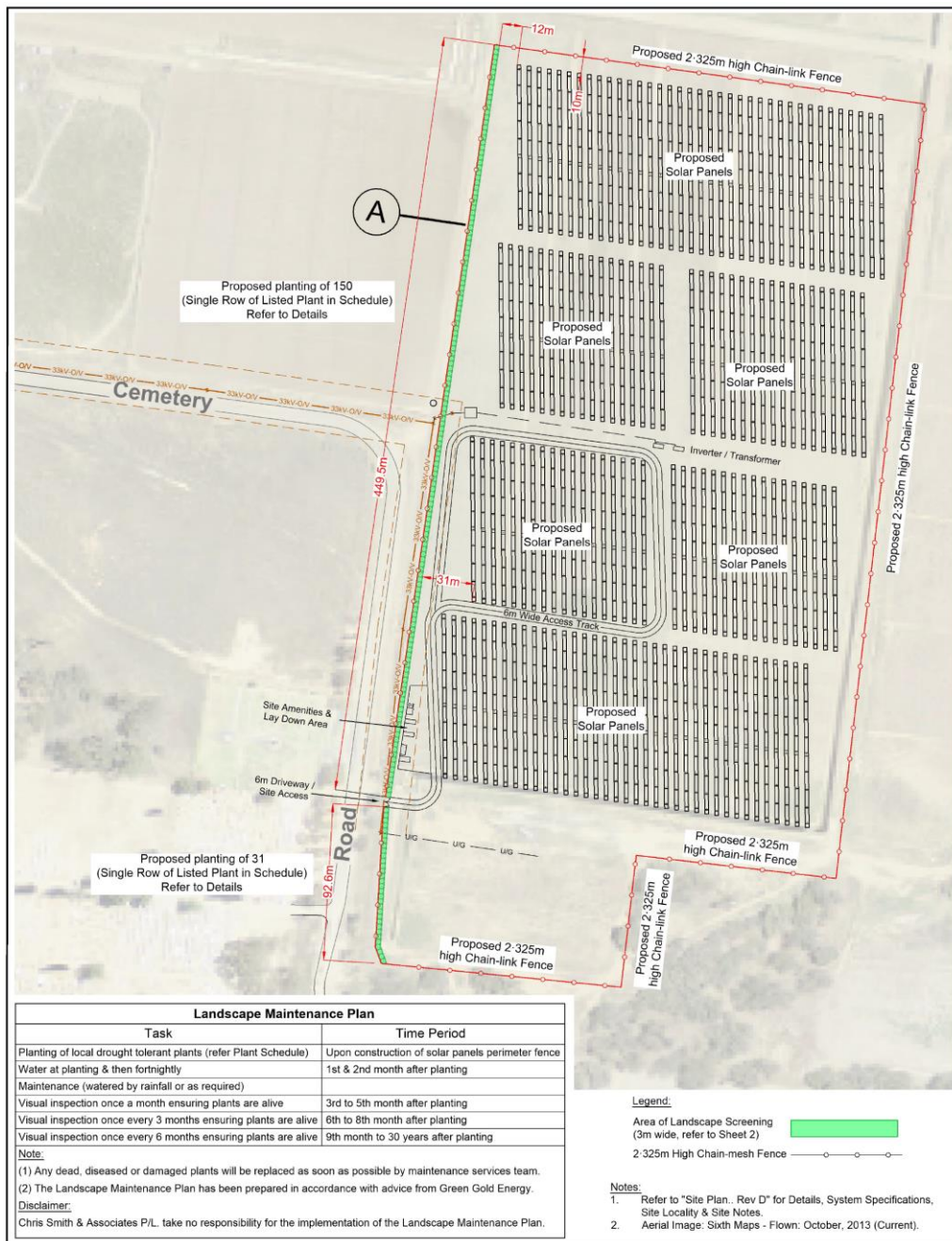


Figure 5: Landscaping Plan

The site will be accessed from the western boundary from Cemetery Road providing access to equipment within the facility compound for maintenance and emergency purposes.

There will be creation of employment during the construction phase, but in the operational phase the facility will be largely unmanned. Construction Phase is mentioned to be 9 months. During construction phase it is estimated that up to 20 workers can be on site during working hours. It is estimated that there will be 3 or 4 truck deliveries per day.

There will be limited concrete footings, "the proposed solar array system requires minimal earthworks; the support system is augured and rammed into the earth".

3. PROCESS

The proposed development was advertised in terms of the “Sydney District & Regional Planning Panels Operational Procedures” and the Hay Shire “Notification & Advertising Policy for Development Proposals”. The proposed development was:

- Advertised in the Riverina Grazier. No submissions were received.
- Properties in the vicinity were notified in line with the Hay Shire “Notification & Advertising Policy for Development Proposals”, which included all properties within 500m radius of the site, all adjoining properties, and all properties that may be impacted. These were six properties.
- The following organisations were notified:
 - EnergyCo
 - Office of Australian War Graves
 - Nari Nari Tribal Council
 - Hay Aboriginal Working Party
 - Hay Local Aboriginal Land Council
 - DPE Crown Lands
 - DPI Agriculture
 - NSW RFS
 - Essential Energy
 - DPE Heritage
 - NSW EPA

A site visit was held with the Western Regional Planning Panel members on 27 April 2023.

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

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

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence (s4.13)
- Crown DA (s4.33)

4.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *Hay Local Environmental Plan (LEP) 2011.*

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

Table 1: Summary of EPI's

EPI	Matters for Consideration	Comply (Y/N)
SEPP Planning Systems	• Clause 2.19(1) declares the proposal as regionally significant development pursuant to Clause 5(a) of Schedule 6.	Y

SEPP Resilience and Hazards	Chapter 3 – Potentially hazard and offensiveness of the proposed development has been considered within the proposal and is satisfactory.	Y
SEPP Transport and Infrastructure	Section 2.48 - (Determination of development applications— other development) – The proposed development may influence the electricity network; Essential Energy has been notified, and their comments are included in the conditions of approval.	Y
Hay LEP	The site is zoned RU1 Primary Production and the proposed development is permitted with consent in the zone. The development is considered consistent with the objectives of the RU1 zone.	Y

[State Environmental Planning Policy \(Planning Systems\) 2021](#)

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to section 2.19 of SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 5(a) of Schedule 6 of the SEPP as the proposal is development for *electricity generating works* with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

[State Environmental Planning Policy \(Resilience and Hazards\) 2021](#)

The provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application.

Chapter 3 – Electricity generating works are not identified as potentially offensive or hazardous within the guidelines. It is also considered the proposed development would not meet the definition of potentially offensive development.

Chapter 4 - Clause 4.6(1)(a) of the requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The proposed development site is not on the Hay Shire Council's contaminated land register. The subject land has been utilised for agricultural purposes, namely livestock grazing and cropping. The project is considered broadly consistent with the established activity pattern on the development site.

