

# THE COUNCIL OF THE SHIRE OF BOURKE

File No 1173-30000000-000	Development Application No	DA 2023/0024
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## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the *Environmental Planning and Assessment Act 1979*

Section 4.16

Development Application	
Applicant's Name	Jou Jong
Applicant's Address	Level 1, 19 Moore Street Turner ACT 2612
Owner's Name	RB Williams & JB Goulden
Land to Be Developed	Lots 1 &2, DP134908 – 96 Tancred Drive Bourke NSW 2840
Proposed Development	Construction of 5MW Solar Farm with Battery Energy Storage System
Building Code of Australia Building Classification	10b
Determination	
Made On	
Determination	<b>CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW:</b>
Consent to Operate From	
Consent to Lapse On	

## Conditions

### PART A - GENERAL CONDITIONS

#### 1. APPROVED PLANS AND SUPPORTING DOCUMENTATION

##### Condition

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
22107-G-0100	N/A	Title / Sheet List	itp Renewables	N/A
22107-G-0400	2	Location Plan	itp Renewables	11/9/23
22107-G-2100	11	General Arrangement Plan	itp Renewables	11/9/23
22107-G-2200	2	Site Elevations	itp Renewables	11/9/23
22107-C-4300	1	Inverter Footing Details	itp Renewables	11/9/23
22107-C-4310	1	BESS Footing Details	itp Renewables	11/9/23
22107-C-5300	1	Fencing Details	itp Renewables	11/9/23
22107-C-5301	1	Gate Details	itp Renewables	11/9/23

22107-C-6300	1	Access Path Details	itp Renewables	11/9/23
22107-E-3400	1	FTC Voyager Tracker Details	itp Renewables	11/9/23
22107-E-4300	1	Inverter Station Details	itp Renewables	11/9/23
22107-E-5300	1	BESS Station Details	itp Renewables	11/9/23
22107-E-5310	1	DC-DC Converter Skid Detail	itp Renewables	11/9/23

Approved Documents				
Document title	Version number	Prepared by	Date of document	
Statement of Environmental Effects	Final	Zenith Town Planning	11 May 2023	
Traffic Impact Assessment Report	6	Price Merrett Consulting	23 November 2023	
Noise Assessment	N/A	Muller Acoustic Consulting Pty Ltd	17 April 2023	
Preliminary Biodiversity Assessment	N/A	Red-Gum Environmental Consulting	1 May 2023	
Fire and Hazard Assessment	4	itp Renewables	10 May 2023	
Glare and Glint Assessment	4	itp Renewables	4 May 2023	
Landscape Character and Visual Impact Study	B	Zenith Town Planning	1 May 2023	
Waste and Decommission Assessment	4	itp Renewables	31 August 2023	
Water Assessment	2	itp Renewables	17 April 2023	
Flood Study	3	itp Renewables	10 August 2023	

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of consent, the condition prevails.

#### Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. CONSTRUCTION CERTIFICATE

#### Condition

A construction certificate is to be issued by Council or a registered certifier prior to any building works being carried out on site. Nothing in this consent precludes the staging of construction via multiple construction certificates.

#### Reason

To ensure compliance with Part 6, section 6.3 (1) (a) of the *Environmental Planning and Assessment Act 1979*.

### **3. COMPLIANCE WITH BUILDING CODE OF AUSTRALIA**

#### **Condition**

The work must be carried out in accordance with the requirements of the National Construction Code, *Building Code of Australia*, in force at the time of construction certificate issue or approval under s6.28 of the Environmental Planning and Assessment Act 1979.

#### **Reason**

The condition is prescribed under section 69 of the *Environmental Planning and Assessment Regulation 2021*.

### **4. SIGNS ON SITE**

#### **Condition**

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 and must be removed when the work has been completed.

**Note:** This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

#### **Reason**

Prescribed condition *Environmental Planning and Assessment Regulation 2021*, section 70.

