

## COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-23
DA Number	DA2020-029
LGA	Hay Shire
Proposed Development	Construction of a 5MW solar farm and subdivision
Street Address	Lot 110 DP 1187931, Mid Western Highway, Hay NSW 2711
Applicant/Owner	IT Power (Australia) PTY LTD
Date of DA lodgement	15/01/2020
Number of Submissions	0 (3 department letters)
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) Electricity generating works
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Hay Local Environmental Plan 2011</li> <li>• State Environmental Planning Policy (State and Regional Development)2011</li> <li>• State Environmental Planning Policy No 55-Remediation of Land</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2001</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Development Application with plans &amp; reports</li> <li>• Letters from Transport for NSW, DPI-Agriculture &amp; Essential Energy</li> <li>• Developer acceptance of conditions letter</li> </ul>
Report prepared by	Roger McGrath, Planning and Development Officer
Report date	08/05/2020

### 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?  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

Yes

### 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?

No

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

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

Yes

### 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**

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### **Description of Proposal**

The proposed Hay 2A Solar Farm and subdivision is to be located on the Mid Western Highway, east of the town of Hay. The land is currently described as Lot 110 DP 1187931. The site is approximately 20.7 hectares that was previously used for agriculture. The intention is to construct a solar farm with a DC array capacity of 8.0 MWp and an AC output of 5.0 MW.

The 2A Solar Farm array is proposed to be placed at the eastern end of the allotment which is proposed to be subdivided into two new lots. The Hay 2A site will be 6.42 hectares in area, while the Hay 1A Solar Farm which was approved by the Western Regional Planning Panel on 1 August 2019 will make up the remaining 14.15 hectare of the existing lot.

There are proposed to be 18,500 solar modules installed in 26 blocks of modules. Each block comprises rows of alternate facing modules fixed at 8 degrees from the horizontal. The modules have a maximum height of 1.1 meters above ground level.

The development is for electricity generating infrastructure by a private company and has a capital investment value of \$6.6 million. Consequently the Development Application is required to be determined by the Joint Regional Planning Panel (JRPP) as the development is for infrastructure undertaken by a private developer with a capital investment value over \$5 million, as outlined in Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

### **Site Description & Surrounding Land Uses**

The subject site has been used historically for agricultural cropping purposes and does not feature any trees or shrubs.

The surrounding locality is electricity infrastructure, highway, some natural vegetation and agriculture. Development will be restricted to land which has previously been cleared for crop production.

### **Permissibility**

The proposed solar farm is categorised as “electricity generating works” under the LEP.

“Electricity generating works” is defined as follows:

“...means a building or place used for the purpose of making or generating electricity”.

The subject site is located within the RU1 – Primary Production Zone (RU1 Zone). Under the RU1 Zone, within the LEP, “electricity generating works” are prohibited. The permissibility arises from the SEPP Infrastructure 2007, Division 4 (Electricity generating works or solar energy systems), Clause 34 (Development permitted with consent) which states the following:

*34(1) Development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone.*

The RU1 Zone is a prescribed rural zone.

The s4.15 evaluation have found that:

- The proposed development does not contravene any Environmental Planning Instrument (Any SEPP or the Hay LEP).
- The environmental impacts on both the natural and built environment will be minimal.
- The social impact will be minimal.
- The economic impact will be positive.
- The site is suitable for the development.
- There were no submissions from the public, so the development would be deemed to be in

the public interest.

## **Recommendation**

The proposed development is considered to be generally compatible with its surrounds.

As a result of this assessment, the proposed development is recommended for consent. Appendix 1 to this report contains the proposed conditions of consent.

## 1. Proposed Development

The proposed Hay 2A Solar Farm and subdivision is to be located on the Mid Western Highway, east of the town of Hay. The land is currently described as Lot 110 DP 1187931. The site is approximately 20.7 hectares that was previously used for agriculture. The intention is to construct a solar farm with a DC array capacity of 8.0 MWp and an AC output of 5.0 MW.

The 2A Solar Farm array is proposed to be placed at the eastern end of the allotment which is proposed to be subdivided into two new lots. The Hay 2A site will be 6.42 hectares in area, while the Hay 1A Solar Farm which was approved by the Western Regional Planning Panel on 1 August 2019 will make up the remaining 14.15 hectare of the existing lot. The proposed plan of subdivision is shown on drawing No 6040 prepared by Price Merrett Consulting dated 1 November 2019

There are proposed to be 18,500 solar modules installed in 26 blocks of modules. Each block comprises rows of alternate facing modules fixed at 8 degrees from the horizontal. The modules have a maximum height of 1.1 meters above ground level.