[State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#)

The Transport and Infrastructure SEPP includes provisions for infrastructure and services to facilitate the effective delivery of infrastructure across the state. Permissibility for the

purposes of electricity generation is provided pursuant to division 4 section 2.36 which states:

- (1) Development for the purpose of electricity generating works may be carried out by any person with consent on the following land—*
- (a) in the case of electricity generating works comprising a building or place used for the purpose of making or generating electricity using waves, tides or aquatic thermal as the relevant fuel source—on any land,*
 - (b) in any other case—any land in a prescribed rural, industrial or special use zone.*

These provisions prevail over any inconsistency in any other planning instruments, inclusive of the Hay LEP 2011. As such, the proposed development is permitted with consent pursuant to the Transport and Infrastructure SEPP. In addition, section 2.48 of the SEPP relates to determination of development applications – other development – electricity transmission and states the following:

- (1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—*
- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
 - (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*

Subsequently, the application was referred to Essential Energy for comment, who provided the following response:

1. *Essential Energy's records indicate existing overhead powerlines are impacted by the proposal:*
 - a. *Minimum safety clearance requirements must be maintained at all times for:*
 - i. *the proposed security fencing to the existing powerlines; and*
 - ii. *the proposed driveway access and/or exit, as such driveway access will pass under Essential Energy's existing overhead powerlines located at the front of the property. The driveway must comply with clearances for trafficable land, ground clearances must be maintained.*

Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

- b. *Any proposed driveway access and/or exit must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.*

- c. *Any excavation works in this area or works on the proposed driveway must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - d. *Any landscaping, tree planting, gardens in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
2. *Essential Energy's records also indicate that an existing underground service cable to Lot 11 is impacted by the proposal:*
- a. *The plans provided do not show the location of the service cable.*
 - b. *Prior to carrying out any works (excavation or otherwise), 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) to locate this service cable.*
 - c. *The service cable must meet the requirements of the NSW Service and Installation Rules and any applicable additional standards. A Level 2 Electrician will be able to advise on these requirements.*
 - d. *Any excavation works in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - e. *Works around the service cable must be managed. If the ground levels over the cable are to be altered, clearances must be maintained and cable integrity protected.*
 - f. *The Applicant should also be aware that as per the NSW Service and Installation Rules, if anything is constructed over the service cable and at any point the service cable has to be removed or replaced due to damage, that the Applicant is responsible for all costs associated with that replacement or removal.*
3. *Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreements 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.*
4. *The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the site amenities/storage building in accordance with NSW Service and Installation Rules. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.*

The existing underground cable as mentioned in Point 2 has been identified (see cable – green line – below), and the applicant revised the application to remove all panels in the relevant section.

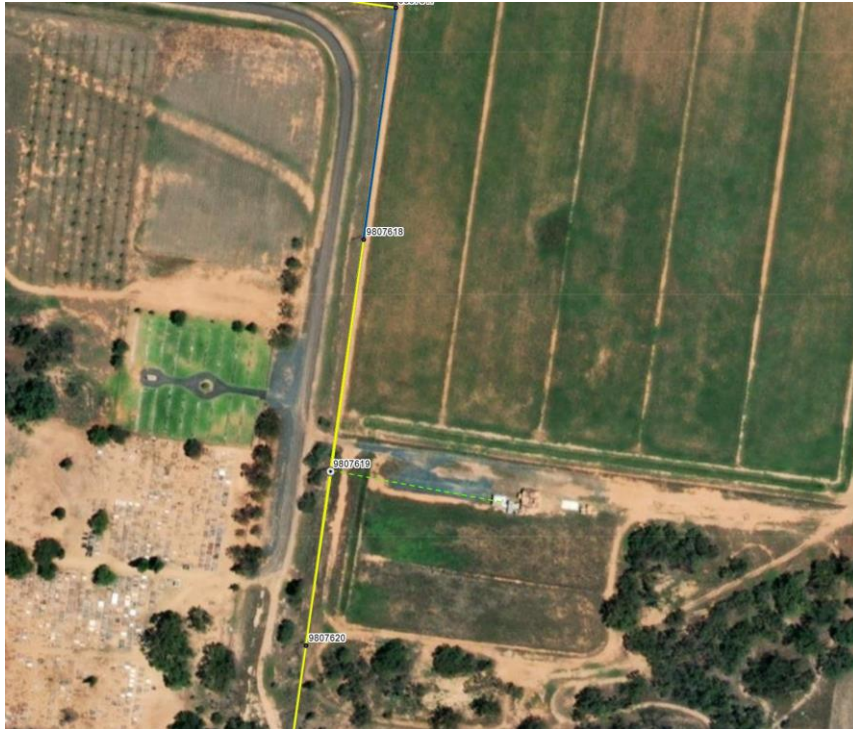


Figure 6: Electrical Plan

Council is of the opinion that these comments made by Essential Energy can be suitably conditioned within the development consent.

[Hay Local Environmental Plan 2011](#)

The relevant local environmental plan applying to the site is the *Hay Local Environmental Plan 2011* ('the LEP'). The aims of the LEP include:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to protect, enhance and conserve agricultural lands and the contribution they make to the regional economy,*
- (b) to ensure that there is sufficient land to meet the employment needs of Hay,*
- (c) to encourage further urban growth of Hay, Booligal and Maude villages by ensuring there is a range of residential living opportunities,*
- (d) to ensure areas of high ecological value or significant land sensitivity are enhanced for future generations,*
- (e) to give priority to the protection, conservation and enhancement of areas and items of significance for Aboriginal and non-Aboriginal cultural heritage.*

The proposal is consistent with these aims as the proposal is considered to encourage sustainable economic growth and development within the LGA.



Figure 4: Land Zoning Map with Subject Site Outlined in Red

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

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

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The development is considered to encourage environmentally and economically sustainable primary industry.
- The development diversifies the primary industry economic base.
- The development has no impact on the fragmentation of agricultural lands.
- The development will not lead to land use conflicts.

Pursuant to the Dictionary of the Hay LEP, the proposed development is considered to be “electricity generating works” which is defined as “a building or place used for the purpose of making or generating electricity.” This use is prohibited in zone RU1. However, the SEPP (Transport and Infrastructure) prevails over Hay LEP 2011 to this extent, the use of land for a solar energy system is permitted with consent on any land in accordance with the SEPP (Transport and Infrastructure).

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in the table below.

Table 2: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
1.9A	<i>For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.</i>	Noted.	Y
5.10	<i>To conserve the environmental heritage and heritage significance of heritage items and heritage conservation areas of Hay.</i>	The site does not contain any known items of Environmental Heritage Significance. It is the responsibility of the Applicant to ensure compliance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. Any consent issued will contain the standard condition regarding protection of Aboriginal Cultural Heritage.	Y
5.11	<i>Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.</i>	The development site mapped as bushfire prone land. It is noted that the proposed development is not a habitable building and is therefore not listed as a special fire protection purpose under section 100B of the Rural Fires Act 1997. See Figure 7.	Y
5.21	<i>To minimise the flood risk to life and property associated with the use of land,</i>	The development site is not floodprone land, as can be seen in the aerial photo of the 2012 flood. See Figure 8)	Y