## **PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **1. APPOINTMENT OF PRINCIPAL CERTIFIER**

#### **Condition**

No work shall commence in connection with this Development Consent until:

- (a) A Construction certificate for the building work has been issued by:
  - (i) the consent authority; or
  - (ii) a registered certifier; and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifier for the building work, and
  - (ii) notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case, and
- (b1) the principal certifier has, no later than 2 days before the building work commences:
  - (i) notified the Council of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner builder, has:

- (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
- (ii) notified the principal certifier of such appointment, and
- (ii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(c) the person having the benefit of the development consent has given at least 2 days' notice to the Council of the person's intention to commence the erection of the building.

**Reason**

To ensure compliance with s6.6 of the Environmental Planning and Assessment Act 1979 as amended.

## **2. LANDSCAPING PLAN**

**Condition**

Before the issue of a construction certificate a landscaping plan must be prepared by a qualified landscape architect or landscape consultant and must be provided to and approved by the principal certifier.

The landscaping plan is to comprise a vegetative screen which must achieve the following:

- Extend the full length of the solar farm fenced / compound area along the common boundary with the Mitchell Highway and extend a minimum of half the length of the common boundary with Lot 136 DP39834 commencing from the highway (north-western) end of the parcel.
- For the landscaping along the common boundary with Lot 136 DP39834, the required landscaping may be located on the inside of the security fence. The security fence must be repositioned to accommodate the required APZs (if the landscaping is to be located on the inside of the security fence). The landscaping in this location must be adequately fenced off on all sides to protect against damage from stock grazing within the site.
- For the landscaping along the Mitchell Highway frontage, the required landscaping must be positioned on the outside of the security fence. The landscaping in this location must be adequately fenced off on all sides to protect against damage from stock grazing within the site.
- Be located wholly within the leased area.
- Have a minimum landscaped corridor width of 5.0m.
- Have a mature height of not less than 4.5m.
- Be of a sufficient density to adequately screen the development.
- Not impede the bushfire APZs as an inner protection area.
- Be provided with an irrigation source to ensure that the required vegetative screen is fully maintained for the life of the project.
- Comprise a mix of trees and shrubs endemic to the Bourke region and suitable for local growing conditions.

The plan must include the following information:

- Details of the vegetative screen to be established and maintained for the life of the project along the road boundary (i.e. the Mitchell Highway frontage), and halfway along the

common boundary between Lot 1 DP134908 and Lot 136 DP39834 (i.e. the closest neighbour to the north);

- Detailed plant schedule which includes proposed species listed by botanical (genus and species) and common names, quantities of each species, pot sizes and the estimated size at maturity; and
- A section drawing showing a timeline of projected growth of the landscaping at 3-5 years - post planting, 5-10 years post-planting, and 10-15 years post planting.

**Reason**

To mitigate visual impacts to the nearest neighbour, the surrounds, and the main road.

**3. CONSTRUCTION SITE MANAGEMENT PLAN**

**Condition**

Before the issue of a construction certificate a construction site management plan must be prepared and be provided to the principal certifier for approval. The plan must include the following matters:

- a) The location and materials for protective fencing and hoardings on the perimeter of the site;
- b) Provisions for public safety;
- c) Pedestrian and vehicular site access points and construction activity zones;
- d) Details of construction traffic management including:
  - i) Proposed truck movements to and from the site;
  - ii) Estimated frequency of truck movements; and
  - iii) Measures to ensure pedestrian safety near the site;
- e) Details of bulk earthworks to be carried out;
- f) The location of site storage areas and sheds;
- g) The equipment used to carry out works;
- h) The location of a garbage container with a tight-fitting lid;
- i) Dust, noise and vibration control measures;
- j) The location of temporary toilets;
- k) The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with AS 4970 – *Protection of trees on development sites*.

**Reason**

To require details of measures that will protect the public, and the surrounding environment, during site works and construction.

**4. WASTE MANAGEMENT PLAN**

**Condition**

Before the issue of a construction certificate a waste management plan for the development must be prepared and be provided to and approved by the principal certifier. The plans must be prepared:

- a) in accordance with the Environment Protection Authority's Waste Classification Guidelines as in force from time to time, and
- b) include the following information:
  - i) the contact details of the person removing waste,
  - ii) an estimate of the type and quantity of waste,
  - iii) whether waste is expected to be reused, recycled or sent to landfill,
  - iv) the address of the disposal location for waste.