Two 2.5 MW inverter stations will be installed at the solar farm. These inverters are to be located within the array and are each mounted on a 6 metre long skid. Each of these inverter stations incorporate high and medium voltage switchgear and transformers. Each will connect by way of underground cables to connect to the Essential Energy 33kV feeder that runs parallel to the highway and then connects to the Hay 33 substation to inject power to the electricity grid.

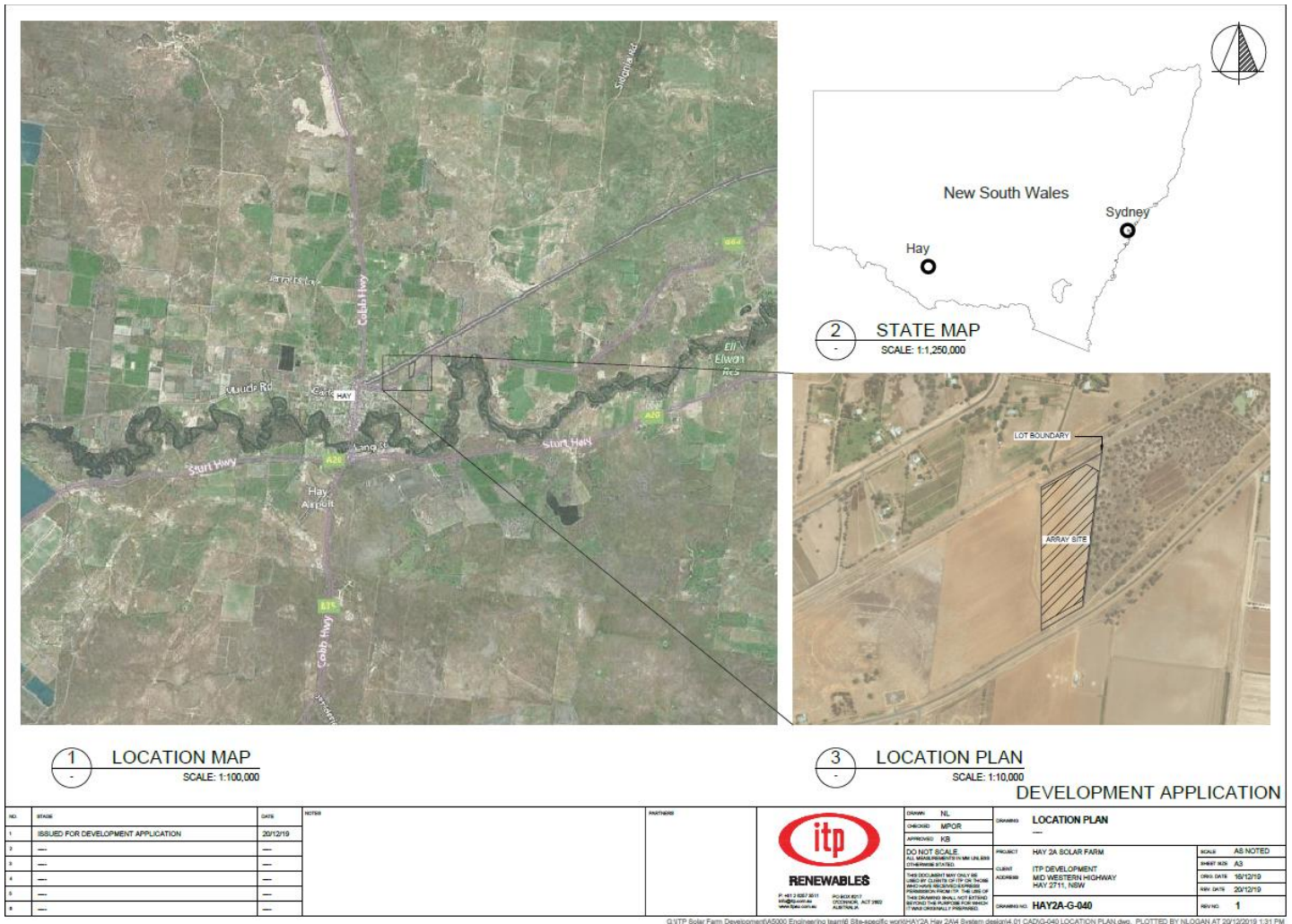
## 2. Site and locality

The site of the proposed development is described as Lot 110 DP 1187931 Mid Western Highway, NSW. It is located approximately 1.6 kilometres north-east of the town centre of Hay and is a rhombus shape with an area of approximately 20.7 hectares.

