

DETERMINATION AND STATEMENT OF REASONS
WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	11 August 2023
DATE OF PANEL DECISION	11 August 2023
DATE OF PANEL MEETING	07 August 2023
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Donna Rygate, Cr Manjit Singh Lally
APOLOGIES	Cr Christine Stead
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 31 July 2023.

MATTER DETERMINED

PPSWES-181 – DA 93/2023(1), Griffith - 206/-/DP756035 2773 BERECRY ROAD THARBOGANG, Electricity Generating Works – Proposed construction of a SUB-5mW solar system and battery storage system with transmission line to connect to local infrastructure (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1. In reaching its decision the Panel notes oral advice provided by Council during the Panel meeting, as follows:

- The statutory referral to agencies listed in the table at p12 of the Assessment Report is in error as referral to TfNSW is not applicable to the proposed development.
- The 2nd paragraph on p38 of the Assessment Report, in addressing Section 7.12 Contributions, should read as follows:
 - The proposed development comprises Electricity Generating Works and is within the Griffith precinct.

Development application

The Panel determined to grant conditional consent to the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report with changes set out below to the conditions.

CONDITIONS

The Development Application was approved subject to the conditions attached to the Council Assessment Report with the following changes;

Attachment B Condition 1

The following document is to be included in the second table:

Griffith Solar Farm - 2773 Berecrys Road Tharbogang – Landscape Plans by Ground Control, Landscape Architecture Pty Ltd, Project 23617, Sheets 1 to 4, dated 11 April 2023.

Condition 18 is amended to read:

18. Landscaping Plan

Prior to the issue of the Construction Certificate a detailed landscaping plan incorporating a mature vegetation buffer around the site shall be prepared and submitted to the Council for approval. The landscaping plan shall be generally in accordance with the landscape plans by Ground Control, Landscape Architecture Pty Ltd, Project 23617, Sheets 1 to 4, dated 11 April 2023, and incorporate the details set out in the Landscape Works Construction Notes contained in Sheet 4. The entity with the benefit of the consent must establish and maintain the required vegetation buffer around the site. The buffer must:

- (a) be comprised of species that make up the Weeping Myall Woodland TEC, with *Acacia pendula* as the main species, or locally native species;
- (b) be at least 5 metres deep, comprising at least two rows of staggered trees;
- (c) be effective at screening views of the solar panels and ancillary infrastructure on site from surrounding residences, and minimising the glare from the solar panels on road users; and
- (d) be kept free of weeds.

Condition 34 is deleted and replaced with the following condition:

34. Staff parking

All vehicles for staff, contractors and other people involved in the construction phase are to be parked on the site and not on any public roads.

Condition 47 is amended to read:

47. Landscaped Buffer

Prior to the issue of the Occupation Certificate the approved landscaping required under Condition 18 of this consent is to be established in accordance with the approved plan, including compliance with the details set out in the Landscape Works Construction Notes contained in Sheet 4 of the Landscape Plans by Ground Control, Landscape Architecture Pty Ltd, Project 23617, dated 11 April 2023.

Condition 46 is amended to read:

46 Noise Control

Compliance with the following noise mitigation measures together with any specific recommendations in the Acoustic Report – Environmental Noise Emission Assessment (Rev 1) by WatsonMossGrowcott, dated 10 May 2023, is required during the construction phase to reduce emissions to the surrounding community:

- (a) a construction noise management protocol to minimise noise emissions, manage out of hours (minor) works to be inaudible, and to respond to potential concerns from the community;
- (b) where possible use localised mobile screens or construction hoarding around piling rig/plant to act as barriers between construction works and receivers, particularly where equipment is near the site boundary and/or a residential receiver including areas in constant or regular use (eg unloading and laydown areas);
- (c) operating plant in a conservative manner (no over-revving), shutdown when not in use, and parking starting plant at farthest point from relevant assessment locations;
- (d) selection of the quietest suitable machinery available for each activity;
- (e) minimise noisy plant/machinery working simultaneously where practicable;
- (f) minimise impact noise wherever possible;
- (g) utilise a broadband reverse alarm in lieu of the traditional high frequency type reverse alarm;
- (h) provide toolbox meetings, training and education to drivers and contractors visiting the site during construction so they are aware of the location of noise sensitive receivers and the need to be cognisant of any noise generating activities;





- (i) signage is to be placed at the front entrance advising truck drivers of their requirement to minimise noise both on and off-site; and
- (j) utilise project related community consultation forums to notify residents within proximity of the site of project progress, proposed/upcoming potentially noise generating works, its duration and nature and complaint procedure.

Condition 51 is to be deleted.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 8 unique written submissions made during the public exhibition of the proposal. The issues raised included Bushfire Risk, Environmental Hazards and Risks, Social and Economic Impacts, Biodiversity Impacts, Soil and Water Contamination, Waste Management, Cumulative Impacts, and Inadequate Consultation.

The Panel considers concerns raised in the submissions were adequately addressed in the Independent Assessment Report and through the conditions of consent.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Graham Brown
 Donna Rygate	 Cr Manjit Singh Lally

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-181 – DA 93/2023(1), Griffith
2	PROPOSED DEVELOPMENT	Electricity Generating Works – Proposed construction of a SUB-5mW solar system and battery storage system with transmission line to connect to local infrastructure
3	STREET ADDRESS	206/-/DP756035 2773 BERECRY ROAD THARBOGANG
4	APPLICANT/OWNER	Applicant: ACENERGY Pty Ltd Owners: Rino Sator and Lawrence Sator
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy – Transport and Infrastructure 2021 ○ Griffith Local Environmental Plan, 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Griffith Development Control Plan No 1 – Non-Urban Development • Planning agreements: Nil

		<ul style="list-style-type: none"> • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 27 July 2023 • Council Conditions of Consent: 27 July 2023
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 7 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate, Cr Manjit Singh Lally ○ <u>Council assessment staff</u>: Kerry Rourke ○ <u>Applicant representative</u>: Callista Harris • Determination meeting: 7 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate, Cr Manjit Singh Lally • A site inspection was not carried out by the Panel
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report