A copy of the waste management plan must be kept on-site at all times while work approved under the development consent is being carried out.

**Reason**

To ensure resource recovery is promoted and local amenity protected during construction.

## **5. EROSION AND SEDIMENT CONTROL PLAN**

### **Condition**

Before the issue of a construction certificate an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and must be provided to and approved by the principal certifier.

The plans must be prepared:

- a) the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and
- b) the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

### **Reason**

To ensure no substance other than rainwater enters the stormwater system and waterways.

## **6. TRAFFIC MANAGEMENT PLAN - CONSTRUCTION**

### **Condition**

Before the issue of a construction certificate a Traffic Management Plan must be prepared by a suitably qualified person and be provided to and approved by the principal certifier. The plan must address incoming and outgoing traffic into/out of the site during construction work, and include plans and procedures that will allow construction traffic and material delivery to be safely guided into and out of the site under speed reduced traffic control conditions in accordance with the provisions of the relevant Australian Standards and TfNSW traffic control on work sites.

The plan shall also develop procedures to ensure the existing access gates will be fixed open during construction period, or the existing gates be relocated to ensure sufficient room to park the largest site vehicle without encroaching on the shoulders of the Mitchell Highway (i.e. at least 30m as per Condition 10).

Shared transport for workers should be incorporated into the plan during the construction period.

### **Reason**

To ensure that any traffic or pedestrian movement through or past the work site is safe.

## **7. CONSTRUCTION NOISE MANAGEMENT PROTOCOL**

### **Condition**

Before the issue of a construction certificate a Construction Noise Management Protocol must be prepared by a suitably qualified person and be provided to and approved by the principal certifier. The protocol must include measures to minimise noise emissions, manage out of hours (minor) works to be inaudible, and to respond to potential concerns from the community (including notification of works to neighbours, contact for complaints, and complaints procedure).

The Protocol shall be in accordance with the recommendations set out in the submitted 'Noise Assessment', prepared by Muller Acoustic Consulting, and dated 17 April 202.

### **Reason**

To minimise noise impacts to surrounding neighbours during construction.

## **8. LONG SERVICE LEVY**

### **Condition**

Before the issue of the relevant construction certificate the long service levy, as calculated at the date of this consent, must be paid to the Long Service Corporation or Council under Section 34 of the *Building and Construction industry Long Service Payments Act 1986*, and evidence of the payment is to be provided to the certifier.

### **Reason**

To ensure the long service levy is paid.

# PART C – BEFORE THE COMMENCEMENT OF WORKS

## 1. NOTICE OF COMMENCEMENT

### Condition

No work shall commence until a notice of commencement (form will be attached with issue of a Construction Certificate) giving Council:

- (a) Not less than two (2) days' notice of the date on which it is proposed to commence work associated with this Development Consent;
- (b) Details of the appointment of a Principal Certifier (either Bourke Shire Council or another registered certifier)
- (c) Details of the name, address and licence details of the Builder.

### Reason

Statutory requirement under section 6.6 of the EP&A Act 1979.

## 2. TRANSPORT FOR NSW – INTERSECTION UPGRADE

### Condition

Prior to the commencement of construction works, the vehicular access servicing the subject site is to be upgraded to include:

- A sealed Rural Property Access as provided in Figure 7.4 of *Austrroads Guide to Road Design Part 4 Intersections and Crossings*. The access must be sealed a minimum distance of ten (10) metres from the edge of the travel lane in Mitchell Highway.
- A sealed Rural Basic Right Turn Treatment (BAR) in accordance with Figure 7.6 of *Austrroads Guide to Road Design: Part 4A - Unsignalised and signalised intersections*.
- Any gate or grid located in the access is to be setback a minimum of 30 metres from the edge of the seal in Mitchell Highway.