The site has been fully cleared in the past for agricultural use and is now disused. The topography is flat and there are no structures on the site. It is severely degraded due to past practices and current drought conditions.

Urban residential dwellings are located to the south-west of the site and a number of scattered rural residential dwellings are located north of the disused rail line. Land on the southern side of the Mid Western Highway comprises rural uses and industrial development. The Hay Hospital, a registered club and offices of the National Parks & Wildlife Service are located off the highway west of the site.

Figure 1: Location plan



### 3. Statutory Development Assessment Framework

#### 3.1 Permissibility

##### **Regionally Significant development**

The site is zoned RU1 - Primary Production under Hay Local Environmental Plan 2011 (LEP) as shown in the figure below. The development proposal is not permissible under the LEP Land Use Table however it is permissible under State Environmental Planning Policy (Infrastructure) 2007.

#### 3.2 Public Participation

The development application (DA) was publicly notified as required by the provisions of the Environmental Planning and Assessment Regulation 2000 (Clauses 89-91) and the Hay Shire Council Notification and Advertising Policy for Development Proposals (all residences within a radius of 500m, totaling 122 properties). No submissions were received.

#### 3.3 Referrals

Organisations that the application was referred to include:

- National Parks and Wildlife Service
- Hay Local Aboriginal Land Council
- Essential Energy
- Transport for NSW
- Department of Primary Industries

Comments were received from the DPI, Transport for NSW and Essential Energy

#### 3.4 Section 79C assessment

In determining a DA, a consent authority is to take into consideration matters referred to in section 4.15(1) of the EPA Act (previous s 79C) as are of relevance to the development the subject of the application. Section 4.15 states:

*In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:*

*(a) the provisions of:*

*(i) any environmental planning instrument, and*

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

*(iii) any development control plan, and*

*(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

*(v) (Repealed)*

*that apply to the land to which the development application relates,*

*(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.*

Each of the above matters will be addressed below, with the exception of Development Control Plans, Proposed Instruments and Planning Agreements, as there are none relevant to the area.

#### **a. Environmental Planning Instruments**

##### **Environmental Planning & Assessment Act, 1979 and Environmental Planning & Assessment Regulation, 2000**

###### **Designated development**

Schedule 3 of the EP&A Regulation indicates “Electricity generating stations” such as solar farms are considered designated development under the EP&A Act and associated regulations where the development generates more than 30 megawatts of electrical power.

The proposed development is predicted to generate a maximum of 5.0 megawatts. Therefore, the proposal is not considered designated development.

###### **Integrated development**

The proposal is not integrated development as approval has already been granted for the construction of the new entry to the site off the Mid Western Highway with the approval given for the Hay 1A Solar Farm. Under section 138 of the *Roads Act 1993* works in, on or over a public road cannot be carried out without the consent of the appropriate roads authority and in the case of a classified road without the concurrence of RMS. However as the current proposal is intending to use the same entry to the site it was still referred to the RMS for comment.

##### **State Environmental Planning Policies**

###### **State Environmental Planning Policy No 55 – Remediation of Land**

The Remediation of Land SEPP aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or other aspects of the environment.

Under this SEPP, a consent authority must not consent to the carrying out of any development on land unless:

- i) It has considered whether the land is contaminated, and
- ii) 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, and
- iii) If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The aim of SEPP 55 is to provide for the remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment and requiring that any remediation work meet certain standards and notification requirements. The previous use of the site was for agricultural activities such as cropping and there is no evidence to suggest that the site is or might be contaminated to a level that would impact on the proposed use.

###### **State Environmental Planning Policy (Infrastructure) 2007**

Pursuant to cl.34(7) of State Environmental Planning Policy (Infrastructure) 2007 (ISEPP), development for the purpose of a solar energy system may be carried out by any person with consent on any land. Accordingly, the proposed solar farm (which is a photovoltaic electricity generating system) is permissible subject to development consent being issued.