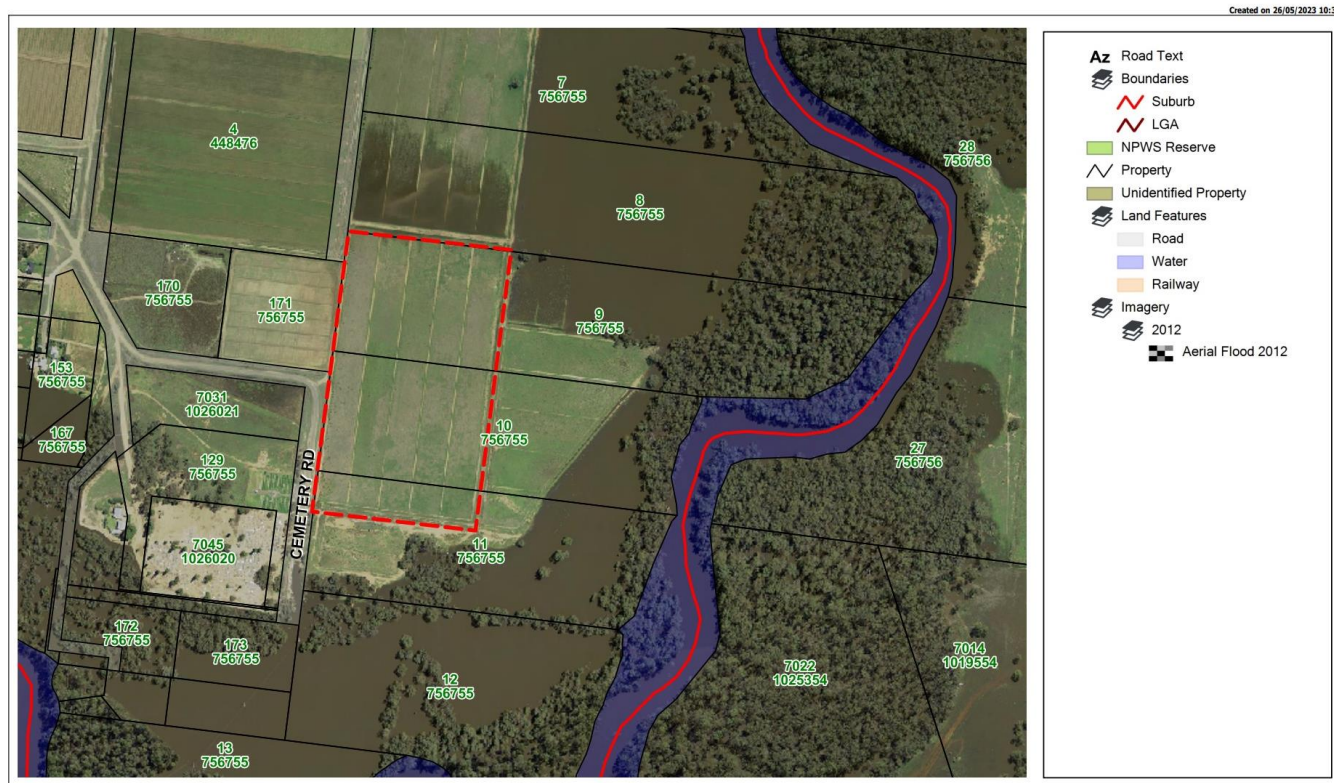


Figure 8: 2012 Flood extent (site marked in red)

The proposal is considered to be generally consistent with the LEP.

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

There are no proposed instruments.

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

There is no Development Control Plan

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

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

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

The regulations have been considered in the assessment of this application. It is considered the application is consistent with the objectives of the regulations.

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

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

Natural Environment:

- Impact on local fauna and flora will be negligible. The area is already disturbed, and form part of irrigated cropping and grazing land.
- Waste – A Waste Management Plan has been prepared for the subject site. During construction phase it is noted that there is no demolition to occur on the site, the construction waste generated will be limited to hole boring for pad footings, wire cut-offs and packaging waste. The applicant have advised that their sub-contractor agreements stipulate that each trade is to manage and remove their own waste. During Operational Phase the waste will be negligible. If any waste (especially during the construction phase) is to be disposed of, there needs to be a Waste Management Agreement with Hay Shire Council if the proponent wished to utilize the Hay Shire Council facilities.
- The risk to groundwater contamination will be low.
- The proposed development will not influence the current microclimate of the area, and as stated previously, reduce emissions on a regional scale.



Figure 9: Environmental Sensitive Mapping from the Hay LEP (site marked in red)

Built Environment

- Although to a large scale, the development will have a minimal visual impact. There will be a visual impact from Cemetery Road, which will be softened by the proposed landscaping.

Social Impact

- Potential will be a positive with the attraction of additional workers to an isolated area.

Economic Impact

- The proposed development can have a longer term economic impact on the area. The proposed development will prevent the land being used for agriculture, and there are always the risk of decommissioning that is not done to a proper standard, that will prevent the land being used for agricultural purposes, as is the case in some US solar farms.
- During construction phase the proposed development will have a positive economic impact with the direct employment of trades, with the accompanying multiplier effect.
- During operational phase, there will be a lease income for the landholder, although the multiplying effect of this income will be negligible.
- Decommissioning phase is the highest risk for the Hay Shire, as just leaving a solar development can have a lasting environmental and economic impact on the area. The applicant have supplied additional information on the decommissioning phase on Council's request, and stated the following:
 - *Section 8.8 of the SEE describes the decommissioning process. To provide further detail:*
 - *After about thirty years, the components of the solar farm would either be replaced or the solar farm would be decommissioned.*
 - *Decommissioning would involve the removal of the fence, switchboard, inverter and all solar panels (including footings). The power pole and landscaping would remain.*
 - *The switchboard, inverter and panels would either be sold or disposed of at an appropriate waste facility.*
 - *No solar farm components would remain on the development site.*
 - *The development site would then be able to be used for agriculture.*
- Decommissioning phase provisions can be conditioned.

4.7 Section 4.15(1)(c) – Suitability for the site for the development

The Hay LSPS identified the land for future higher intensity agricultural development, with lower minimum lot sizes to achieve more smaller landholdings, as can be seen in Figure below.

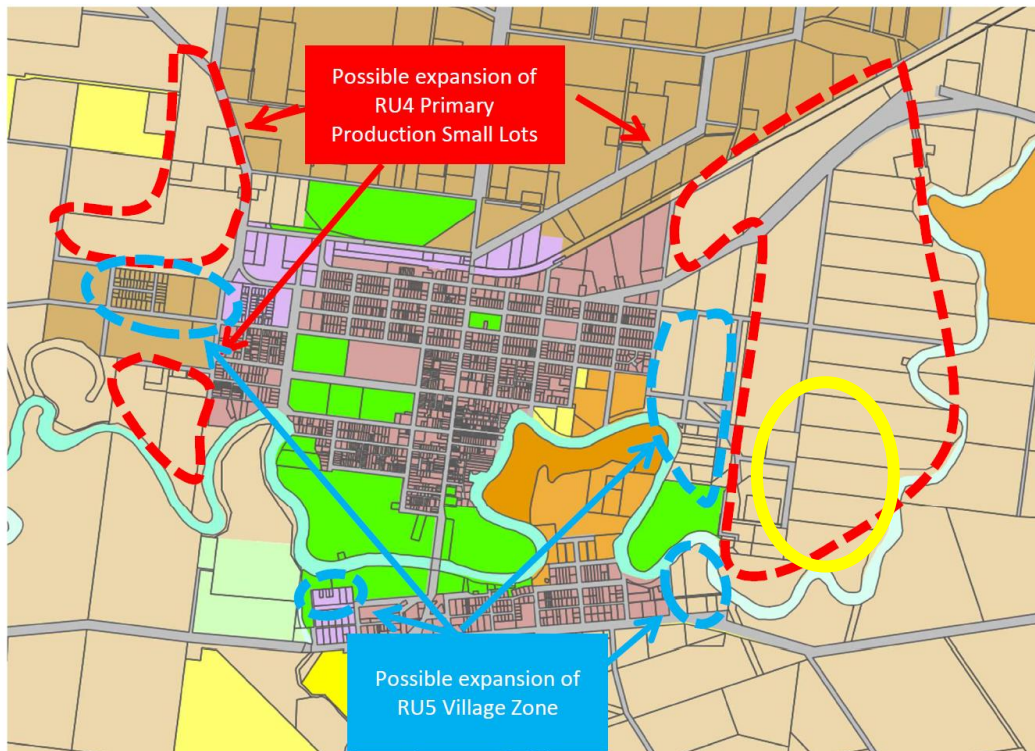


Figure 10: Extract from Hay LSPS (Area marked in yellow)

The Hay Structure Plan identified the land for future low density residential development, as can be seen in Figure below. The phasing of using the specific area for residential area is so far into the future, that the timing was not specified. It is estimated that the area can be utilized for the R5 rezoning in 50+ years, if there is a demand.