A **strategic concept design** of the intersection upgrade will need to be prepared and submitted to Transport for NSW (TfNSW) for review before the upgrade is carried out. The strategic concept design is required to be prepared for the design speed, design vehicle and will require swept paths demonstrating that the design vehicle can utilise the treatments and permit through traffic when turning into the access.

Further, to undertake work on a State Classified road, a **Works Authorisation Deed** (WAD) will need to be entered into with TfNSW. TfNSW will exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the *Roads Act 1993*, as applicable, for all works under the WAD.

All road works under the WAD are to be completed before any works commence on site for the development, to enable the safe movement of construction related vehicles.

**NOTE:** This Condition does not guarantee TfNSW's final consent to the specific road work and other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to the Classified State road network prior to the commencement of any work. The WAD process, including acceptance of design documentation and construction can take time. Sufficient lead time within the project development program is required to accommodate this process. It is recommended that the applicant / contractor work through this process as soon as possible with TfNSW.

### Reason

To comply with the requirements of TfNSW and ensure safe access to and from the site.



### **3. TRANSPORT FOR NSW – UTILITY CROSSINGS**

#### **Condition**

Any utility crossings on Mitchell Highway will require separate consent from Transport for NSW (TfNSW) under Section 138 of the *Roads Act 1993*.

#### **Reason**

To comply with the requirements of TfNSW and roads legislation.

### **4. ALL PLAN CONTROLS IN PLACE**

#### **Condition**

Before any site work commences the principal certifier must be satisfied that all measures set out in the relevant plans are in place before works commence, including:

- a) Waste Management Plan
- b) Erosion and Sediment Control Plan
- c) Construction Site Management Plan
- d) Traffic Management Plan
- e) Construction Noise Management Protocol
- f) Preliminary Biodiversity Assessment

#### **Reason**

To ensure safe construction works and protection of the environment.

### **5. TEMPORARY TOILET AMENITIES ON CONSTRUCTION SITE**

#### **Condition**

Prior to commencement of any building works, toilet facilities for employees must be provided in accordance with SafeWork NSW requirements.

Where female workers are present on site, appropriate measures for sanitary item disposal should be made, such as a disposal unit provided in the portable toilet.

#### **Reason**

Statutory Requirement - Health and amenity.

### **6. CAR PARKING AND ACCESS – CONSTRUCTION WORKS**

#### **Condition**

Prior to the commencement of works:

- a) 40 temporary off-street car parking spaces are to be provided onsite.
- b) Each car parking space is to be in accordance with the relevant Australian Standards.
- c) Unloading areas for truck deliveries are to be provided onsite.

- d) All car parking spaces and truck unloading areas to be all weather material and maintained at all times during the construction phase of the project.
- e) All internal access roads shall be constructed of hard standing, all-weather material and shall be maintained at all times.

The temporary car parking spaces and truck unloading areas shall be removed at the completion of construction / installation works.

**Reason**

To ensure adequate on-site carparking is provided during construction works.

## **PART D – DURING WORKS**

### **1. ESSENTIAL ENERGY REQUIREMENTS**

**Condition**

- a) It is essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice with Essential Energy if works cannot maintain the safe working clearances set out in '*Working Near Overhead Powerlines Code of Practice*', and '*CEOP8041 - Work Near Essential Energy's Underground Assets*';
- b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the property should be complied with;
- c) Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as '*ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*'; and
- d) 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); the location of overhead and underground powerlines are also shown in the *Look Up and Live* app.

**NOTE:** If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.

**Reason**

To ensure safety and to comply with the requirements of Essential Energy.

### **2. HOURS OF WORK**

**Condition**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

Monday to Friday	7.00am to 6.00pm
Saturdays	8.00am to 1.00pm
Sundays and Public Holidays	No works to be undertaken

Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.

**Reason**

To protect the amenity of the surrounding area and comply with the Environmental Protection Authority's Interim Construction Noise Guideline.