Part 3 Division 4 of the policy relates to electricity generating works or solar energy systems. Section 34 enables Development for the purpose of electricity generating works to be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone. Zone RU1 Primary Production is a prescribed rural zone. Similarly, development for the purpose of a



solar energy system may be carried out by any person with consent on any land, although this is limited to no more than 100kW in a prescribed residential zone. The proposed development is located in zone RU1 Primary Production and is therefore permitted with consent by *SEPP (Infrastructure) 2007*.

### **State Environmental Planning Policy (State and Regional Development) 2011**

The State and Regional Development SEPP identifies significant development and infrastructure and confer functions on Joint Regional Planning panels to determine development applications.

Development that is state and regionally significant is identified in *SEPP (State and Regional Development) 2011*. Electricity generating works including solar farms which have a capital investment value of more than \$30 million, or a capital investment value of more than \$10 million and are located in an environmentally sensitive area of State significance, are declared state significant development. Private infrastructure, including electricity generating stations, that have a capital investment value of over \$5 million are declared regionally significant.

In this case the proposed development has a CIV of \$6.6 million and is regionally significant. The application will be determined by the Western Regional Planning Panel.

### **Hay Shire Local Environmental Plan 2011 (LEP)**

The property is zoned RU1 primary Production under *Hay LEP 2011*. The objectives of zone RU1 are:

- *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.*
- *To permit a range of activities that support the agricultural industries being conducted on the land and limit development that may reduce the agricultural production potential of the land.*
- *To permit tourist facilities that promote an appreciation of the rural environment and associated agricultural and horticultural activities, while ensuring the continued economic viability of the land.*

The development is defined as *electricity generating works* which means a building or place used for the purpose of making or generating electricity. This use is prohibited in zone RU1. However, *SEPP (Infrastructure) 2007* prevails over *Hay LEP 2011* to the extent of an inconsistency meaning that the use is permitted with consent in zone RU1 by way of *SEPP (Infrastructure)*.

The site is not mapped as being environmentally sensitive on the *Groundwater Vulnerability Map*, the *Terrestrial Biodiversity Map*, the *Wetlands Map*, or the *Riparian Lands and Watercourses Map* that accompany *Hay LEP 2011*.

It is not a listed heritage item and is not in the vicinity of a heritage item or heritage conservation area listed in *Schedule 5 Environmental heritage* of *Hay LEP 2011*.

The site is not affected by land reservation acquisition or urban release area provisions of the LEP. Provisions relating to these matters in *Hay LEP 2011* therefore do not apply to the proposed solar farm.

### **Clause 5.10 – Heritage conservation**



Heritage was considered during the application (see section 5.9 of the SEE)

There is no European heritage on the site, the site is not listed as an item of environmental heritage in *Schedule 5 Environmental heritage of Hay LEP 2011* and there are no listed heritage items in the vicinity of the site

There are no recorded Aboriginal sites on the AHIMS database, and seeing that the development consists of only minor excavation of footings, the conditions of approval can provide actions if any items or remains are found during the construction period.

### **Clause 6.1 Earthworks**

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

Development consent is required for earthworks unless the earthworks are ancillary to development for which development consent has been given. In deciding whether to grant development consent for development involving ancillary earthworks, the consent authority must consider:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The application stated that:

*Earthworks associated with the development comprise minor excavation to 150mm to install road base for accessways, 750mm footings for the inverters and security fence strainer posts, 1,000mm footings for the access gate and 1,500mm footings for the panel mounting frames. All of these earthworks are ancillary to the development of a solar farm and are not expected to impact adversely on drainage, future use of the land if the facility is decommissioned, relics, the natural environment or adjoining developments.*

There will be limited to no impact on drainage patterns, the amenity of surrounding properties, or on waterways.

The development can have an impact on the future use of the land, and a condition will be formulated to protect the future use of the relevant land parcel.

### **Clause 7.10 Essential services**

This clause requires a consent authority to be satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable vehicular access.*

The supply of water and sewerage services is not required for the proposed development. Electrical services are available to the site. Stormwater management is proposed to be addressed by controls recommended in this Statement with full details to be provided with the application for a construction certificate.