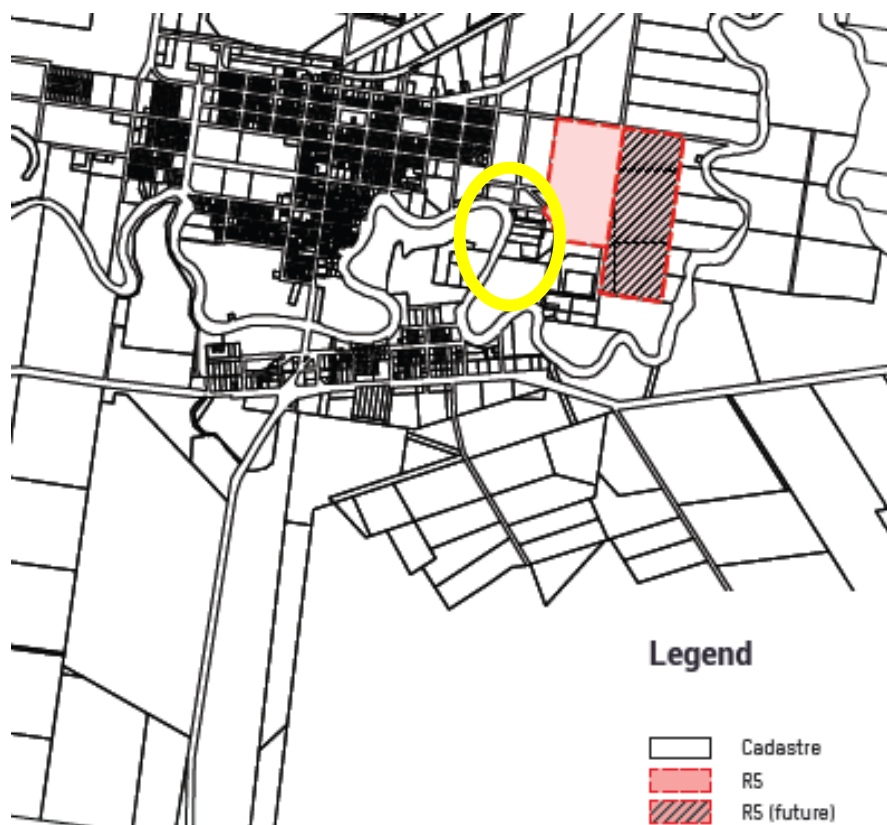


Figure 11: Extract from Hay Structure Plan (Area marked in yellow)

Although the area is earmarked for a more rural residential type development, this is in the distant future, probably decades after the proposed development has been commissioned. The proposed development has augured footings instead of concrete strip footings, which will make the conversion back to a higher order of agriculture possible.

A Land Use Conflict Risk Assessment has been requested by DPI Agriculture. The purpose of a LUCRA is to identify land use compatibility and potential conflict between neighbouring land uses, and the identification of conflict avoidance or safeguards. A LUCRA aims to:

- Accurately identify and address potential land use conflict issues and risk of occurrence before a new land use proceeds or a dispute arises; and
- Objectively assess the effect of a proposed land use on neighbouring land uses; and
- Increase the understanding of potential land use conflict to inform and complement development control and buffer requirements; and
- Highlight or recommend strategies to help minimise the potential for land use conflicts to occur and contribute to the negotiation, proposal, implementation and evaluation of separation strategies.

The applicant's LUCRA summarized the impact of the development as follows:

Whilst this LUCRA has identified some potential sources of land use conflict it is anticipated that the proposed development would allow rural land uses in the locality to continue largely unaffected.

The principal sources of land use conflict predicted for the project are amenity issues that will arise from the construction stage of the project. The land use conflicts can largely be avoided by implementing the mitigation strategies outlined in Table 3-5.

As detailed within this LUCRA, as well as the respective specialist assessments, each of the potential sources of conflict are considered to be relatively low.

The proposal incorporates landscaping as a mitigation measure to reduce visual impact on the surrounding area via the use of native vegetation proposed around the perimeter of the facility. However, once the screening vegetation matures, this potential conflict is significantly reduced.

Consequently, it is considered that the recommended attenuation measures would reduce the potential for land use conflict within the surrounding rural and industrial area.

The site (and the wider locality) is suited to the proposed development, as:

- The proposed development is in an area where the traffic impact will be manageable.
- The proposed development will not have an impact on the river, or limit access to it.
- Flooding will not impact the proposed development.
- The proposed development will not impact the surrounding agricultural land uses, nor the cemetery.

4.8 Section 4.15(1)(d) – Submissions

The proposed development was advertised in terms of the "Sydney District & Regional Planning

Panels Operational Procedures” and the Hay Shire “Notification & Advertising Policy for Development Proposals”. The proposed development was:

- Advertised in the Riverina Grazier. No submissions were received.
- Properties in the vicinity were notified in line with the Hay Shire “Notification & Advertising Policy for Development Proposals”, which included all properties within 500m radius of the site, all adjoining properties, and all properties that may be impacted. These were six properties.
- The following organisations were notified:
 - EnergyCo
 - Office of Australian War Graves
 - Nari Nari Tribal Council
 - Hay Aboriginal Working Party
 - Hay Local Aboriginal Land Council
 - DPE Crown Lands
 - DPI Agriculture
 - NSW RFS
 - Essential Energy
 - DPE Heritage
 - NSW EPA

The responses are below:

Department of Primary Industries – Agriculture Response:

While the DPI Agriculture does not have any regulatory involvement, we have undertaken a review and recommend the following is considered when assessing the DA:

- *This area has been mapped as draft State Significant Agricultural Land due to past and potential irrigation (<https://nswdpi.mysocialpinpoint.com/ssal/map#/>). As there is very little irrigable land in Hay Shire, this mapping would assist with strategic land use planning for agricultural and rural lands in the Hay LGA.*
- *A Land Use Conflict Risk Assessment (LUCRA) should be undertaken to determine any likely land use conflict issues by/for surrounding agriculture - <https://www.dpi.nsw.gov.au/agriculture/lup/development-assessment/development-assessment2/lucra>*
- *Decommissioning should involve the removal of all above and below ground infrastructure so that the land can be returned to its full agricultural potential.*

Comment: Additional information was requested, and this was provided by the applicant.