### **3. IMPLEMENTATION OF ALL MANAGEMENT PLANS**

#### **Condition**

While site work is being carried out:

- a) The relevant measures required by all relevant plans must be implemented at all times, including:
  - i. Waste Management Plan
  - ii. Erosion and Sediment Control Plan
  - iii. Construction Site Management Plan
  - iv. Traffic Management Plan
  - v. Construction Noise Management Protocol
- b) a copy of these plans must be kept on site at all times and made available to Council officers upon request.

#### **Reason**

To ensure site management measures are implemented during the carrying out of site work to minimise impacts on the road, neighbours and the environment.

### **4. NOISE AND VIBRATION**

#### **Condition**

While site work is being carried out, noise generated from the site must be controlled in accordance with the requirements of the Construction Noise Management Protocol and submitted Noise Assessment report, prepared by Muller Acoustic Consulting, and dated 17 April 2023.

#### **Reason**

To protect the amenity of neighbours during construction.

### **5. BIODIVERSITY**

#### **Condition**

Site work shall be controlled in accordance with the recommendations of the submitted Preliminary Biodiversity Assessment, prepared by Red-Gum Environmental Consulting, and dated 1 May 2023.

#### **Reason**

To protect the environment and minimise risk to threatened species during construction.

### **6. SOIL MANAGEMENT**

#### **Condition**

While site 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:
  - i) Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997*, or
  - ii) a material identified as being subject to a resource recovery exemption by the NSW EPA, or
  - iii) a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* and 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 not contaminated and is safe for future occupants.

## **7. WASTE MANAGEMENT**

### **Condition**

While site work is being carried out:

- a) all waste management must be undertaken in accordance with the waste management plan, and
- b) upon disposal of waste, records of the disposal must be compiled and provided to the principal certifier detailing the following:
  - i) The contact details of the person(s) who removed the waste
  - ii) The waste carrier vehicle registration
  - iii) The date and time of waste collection
  - iv) A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill
  - v) The address of the disposal location(s) where the waste was taken
  - vi) 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.

If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and council.

### **Reason**

To require records to be provided, during site work, documenting the lawful disposal of waste.

## **8. DUST CONTROL**

### **Condition**

The following measures must be implemented (in part or in total) as directed by the principal certifier to control the emission of dust:

- a) Dust screens must be erected around the perimeter of the site and be kept in good repair for the duration of the work.
- b) All dusty surfaces must be wet down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be contaminated or allowed to enter the stormwater system.
- c) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- d) All stockpiles of soil or other materials shall be placed away from drainage lines.
- e) All stockpiles of soil or other materials likely to generate dust or odours shall be covered.
- f) All stockpiles of contaminated soil shall be stored in a secure area and be covered if remaining more than 24 hours, or as directed by Council.

### **Reason**

To ensure environmental amenity.

## **9. CONTAMINATED LAND UNEXPECTED FINDS**

### **Condition**

In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental scientist appointed to further assess the site.

The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Bourke Council.

**NOTE:** Council may also request that a NSW EPA accredited site auditor is involved to assist with the assessment of the contaminated land situation and review any new contamination information. The applicant must also adhere to any additional conditions which may be imposed by the accredited site auditor.

**Reason**

To ensure compliance with Statutory Requirements.

**10. DISCOVERY OF RELICS AND ABORIGINAL OBJECTS**

**Condition**

While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

- a) the work in the area of the discovery must cease immediately;
- b) the following must be notified
  - i) for a relic – the Heritage Council; or
  - ii) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, Section 85.

Site work may recommence at a time confirmed in writing by:

- a) for a relic – the Heritage Council; or
- b) for an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the *National Parks and Wildlife Act 1974*, Section 85.

**Reason**

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

**11. MAINTENANCE OF SITE - CONSTRUCTION**

**Condition**

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- d) At the completion of the works, the work site must be left clear of waste and debris.

**NOTE:** The storage of materials or the placement of sheds is not permitted on footpaths, roadways or in reserves. Rubbish and building materials must be contained on the site. No material, goods or machinery shall be stored, placed or otherwise permitted to stand between the building line and the street alignment.