Adequate vehicular access is proposed by way of a new entrance to the site off the Mid Western Highway adjacent the substation, with conditions of approval provided by Transport for NSW.

## **Clause 7.6 Flood Planning**

Clause 7.6 of the Hay LEP states the following:

- (1) The objectives of this clause are as follows:*
  - (a) to minimise the flood risk to life and property associated with the use of land,*
  - (b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
  - (c) to avoid significant adverse impacts on flood behaviour and the environment.*
- (2) This clause applies to land at or below the flood planning level.*
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*
  - (a) is compatible with the flood hazard of the land, and*
  - (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
  - (c) incorporates appropriate measures to manage risk to life from flood, and*
  - (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
  - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The site is not mapped as being flood prone in *Hay LEP 2011*, however, aerial imagery indicates that there is the potential for limited localised flooding. Flood mitigation measures and stormwater management have been considered in section 5.3 *Water resources* of the attached SEE. The SEE states that:

*Flooding associated with the Murrumbidgee is not expected to inundate the site as it is located north of a levee that protects the Hay township from flooding. The levee consists of a combination of embankments, elevated roadways and naturally high ground. However, localized flooding may disrupt construction and material storage on the site even when the site is not inundated.*

## **Clause 6.10: Biodiversity:**

Clause 6.10 of the Hay LEP states the following:

*Before determining a development application for development on land to which this clause applies, the consent authority must consider whether or not the development:*

- (a) is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
- (b) is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
- (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
- (d) is likely to have any adverse impact on the habitat elements providing connectivity on the land.*

The site is devoid of any healthy native vegetation and severely degraded. All biodiversity issues are adequately addressed in Section 5.1 of the SEE.

**Bushfire Management:**

The site is mapped as being bushfire prone. The south-eastern corner of the site is a buffer to land mapped as bushfire category 1 to the south of the Mid-Western Highway. Infrastructure comprising electricity generating works is not a habitable building and is not listed as a *special fire protection purpose* under section 100B of the *Rural Fires Act 1997*. Therefore, a bushfire assessment is not required to be prepared and submitted with the development application.

The development of a solar farm would not affect the performance of the buffer to bushfire prone land to the south.

**b. Environmental Impact****Groundwater, Flooding and Water Quality Impact**

The attached report from Golder Associates addresses all water issues. The report has found that the proposed development will have little impact on groundwater and flooding. There can be an impact on water quality due to sedimentation as a result of the increase in hardstand surfaces. This can however be managed.

**Air quality**

Air Quality is addressed in Section 5.4 of the SEE. As with any construction on the Hay Plains, the disturbance of the soil can have an impact on the local air quality, although from experience this will not be more from normal agriculture operations such as disking or moving stock that is done in the area. Air quality will mostly be an issue during the construction phase, and mitigation measures will be included in the conditions.

**Waste**

Waste management is addressed in Section 5.12 of the SEE. The largest amount of waste will be generated during the construction phase. Wastes would include wooden pallets, cardboard and plastics. Construction of a solar farm would not generate any putrescible waste products. Minimal waste would be generated when the farm is operational other than small amounts of replacement parts and packaging required for maintenance and repair works.

There is no clear estimate on the tonnage of waste, although there is a clear breakdown of waste composition during the construction, operational and decommissioning phases.

A waste management agreement will be need to be put in place prior to any constructions

**Biodiversity**

Biodiversity is addressed in Section 5.1 of the SEE. The site to be developed as a solar farm is fully cleared and has been used for farming. There are no wetlands, threatened ecological communities or threatened species listed under the EPBC Act likely to occur on the site. There are two remnant vegetation communities on land adjoining the immediate area to be developed for the solar farm to the east and along the southern boundary. Neither of the vegetation communities located on adjoining and adjacent land are listed as an endangered ecological community in the *Biodiversity Conservation Act 2016*. The development will not have a significant impact on a matter of national environmental significance.

**c. Social and Economic Impact**

The proposed development will have a negligible impact on the social fabric of Hay. There can however be a significant economic impact on the town.