NSW RFS Response:

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1. *To ensure that the proposed solar farm is provided with adequate clearances to combustible vegetation, firefighting access and water supplies the following shall be provided:*
 - a. *A minimum 10.0 metre asset protection zone (APZ), maintained to the standard of an inner protection area (IPA) must be provided around the proposed structures in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.*

- b. *A minimum 4.0 metre wide access road suitable for fire fighting vehicles shall be provided around the development site.*
- c. *Where reticulated water supply with compliant hydrant spacing in accordance with AS2419.1:2005 is not available to the site a 20,000 litre static water supply (SWS) must be provided on site located within the IPA and:*
 - i. *unobstructed access is to be provided within 4 metres of the SWS must be provided at all times;*
 - ii. *a connection for firefighting purposes 65mm Storz outlet with a ball valve is fitted to the outlet;*
 - iii. *ball valve and pipes are adequate for water flow and are metal;*
 - iv. *supply pipes from tank to ball valve have the same bore size to ensure flow volume;*
 - v. *underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank and a hardened ground surface for truck access is supplied within 4m;*
 - vi. *underground tanks are clearly marked;*
 - vii. *above-ground tanks are manufactured from concrete or metal;*
 - viii. *raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber (see Appendix F of AS 3959);*
 - ix. *tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;*
 - x. *all exposed water pipes external to the building are metal, including any fittings;*
 - xi. *where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19mm internal diameter; and*
 - xii. *fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;*
- d. *A Bush Fire Emergency Management and Operations Plan must be prepared that addresses the following:*
 - i. *detailed measures to prevent or mitigate fires igniting;*
 - ii. *work that should not be carried out during total fire bans;*
 - iii. *availability of fire-suppression equipment, access and water;*
 - iv. *storage and maintenance of fuels and other flammable materials;*
 - v. *notification of the local NSW RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation, proposed to be carried out during a bush-fire fire danger period to ensure weather conditions are appropriate; and*
 - vi. *appropriate bush fire emergency management planning.*

Comment: The proposed conditions are to be included in the Development Approval.

Essential Energy Response:

1. *Essential Energy's records indicate existing overhead powerlines are impacted by the*

proposal:

- a. *Minimum safety clearance requirements must be maintained at all times for:*
 - i. *the proposed security fencing to the existing powerlines; and*
 - ii. *the proposed driveway access and/or exit, as such driveway access will pass under Essential Energy's existing overhead powerlines located at the front of the property. The driveway must comply with clearances for trafficable land, ground clearances must be maintained.*

Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

- b. *Any proposed driveway access and/or exit must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.*
 - c. *Any excavation works in this area or works on the proposed driveway must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - d. *Any landscaping, tree planting, gardens in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
2. *Essential Energy's records also indicate that an existing underground service cable to Lot 11 is impacted by the proposal:*
- a. *The plans provided do not show the location of the service cable.*
 - b. *Prior to carrying out any works (excavation or otherwise), 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) to locate this service cable.*
 - c. *The service cable must meet the requirements of the NSW Service and Installation Rules and any applicable additional standards. A Level 2 Electrician will be able to advise on these requirements.*
 - d. *Any excavation works in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - e. *Works around the service cable must be managed. If the ground levels over the cable are to be altered, clearances must be maintained and cable integrity protected.*
 - f. *The Applicant should also be aware that as per the NSW Service and Installation Rules, if anything is constructed over the service cable and at any point the service cable has to be removed or replaced due to damage, that the Applicant is responsible for all costs associated with that replacement or removal.*
3. *Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreements 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.*
4. *The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the site amenities/storage building in accordance with NSW Service and Installation Rules. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.*

Essential Energy also makes the following general comments:

- 1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.*
- 2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.*
- 3. In addition, Essential Energy's records indicate there is overhead and underground electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations must be undertaken in accordance with 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.*
- 4. 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).*
- 5. 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/Underground Assets.*

Comment: The applicant amended the design by removing the panels around the existing underground cable as mentioned. The proposed conditions are to be included in the Development Approval.

Heritage NSW Response:

Hopefully this email will provide clarity on the referrals made under CNR-49438 for 19 Murray Street HAY.

The Aboriginal Cultural Heritage Due Diligence (ACHDD) report submitted is insufficient for assessment as a non-statutory referral.

In order for a non-statutory referral to be assessed by Heritage NSW, an Aboriginal Cultural Heritage Assessment Report (ACHAR) must be made.

In the case of 19 Murray Street HAY, the ACHDD provided indicates that harm is unlikely and that an Aboriginal Heritage Impact Permit is not required at this stage.

Comment: There was some confusion regarding the Heritage requirements. As harm is unlikely, standard heritage conditions can be included.

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

Generally, the development proposal provides the following public benefits:

- Reducing emissions
- Creating additional employment opportunities during the construction phase with potential flow on effects
- There are no significant adverse impacts on surrounding properties in terms of smell, access, views, visual and acoustic amenity.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

6. RECOMMENDATION

That the Development Application DA 2022-26 for the construction of an Electricity Generating System (Solar Farm) at 19 MURRAY STREET HAY 2711 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Green Gold Energy, Construction Environmental Management Plan (GG-CEMP)
- Attachment C: Chris Smith & Associates, Statement of Environmental Effects, August 2022 (Ref: 20158)
- Attachment D: Low Impact Development Consulting, Recycling & Waste Management Plan – demolition, construction and in-operation, Commercial Solar Farm, 15/11/2021
- Attachment E: Aboriginal Cultural Heritage Due Diligence Assessment, Version 1 19/211/21
- Attachment F: Traffic Works Pty Ltd Traffic Impact Assessment Report for Green Gold Energy Pty Ltd Project No 201077, Final Report 1/10/2021
- Attachment G: Chris Smith & Associates Land Use Conflict Risk Assessment March 2023 (Ref 20158)
- Attachment G: Development Application DA Form_1671512386
- Attachment H: Essential Energy response DA2022-26 EE response 4.1.23, 4th January 2023
- Attachment I: Department of Primary Industries – Agriculture, CNR-49438 – DA 2022-26 Murray St Solar Farm, 20th December 2022
- Attachment J: NSW Rural Fire Service Response Development Application, Electricity Generating Works – 19 Murray Street Hay 2711, 22nd December 2022
- Attachment K: Chris Smith and Associates Response DA2022-26 Electricity Generating System (Solar Farm) 28th March 2023

Attachment A: Conditions of Consent

This consent is granted subject to the following conditions:

PART A: GENERAL

A1 Approved Plans and Supporting Documentation

The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

Plan/Report Title	Reference No	Revision	Prepared by	Date
Site Plan	NSW-02	D	Green Gold Energy	08/05/2023
Electrical Equipment Elevation Drawing		B	Green Gold Energy	13/03/2020
796908 Green Gold Energy – Elwomple_Mechanical Set	M101-M102, M201	A	Nextracker Inc	07/09/2021
Landscape Plan	Drawing No. 20158/LS01	2	Chris Smith Associates	20/09/2021

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail. In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

Reason: To ensure the development proceeds in the manner assessed by Council and all parties are aware of the approved plans and supporting documentation that applies to the development.