NOTE 2: All construction activities, including loading, unloading, storage of materials and construction activities must be undertaken wholly within the bounds of the site and not impact the safety of all road users, including pedestrians or the efficiency of the public road network.

**Reason**

To ensure traffic safety, protection of the environment, and public amenity.

## **12. UTILITY INFRASTRUCTURE**

### **Condition**

All infrastructure installed on site is to be clear of existing below ground utility infrastructure. Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

### **Reason**

To ensure that utility infrastructure is adequately protected.

# **PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE**

## **1. SITE EMERGENCY PLANS**

### **Condition**

Before the issue of an occupation certificate, Site Emergency Plans must be prepared by a suitably qualified person and provided to the principal certifier. The Plan shall be in accordance with New South Wales Rural Fire Service's *Planning for Bush Fire Protection 2019*, and the recommendations set out in the submitted 'Fire and Hazard Assessment', version 4, prepared by itp Renewables, and dated 10 May 2023.

The plan shall prepare for bushfire hazards, flood hazards, and any operational hazards identified for the solar farm.

### **Reason**

To minimise the risk of human harm and environmental harm associated with potential hazards that may arise from the development.

## **2. COMPLETION OF LANDSCAPE SCREENING**

### **Condition**

Before the issue of an occupation certificate, the principal certifier must be satisfied all vegetative screening works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.

### **Reason**

To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s) and to mitigate visual impacts.

## **3. BUSHFIRE FIRE PRONE AREAS – ASSET PROTECTION ZONES**

### **Condition**

Before the issue of an occupation certificate, the principal certifier must be satisfied that the Asset Protection Zones (APZs) for protection from bushfire are provided in accordance with the recommendations outlined in the New South Wales Rural Fire Service's *Planning for Bush Fire Protection 2019*.

### **Reason**

Statutory requirement and to ensure fire safety.

#### **4. BUSH FIRE PROTECTION - WATER SUPPLY**

##### **Condition**

Before the issue of an occupation certificate the principal certifier must be satisfied that a minimum of 20,000 litres of tanked water supply for firefighting purposes is provided onsite.

If the tank is to be used for other water uses, the draw off point is to be located at or above the 20,000-litre level. The tank shall be fitted with a 65mm Storz fitting and ball or gate valve.

Water tanks for firefighting purposes shall be of a non-combustible material, and located to allow easy access for fire fighting vehicles.

##### **Reason**

Statutory requirement and to ensure fire safety.

#### **5. REPAIR OF INFRASTRUCTURE**

##### **Condition**

Before the issue of an occupation certificate:

a) any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of council, and at no cost to council, or

b) if the works in (a) are not carried out to council's satisfaction, council may carry out the works required and the costs of any such works must be paid as directed by council and in the first instance will be paid using the security deposit required to be paid under this consent.

##### **Reason**

To ensure any damage to public infrastructure is rectified.

#### **6. REMOVAL OF WASTE UPON COMPLETION**

##### **Condition**

At the completion of all site works and before the issue of an occupation certificate:

a) all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan, and

b) written evidence of the waste removal must be provided to the satisfaction of the principal certifier.

##### **Reason**

To ensure waste material is appropriately disposed or satisfactory stored

# **PART F – OCCUPATION AND ONGOING USE**

## **1. MANAGEMENT OF BUSHFIRE PROTECTION MEASURES**

### **Condition**

During ongoing use of the site, the APZs must be managed as an Inner Protection Area (IPA) in accordance with the NSW Rural Fire Service's *Planning for Bushfire Protection 2019* and Standards for Asset Protection Zones.

Site access and static water supply for firefighting purposes shall also be maintained at all times, in accordance with the NSW Rural Fire Service's *Planning for Bushfire Protection 2019*.

### **Reason**

To ensure ongoing protection from bushfires.

## **2. OPERATION IN ACCORDANCE WITH DOCUMENTS**

### **Condition**

Ongoing operations of the development shall be carried out in accordance with all relevant submitted and approved documents at all times, including:

- a) Fire and Hazard Assessment
- b) Preliminary Biodiversity Assessment (i.e. weed management)
- c) Site Emergency Plan(s)
- d) Waste and Decommissioning Study

### **Reason**

To maintain amenity, protect the environment, and ensure protection from hazards.