Hay's population is currently either stable, or as anecdotal evidence suggest, in decline as a result

of the current drought. Regarding employment the applicant states the following in Section 5.8.3 of the SEE:

*It is anticipated that there will be 50 personnel directly involved in construction on site which is expected to take approximately two and a half months. Varying levels of expertise will be required ranging from labourers to qualified electricians and project managers.*

*In addition, personnel would be involved in transport and delivery of materials to the site. Some of this employment is to be sourced locally. This will bring direct economic benefits to the local economy through wages and salaries and indirect benefits through the need for accommodation and sustenance in the area for non-local employees.*

*Once operational the site will be unmanned, however, two to three personnel will be necessary to carry out maintenance every quarter or as required.*

*The skills required to be involved in the construction and ongoing maintenance of Hay Solar Farm may require some personnel to undergo further training and education, leading to an upskilling of the local workforce and enhanced employment opportunities generally.*

The proposed development can supply a short term impetus to the struggling retail and hospitality sector in Hay, and there are potential long term benefits such as increased level of training to residents, as well as potential longer term causal employment.

#### **d. Site Suitability**

##### **Surrounding land uses**

The land is suitable for the proposed development. It has been unutilized agricultural land for a significant amount of time, and will have little to no impact on the surrounding agricultural uses. The residential and business uses to the south west of the proposed development will not be impacted.

##### **Long Term Land Use Impacts**

There is concern that has been raised by the comment of DPI- Agriculture of the long term impact on agricultural land (submission attached). The relevant department proposes that a baseline soil conditions report should be included prior to the project commencing so that rehabilitation plans and performance measures can be developed, to inform the proponent when decommissioning occurs. This will be included in the conditions.

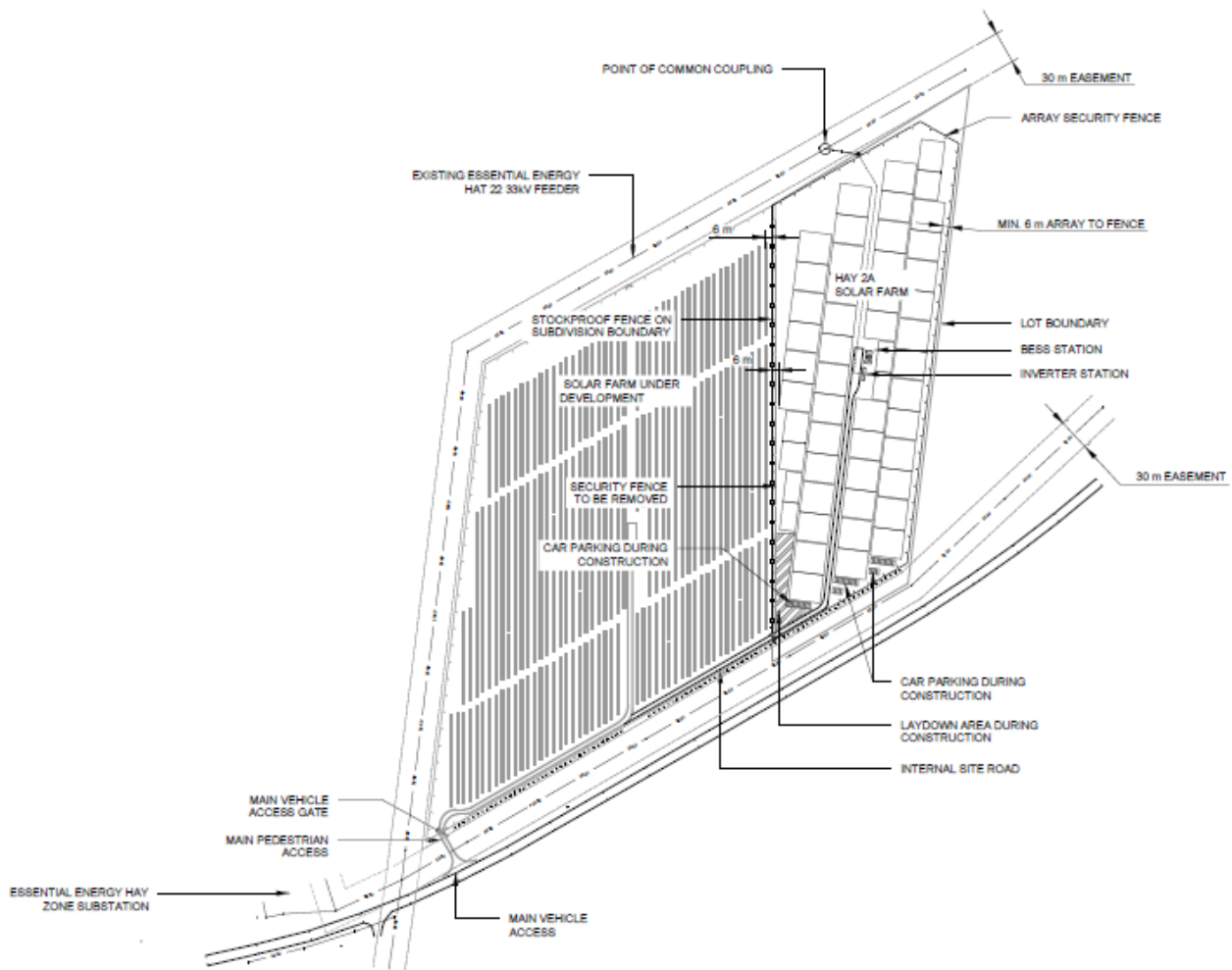
NSW DPI Agriculture has also not objected to the subdivision to meet Essential Energy connection requirements provided no dwelling entitlements are created. This will be included in the conditions.