A2 Report Recommendations

The development must be constructed, operated and decommissioned in accordance with the approved specialist reports including the following key recommendations:

Plan/Report Title (incl Reference, date, author)	Recommendation(s)	Stage
Green Gold Energy, Construction Environmental Management Plan (GG-CEMP)		
Chris Smith & Associates, Statement of Environmental Effects, August 2022 (Ref: 20158)		

Low Impact Development Consulting, Recycling & Waste Management Plan – demolition, construction and in-operation, Commercial Solar Farm, 15/11/2021		
Aboriginal Cultural Heritage Due Diligence Assessment, Version 1 19/211/21		
Traffic Works Pty Ltd Traffic Impact Assessment Report for Green Gold Energy Pty Ltd Project No 201077, Final Report 1/10/2021		
Chris Smith & Associates Land Use Conflict Risk Assessment March 2023 (Ref 20158)		

A3 Signage

A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is 'exempt development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or any other applicable environmental planning instrument.

Reason: To ensure any signage is assessed in accordance with the planning controls.

A4 Compliance with the Building Code of Australia

All building work shall be carried out in accordance with the provisions of the Building Code of Australia. A reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant construction certificate.

Reason: To ensure the building work complies with the Building Code of Australia.

A5 Lapsing of consent

This consent is limited to a period of 5 years from the date of the Notice of Determination unless the works associated with the development have physically commenced.

Reason: To ensure compliance with Section 4.53 of the *Environmental Planning and Assessment Act 1979*

A6 Decommissioning

The land must be returned to its pre-existing condition (prior to use as a solar farm) and all solar farm infrastructure removed once the project is decommissioned. The land must be rehabilitated and restored, including the pre-existing land and soil capability class if previously used for agricultural purposes. The solar energy project owner or operator shall be responsible for decommissioning and rehabilitation unless

there is an agreement with the 'host landowner' that that clearly outlines alternate responsibilities.

A7 Requirements of Government Agencies

The following conditions have been imposed by government agencies:

(a) Department of Primary Industries – Agriculture

Decommissioning should involve the removal of all above and below ground infrastructure so that the land can be returned to its full agricultural potential.

(b) NSW RFS

1. *To ensure that the proposed solar farm is provided with adequate clearances to combustible vegetation, firefighting access and water supplies the following shall be provided:*
 - a. *A minimum 10.0 metre asset protection zone (APZ), maintained to the standard of an inner protection area (IPA) must be provided around the proposed structures in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.*
 - b. *A minimum 4.0 metre wide access road suitable for fire fighting vehicles shall be provided around the development site.*
 - c. *Where reticulated water supply with compliant hydrant spacing in accordance with AS2419.1:2005 is not available to the site a 20,000 litre static water supply (SWS) must be provided on site located within the IPA and:*
 - i. *unobstructed access is to be provided within 4 metres of the SWS must be provided at all times;*
 - ii. *a connection for firefighting purposes 65mm Storz outlet with a ball valve is fitted to the outlet;*
 - iii. *ball valve and pipes are adequate for water flow and are metal;*
 - iv. *supply pipes from tank to ball valve have the same bore size to ensure flow volume;*
 - v. *underground tanks have an access hole of 200mm to allow tankers to refill direct from the tank and a hardened ground surface for truck access is supplied within 4m;*
 - vi. *underground tanks are clearly marked;*
 - vii. *above-ground tanks are manufactured from concrete or metal;*
 - viii. *raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber (see Appendix F of AS 3959);*
 - ix. *tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;*
 - x. *all exposed water pipes external to the building are metal, including any fittings;*
 - xi. *where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19mm internal diameter; and*

- xii. *fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;*
- d. *A Bush Fire Emergency Management and Operations Plan must be prepared that addresses the following:*
 - i. *detailed measures to prevent or mitigate fires igniting;*
 - ii. *work that should not be carried out during total fire bans;*
 - iii. *availability of fire-suppression equipment, access and water;*
 - iv. *storage and maintenance of fuels and other flammable materials;*
 - v. *notification of the local NSW RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation, proposed to be carried out during a bush-fire fire danger period to ensure weather conditions are appropriate; and*
 - vi. *appropriate bush fire emergency management planning.*

(c) Essential Energy

1. *Essential Energy's records indicate existing overhead powerlines are impacted by the proposal:*
 - a. *Minimum safety clearance requirements must be maintained at all times for:*
 - i. *the proposed security fencing to the existing powerlines; and*
 - ii. *the proposed driveway access and/or exit, as such driveway access will pass under Essential Energy's existing overhead powerlines located at the front of the property. The driveway must comply with clearances for trafficable land, ground clearances must be maintained.*

Refer Essential Energy's policy CEOM7106.25 Minimum Clearance Requirements for NSW and the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

- b. *Any proposed driveway access and/or exit must remain at least 1.0 metre away from any electricity infrastructure (power pole, streetlight) at all times, to prevent accidental damage.*
 - c. *Any excavation works in this area or works on the proposed driveway must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
 - d. *Any landscaping, tree planting, gardens in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*
2. *Essential Energy's records also indicate that an existing underground service cable to Lot 11 is impacted by the proposal:*
 - a. *The plans provided do not show the location of the service cable.*
 - b. *Prior to carrying out any works (excavation or otherwise), 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) to locate this service cable.*
 - c. *The service cable must meet the requirements of the NSW Service and Installation Rules and any applicable additional standards. A Level 2 Electrician will be able to advise on these requirements.*

- d. Any excavation works in this area must comply with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
 - e. Works around the service cable must be managed. If the ground levels over the cable are to be altered, clearances must be maintained and cable integrity protected.
 - f. The Applicant should also be aware that as per the NSW Service and Installation Rules, if anything is constructed over the service cable and at any point the service cable has to be removed or replaced due to damage, that the Applicant is responsible for all costs associated with that replacement or removal.
3. Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar energy system which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreements 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.
 4. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the site amenities/storage building in accordance with NSW Service and Installation Rules. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

Essential Energy also makes the following general comments:

5. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
6. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
7. In addition, Essential Energy's records indicate there is overhead and underground electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations must be undertaken in accordance with 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.
8. 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).
9. 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/Underground Assets.

Reason: To ensure compliance with Section 4.47(3) of the *Environmental Planning and Assessment Act 1979* and the conditions of Government agencies are complied with.

PART B: PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

B1 Construction Certificate

A Construction Certificate is required for the development in accordance with Section 6.7(1) of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

B2 Design Amendments

Before the issue of a Construction Certificate, the certifier must ensure the construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council:

- (a) Site Plan - Proj No. NSW-02, dated 08/05/23
- (b) Landscape Maintenance Plan – Chris Smith & Associates, Drawing No 20158/LS01, Rev. 2

Reason: To require minor amendments to the approved plans and supporting documentation following assessment of the development

B3 Other Approvals

The following approvals are required where relevant:

- (a) **Roads Act 1993 approval** - The applicant is to submit an application to Council for any work within the road reserve (e.g. vehicular footpath crossings, utilities including stormwater, footpath paving, kerb and gutter etc) for local and regional roads or Transport for NSW for state roads, pursuant to Section 138 of the *Roads Act 1993*. Details must be provided with the Construction Certificate application.
- (b) **Section 68 of the Local Government Act 1993** – Any approvals required under Section 68, Parts A to F, including (but not limited to), any use of public property for crane operation, waste management or installation of a moveable dwelling. Applications are to be made to Council a minimum of six (6) weeks prior to the proposed activity being undertaken.

Reason: To ensure all work complies with relevant legislation.

B4 Servicing

In relation to services, the following must be undertaken by the applicant where relevant:

- (a) **Adequate services** – the applicant must demonstrate that adequate services for water, electricity and wastewater are available to the site,
- (b) **Dial before your dig** - the applicant shall contact “Dial Before You Dig on 1100” to obtain a Service Diagram. The sequence number obtained from “Dial Before You Dig” shall be forwarded to the Principal Certifying Authority (PCA) and Council for their records.