## **3. LANDSCAPE SCREENING**

### **Condition**

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.

## **4. DECOMMISSION MANAGEMENT PLAN**

### **Condition**

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 the approved development;



- (c) Programme of site restoration to return the land is returned 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.

## **ADVISORY NOTE - Prescribed conditions of development consent**

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

**All development must comply with the following where relevant:**

#### **69 Compliance with Building Code of Australia and insurance requirements under [Home Building Act 1989](#)**

- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the [Home Building Act 1989](#), Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
- (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the *Building Code of Australia*.
- (4) In subsection (1), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.
- (5) In subsection (3), a reference to the *Building Code of Australia* is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- (6) This section does not apply—
  - (a) to the extent to which an exemption from a provision of the *Building Code of Australia* or a fire safety standard is in force under the [Environmental Planning and Assessment \(Development Certification and Fire Safety\) Regulation 2021](#), or
  - (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.

#### **70 Erection of signs**

- (1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
- (2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision 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 the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited.
- (3) The sign must be—
  - (a) maintained while the building work, subdivision work or demolition work is being carried out, and
  - (b) removed when the work has been completed.

- (4) This section does not apply in relation to—
- (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
- (b) Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

#### **71 Notification of Home Building Act 1989 requirements**

- (1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- (2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following—
  - (a) for work that requires a principal contractor to be appointed—
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer of the work under the *Home Building Act 1989*, Part 6,
  - (b) for work to be carried out by an owner-builder—
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under the *Home Building Act 1989*—the number of the owner-builder permit.
- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

#### **72 Entertainment venues**

- (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
- (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
- (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.
- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in—
  - (a) the operation of the projectors being used, and
  - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the **projection room**).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the *Building Code of Australia*, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.
- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and implemented for a building, other than a temporary structure, used as an entertainment venue.
- (9) The emergency evacuation plan must specify the following—
  - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
  - (b) the number of fire safety officers that must be present during performances,
  - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section—  
**exit** has the same meaning as in the *Building Code of Australia*.

### **73 Maximum capacity signage**

- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building—
  - (a) an entertainment venue,
  - (b) a function centre,
  - (c) a pub,
  - (d) a registered club,
  - (e) a restaurant or cafe.
- (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

### **74 Shoring and adequacy of adjoining property**

- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- (2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense—
  - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
  - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- (3) This section does not apply if—
  - (a) the person having the benefit of the development consent owns the adjoining land, or
  - (b) the owner of the adjoining land gives written consent to the condition not applying.

<b>Signed</b>	On behalf of the consent authority: <b>BOURKE SHIRE COUNCIL</b>
<b>Signature</b>	
<b>Name</b>	Mr Dwayne Willoughby – Manager, Planning, Regulatory & Environmental Services
<b>Date</b>	

## **Notes**

### **Right of Review & Appeal**

If you are dissatisfied with this decision, Sections 8.2 of the *Environmental Planning and Assessment Act 1979* gives you the right to ask the Council for a review of the determination or appeal to the Land and Environment Court, within 6 months after the date on which you receive this notice.

### **Legal Liability**

Your legal liability commences at the date of the Final Inspection and continues for a period of seven years. Should you fail to request a Final Inspection to be carried out at the appropriate time, you leave yourself liable to prosecution. Council therefore enlists your assistance to ensure that the various forms are completed at the appropriate times.

### **Lapsing of Consent**

In accordance with Section 4.53 of the *Environmental Planning and Assessment Act 1979* (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.

**Process for Modification**

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 4.55 of the *Environmental Planning and Assessment Act 1979*. The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

**Disability Discrimination Act 1992**

This application has been assessed in accordance with the Environmental Planning and assessment Act 1979. NO guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which AS 1428.1 – “Design for Access and Mobility”. AS 1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

**Disclaimer – S88B Restrictions on the Use of Land**

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.