

DETERMINATION AND STATEMENT OF REASONS

WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	21 December 2020
PANEL MEMBERS	Garry Fielding (Chair), Sandra Hutton, Clare Brown, Russell Holden, John Bentley
APOLOGIES	Andrew Hutton
DECLARATIONS OF INTEREST	<p>John Bentley declared that he has met Mr Edward Cox socially on a number of occasions, but not as a friend. He has also met Ms Anita Rusten on one occasion in company with the previous owner of her present property.</p> <p>Councillor Russell Holden declared that he has not participated in any business of Mid-Western Regional Council which has considered solar farms in which the Council has an interest or a potential future interest as a proponent. On all occasions where such matters have been considered by the Council, he has stood aside from any involvement in the matter (and the minutes of the council meetings do reflect such). Further, he has never made any public statements supporting or discounting solar farms in which the Council has an interest or a potential future interest as a proponent.</p> <p>Panel Chair accepted both declarations and that both members are eligible to participate on the Panel.</p>

Public meeting held by teleconference on 21 December 2020, opened at 11:00am and closed at 1.35pm.

MATTER DETERMINED

PPSWES-2 – Mid Western – DA0288/2019 at 3B Sydney Road, Burrundulla for a solar farm (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 and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The panel determined to refuse 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 refuse the application for the following:

1. The proposed development is considered contrary to the relevant aims of the MWRLEP 2012 in that it is unlikely to conserve the significant visual elements that contribute to Mudgee's setting through the rural character existing along this section of the Castlereagh Highway, the main entry corridor into Mudgee. (s4.15(1)(a)(i));
2. The proposed development is considered contrary to the objectives of the RU4 Primary Production Small Lots zone applying to the subject land under the MWRLEP 2012, in particular as it does not ensure the availability of land for intensive plant agriculture (s4.15(1)(a)(i));

3. The likely visual impact of the proposed development including the mitigation measures proposed is considered unacceptable having regard to the subject land's rural setting and its location on the main entry corridor into Mudgee (s4.15(1)(b));
4. As a result of the subject land's rural setting, its high visibility and flat topography and location on the main entry corridor into Mudgee, the site is considered unsuitable for the proposed development (s4.15(1)(c));

CONDITIONS





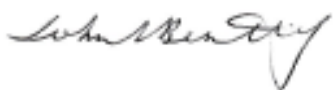
Not applicable.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- The negative visual impact of the proposal within its rural landscape setting.
- The negative visual impact of the proposal upon the rural character of the Castlereagh Highway, the main entry corridor into Mudgee.
- Unacceptable noise impacts during construction.
- Unacceptable impacts regarding reflective glare from the solar arrays.
- The impact of the proposal on property values.
- The inadequacy of proposed screen planting on the site.
- The questionable economic benefits flowing to Mudgee from the proposal.
- Concerns about decommissioning.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 c Garry Fielding (Chair)	 Sandra Hutton
 Clare Brown	 Russell Holden
 John Bentley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-2 – Mid Western – DA0288/2019
2	PROPOSED DEVELOPMENT	Electricity Generating Works (2 x 5MW Solar Farm) and Associated Infrastructure.
3	STREET ADDRESS	3B Sydney Road, Burrundulla
4	APPLICANT/OWNER	Mr Mishka Talent C/- IT Power Australia Pty Ltd & Burrundulla Pty Ltd
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 No. 33 – Hazardous and Offensive Development State Environmental Planning Policy No. 44 – Koala Habitat Protection State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 Mid-Western Regional Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Mid-Western Regional Development Control Plan 2013 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 2 December 2020 Written submissions during public exhibition: <ul style="list-style-type: none"> Public Exhibition Round 1 – 349 Public Exhibition Round 2 – 28 Number of unique submissions by way of objection: 377 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Community members – Alina Azar on behalf of Protect Mudgee Town, Dennis Armstrong on behalf of SOS Central West NSW, Margaret Armstrong on behalf of SOS Gulgong, Ken Sutcliffe, Sam Reece, Lilian Mutyiri, Rick Campbell, Paul Rogers, Ang Fittler, Christopher Cox on behalf of the land owner (not for the applicant), Michael Azar, Anita Rusten, Hugh Bateman, Mark Brett, Carolyn Peek, Jodie Russell, Andrew Palmer, Grant McGilvray, Carol Evans, Percy Thomson Council assessment officer – Kayla Robson On behalf of the applicant – Allen Grimwood, Miska Talent
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection & Briefing: 4 August 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Russell Holden <u>Council assessment staff</u>: Kayla Robson

		<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 21 December 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Clare Brown, Russell Holden, John Bentley <u>Council assessment staff</u>: Kayla Robson
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report

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