Details shall be provided with the Construction Certificate application.

Reason: To ensure work is carried out having regard to existing services and underground infrastructure for safety and efficiency.

B5 Substation Containment

The substation shall be provided with appropriate bunding or similar containment systems with a capacity that will exceed the oil storage volume of the transformers and must be demonstrated on the Construction Certificate plans.

Reason: To prevent water or land contamination from potential spills or leaks from the transformers within the substation from polluting the site and surrounding areas.

B6 Stormwater Management

The development must not result in the diversion of overland surface waters onto adjoining properties and where necessary shall construct appropriate surface drainage systems.

Reason: To ensure stormwater is appropriately managed on the site.

B7 Vehicle Access Requirements

Entry and exit points are to be clearly signposted and visible from both the street and the site at all times. All required works are to be completed in accordance with Council/Transport for NSW standards prior to the commencement of construction works on the site. Details must be provided on the Construction Certificate plans.

Reason: To ensure safe, practical and legal vehicle access is provided to the site.

B8 Visual Mitigation Measures

To ensure reflection and glare from the solar panels is minimised, the following shall be implemented:

- (a) Planting and maintenance of a vegetation screen along the western boundary of the site to reduce the impact of the solar panels on the adjoining properties/road;

Details are to be shown on the Construction Certificate plans.

Reason: To minimise visual impacts from the solar farm.

B9 External Lighting

Any lighting used on the site in connection with the development is to comply with *AS 4282 – Control of the obtrusive effects of Outdoor lighting*. The applicant must minimise off-site lighting impacts arising from the development and any external lighting is installed as low intensity lighting except where required for safety or emergency purposes. Details are to be shown on the Construction Certificate plans.

Reason: To protect the amenity of the surrounding area.

B10 Car Parking

All driveways, access ramps, vehicular crossings and car parking spaces shall be designed and constructed in accordance with the current version of Australian Standards, *AS 2890.1-2004: Parking Facilities – Off-street Car Parking* and *AS 2890.2:2018 - Parking facilities Off-street commercial vehicle facilities*. All car parking for the operation of the solar farm is to be provided on an all-weather surface and line marked. Details are to be provided with the Construction Certificate application.

Reason: To ensure driveways, access ramps, vehicular crossings and car parking complies with the relevant Australian Standards.

B11 Dilapidation report

Before the issue of a Construction Certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of roads and public land, to the satisfaction of the certifier. **This shall be done for the full length of Cemetery Road.**

Any damage caused to other properties during construction shall be rectified by the applicant. A copy of the dilapidation survey and an insurance policy that covers the cost of any rectification works shall be submitted to Council prior to the commencement of the demolition works. The insurance cover shall be a minimum of \$10 million.

Reason: To ensure any damage caused by the development is documented prior to works commencing on the site.

PART C: PRIOR TO WORKS COMMENCING

C1 Appointment of Principal Certifying Authority

Prior to the commencement of work, the person having the benefit of the development consent and a Construction Certificate shall:

- (a) Appoint a Principal Certifying Authority and notify the Council of the appointment (if Council is not appointed); and

- (b) Notify Council of their intention to commence building work (at least 2 days' notice is required).

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

C2 Signs on site

A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifier for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

Reason: Prescribed Condition under Clause 98A(2) and (3) of the Regulation.

C3 Implementation of Management Plan Recommendations

The requirements and recommendations of the following approved management plans must be implemented prior to the commencement of works and maintained at all times during the work:

- (a) *Construction Environmental Management Plan*, prepared by Green Gold Energy
- (b) *Aboriginal Cultural Heritage Due Diligence Assessment*, prepared by Red-Gum Environmental Consulting dated 19/11/2021
- (c) *Recycling and Waste Management Plan*, prepared by Low Impact Development Consulting dated 15/11/2021

Reason: To ensure the development does not adversely impact on Environmental and Cultural Heritage.

C4 Toilet Facilities during Construction

Toilet facilities must be provided on the work site during construction at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site. Each toilet provided must:

- (a) Be a standard flushing toilet, connected to a public sewer, or
- (b) If connection to a public sewer is not available, to an on-site effluent disposal

system approved by the council, or

- (c) A portable toilet.

Reason: To provide appropriate on-site amenities during demolition and construction work.

C5 Waste Management Agreement

If the developer would wish to utilise any waste facilities of the Council, a Waste Management Agreement must be agreed upon before commencement of construction.

Reason: *To minimise the waste impact.*

PART D: DURING WORKS

D1 Construction Hours

The hours of demolition and/or building work shall be limited to the following hours:

- (a) Monday to Friday: 7am to 6pm;
- (b) Saturday: 8am to 1pm;
- (c) No Construction on Sundays or Public Holidays.
- (d) **All construction is to cease during funeral ceremonies.** The construction supervisor is to provide his/her phone number to Council staff for this purpose.

Unless otherwise approved within the approved management plans, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works. Note: Any variation to the hours of work requires Council's approval.

Reason: To ensure the amenity of the area is maintained during construction.

D2 Compliance with Construction Environmental Management Plan

The requirements of the approved Construction Environmental Management Plan must be complied with and maintained for the duration of the construction works. This includes, but is not limited to, the following:

- (a) All practicable measures shall be undertaken to prevent and minimise harm to the environment and the amenity of the area as a result of the construction and operation of the development, particularly from wind-blown dust, debris, noise, erosion and soil management and the like.
- (b) All building materials and equipment must be stored wholly within the site unless an approval to store them elsewhere has been granted.
- (c) During construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc.

- (d) Protection measures shall be maintained in a state of good and safe condition throughout the course of demolition.
- (e) The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times.

The applicant must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

Reason: To ensure the required site management measures are implemented during construction.

D3 Waste Management

While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan. Upon disposal of waste, the applicant is to compile and provide records of the disposal to the Principal Certifier, detailing the following:

- (a) The contact details of the person(s) who removed the waste
- (b) The waste carrier vehicle registration
- (c) The date and time of waste collection
- (d) A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- (e) The address of the disposal location(s) where the waste was taken
- (f) The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

Note: If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the applicant is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

Reason: To require records to be provided, during construction, documenting that waste is appropriately handled.

D4 Responsibility for Changes to Public Infrastructure

While building work is being carried out, the applicant must pay any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure or services affected by the required construction works. Council and other service authorities should be contacted for specific requirements prior to commencement of any works.

Reason: To ensure payment of approved changes to public infrastructure.

D5 Discovery of Aboriginal Objects

While excavation, demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - (b) is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Reason: To ensure the protection of objects of potential significance during works.

D6 Discovery of Contamination

Should any unexpected contaminated, scheduled, hazardous or asbestos material be discovered before or during construction works, the applicant and contractor shall ensure the appropriate regulatory authority is notified and that such material is contained, encapsulated, sealed, handled or otherwise disposed of to the requirements of such Authority.

Reason: To ensure contamination discovered during construction is dealt with as quickly as possible and to protect the health of the community and the environment.

D7 Construction Noise

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

Reason: To protect the amenity of the neighbourhood.

D8 Imported Fill

While construction work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:

- (a) All excavated material removed from the site must be classified in accordance with the EPA's *Waste Classification Guidelines* before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier,
- (b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material identified as being subject to a resource recovery exemption by the NSW EPA.

Reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is safe for future occupants.

D9 Critical Stage Inspections

Building work must be inspected on the occasions set out in clause 162A (Critical stage inspections for building work) under the *Environmental Planning and Assessment Regulation 2000*.

Reason: To require approval to proceed with building work following each critical stage inspection and comply with the Regulation.

D10 Native Vegetation

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

Reason: To ensure vegetation is maintained on the site.

D11 Clearing for Asset Protection Zones (APZ)

The applicant must ensure the clearing of vegetation to establish the APZ is confined to within the marked APZ boundary and is consistent with the Landscape Plan and bushfire Report, to the satisfaction of the principal certifier.

Reason: To ensure vegetation clearance during construction is confined within the APZ.

PART E: PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

E1 Occupation Certificate

Occupation and operation of the solar farm is not to occur until all work has been completed, all of the conditions of consent have been satisfied and an Occupation Certificate has been issued by the Principal Certifying Authority pursuant to Section 6.10 of the *Environmental Planning and Assessment Act 1979*.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

E2 Completion of Public Utility Services

Before the issue of the relevant Occupation Certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, and is completed to the satisfaction of the relevant authority. Before the issue of the Occupation Certificate, the certifier must request written confirmation from the relevant authority that the relevant services have been completed.

Reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.

E3 Completion of all Works

All works must be completed in accordance with the conditions of this consent prior to the issue of an Occupation Certificate including, but not limited to, the following

- (a) Car parking areas and vehicle access points;
- (b) Fencing;
- (c) Bushfire Protection Measures and standards as outlined in this consent shall be installed and completed;
- (d) All drainage works required to be undertaken in accordance with this consent shall be completed prior to the issue of an Occupation Certificate for the development.

Following any construction or upgrading on site, the applicant must restore the ground cover of the site as soon as practicable, using suitable species and maintain ground cover.

Reason: To ensure adequate arrangements have been made for the development.

E4 Landscaping

All landscaping required by the approved Landscape Plan, including the removal of all noxious weeds, must be completed prior to the issue of an Occupation Certificate.

Reason: To ensure there is adequate landscaping undertaken on the site and an adequate visual screening buffer has been established on the site.

E5 Post-Construction Dilapidation Report and Repair of Infrastructure

Before the issue of an Occupation Certificate, a suitably qualified engineer must prepare a post-construction dilapidation report which must include a photographic survey, to the satisfaction of the principal certifier, detailing whether:

- (a) any roads and/or public infrastructure have been damaged as a result of the

carrying out of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) and if so, it is to be fully repaired to the written satisfaction of Council, and at no cost to Council.

Reason: To identify damage to adjoining properties resulting from building work on the development site.

E6 Removal of Waste upon Completion

Before the issue of an Occupation Certificate, the Principal Certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the Principal Certifier. Before the issue of a partial Occupation Certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved Waste Management Plan to the Principal Certifier's satisfaction.

Reason: To ensure waste material is appropriately disposed or satisfactorily stored

E7

PART F: OPERATIONAL CONDITIONS

F1 Decommission Management Plan

A Decommissioning Plan must be provided to Council (or relevant approval authority) generally consistent with the Concept Decommissioning Plan for review and approval no later than 12 months prior to the proposed cessation of operations. It must include, but not be limited to, the following:

- (a) Expected timeline for rehabilitation completion;
- (b) Decommissioning of all solar panels, above and below ground infrastructure, inverter stations, fencing and any other structures or infrastructure relating to the approved development;
- (c) Programme of site restoration to return the land to its previous state prior to use as a solar farm, with the retention of landscaping; and
- (d) Details on waste management and recycling of all materials arising from the development.

Reason: To ensure the decommissioning of the solar farm occurs in an orderly and sustainable manner, that the amenity of the area is maintained while the solar farm is being decommissioned and to ensure the site can be returned to its original condition.

F2 Emergency Management Plan

The approved Emergency Management Plan ('EMP') for the development shall be activated when required throughout the operation of the development and shall

be updated if required.

During occupation of the development, the applicant must ensure the site is managed, in accordance with *Planning for Bushfire Protection 2019* and the NSW Rural Fire Service's document *Standards for Asset Protection Zones*. Any required bushfire protection measures are to be maintained throughout the operation of the solar farm at the site.

Reason: To ensure the protection of human life, the environment and adjoining property in the event of fire or other emergency generated by the development.

F3 Vehicle Management

The premises shall be operated in accordance with the following vehicle management requirements:

- (a) All loading and unloading of vehicles must be undertaken wholly within the site and all vehicles must enter and leave the site a forward direction.
- (b) Sufficient car parking is to be provided on the site, with no car parking to occur on the public road network in the vicinity of the site.
- (c) The vehicle entry and exit points are to be clearly signposted and visible from both the street and the site at all times and must be maintained in good condition for the life of the development.

Reason: To ensure the operation of the solar farm does not adversely affect the surrounding road network and has adequate car parking provided on the site.

F4 Landscape Screening

The planting associated with the landscape screen as outlined on the approved Landscape Plan must be maintained while the solar farm is in operation at the site. On-going monitoring of the health and performance of the visual plant screen during the life operation of the solar farm must be undertaken, including replacement of plant stock whenever necessary to ensure the screen continues to act as an effective visual buffer.

Reason: To ensure the provision of a landscape screen to reduce the visual impact of the development.

F5 Operation of Plant and Equipment

The Applicant must ensure that all plant and equipment used on the site or in connection with the development is maintained in a proper and efficient condition and operated in a proper and efficient manner.

Reason: To ensure all plant and machinery on the site is in good working order and is operated in a safe manner.

F6 External lighting

Any lighting used on the site in connection with the development is to comply with AS 4282 – *Control of the obtrusive effects of Outdoor lighting*. The applicant must minimise off-site lighting impacts arising from the development and any external lighting is installed as low intensity lighting except where required for safety or emergency purposes.

Reason: To protect the amenity of the surrounding area.

F7 Storage of Hazardous Materials

The applicant must store and handle all dangerous and hazardous materials on site in accordance with AS 1940-2004: *The storage and handling of flammable and combustible liquids*. The storage of any dangerous and hazardous materials must be provided in a suitably bunded and impervious area and in such a way as to minimise spills of hazardous materials or hydrocarbons. Clean up any spills must occur as soon as possible.

Reason: To minimise harm to the environment.

F8 Maintenance of Wastewater and Stormwater Treatment Device

During occupation and ongoing use of the building, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).

Reason: To protect sewerage and stormwater systems.

F9 Noise Control During Operation

Any noise generated from the operation of the solar farm, including noise from any substation and associated infrastructure, must not be intrusive or constitute offensive noise as defined by the *Protection of the Environment Operations Act 1997* at any private residential receiver.

The operation of the solar farm must satisfy the EPA maximum noise criteria pursuant to the EPA's *Noise Policy for Industry (2017)*. If, at any time, these levels are exceeded, operation of the solar farm shall immediately be modified, including suspension of operations if necessary, to ensure compliance.

Reason: To protect the amenity of the area while the solar farm is in operation.

F10 Waste Materials

The Applicant must:

- (a) minimise the waste generated by the development;

- (b) classify all waste generated on site in accordance with the NSW EPA *Waste Classification Guidelines, Part 1: Classifying Waste*, November 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.

Reason: To protect the environment.