##### **Traffic Impacts**

Traffic impacts are noted by the applicant in Section 5.7 in the SEE, as well as a Traffic Impact Assessment Report (attached).

Existing access to the development site is via the Mid Western Highway at a point approximately 115 metres west of the eastern boundary. The speed limit is 110 km/hr at this point. However, a new access point sufficient to accommodate a 19 meter long vehicle was approved with the Hay 1A Solar Farm at the south-western corner of Lot 110 adjacent to the Essential Energy sub-station and within the 50 km/hr speed zone.

This is located on the inside of a large radius bend but sight lines remain adequate (see plan below).



# 1 GENERAL ARRANGEMENT SCALE: 1:5000

The applicant stated that:

*Proposed traffic generation for the Hay 2A solar farms is estimated based on 48 semi-articulated trucks and 20 B-Doubles accessing the site during the establishment and construction phases with an expected daily maximum of 4 construction vehicles accessing the site during peak construction periods. The assessment also allows for up to 50 personnel accessing the site each day during the construction period by 20 to 30 small motor vehicles and/or a shuttle bus service.*

The development was referred to the Transport for NSW, with the following comments received (also see attached comment):

*It is understood that the anticipated construction period will be approximately two and a half months. Due to the size and characteristics of the development traffic generated during the construction and decommissioning stages will be more significant than traffic generated during the operational phase. The submitted report considers heavy and light vehicle traffic generation for construction of the facility. The report also indicates that up to 4 heavy vehicles and will make deliveries to the site each day and up to 50 personnel will be accessing the site using light vehicles. As the proposal relies on access via the classified road network, plans should be finalised in consultation with the TfNSW Services.*

*The submitted plans indicate that access to both proposed solar farms and the 2 allotments is proposed via a single driveway to the Mid-Western Highway. Consent was previously provided for this driveway to allow access to the Hay 1A solar farm. Transport for NSW would have no objection to this driveway being used to access the Hay 2A solar farm provided that conditions of the previous consent for the Hay 1A solar farm are complied with. In addition to the conditions for the Hay 1A solar farm consent, there will be no additional access points created to provide access to the Hay 2A solar farm and a right of way shall be created over the proposed Lot 1 in favour of the proposed Lot 2 to allow for continued legal access via the existing driveway for Lot 2 via the internal access road.*

*The supporting documentation considered the potential for glint and glare to cause distraction to motorists on the Mid Western Highway and concluded that due to the location of the solar panels relative to the road and the anti reflective properties of the PV solar panels, they are not expected to cause a distraction to motorists on the Mid Western Highway*

## **e. Submissions**

The development application (**DA**) was publicly notified as required by the provisions of the Environmental Planning and Assessment Regulation 2000 (Clauses 89-91) and the Hay Shire Council Notification and Advertising Policy for Development Proposals (all residences within a radius of 500m, totaling 122 properties). No submissions were received from the public.

Organisations that the application was referred to include:

- National Parks and Wildlife Service
- Hay Local Aboriginal Land Council
- Essential Energy
- Transport for NSW
- Department of Primary Industries

Comments were received from the DPI , Transport for NSW and Essential Energy, which are included in section d above and/or attached.

## **f. Public interest**

The Development will have a positive economic impact compared to the current unutilized state. The development will have little to no environmental impact. There have been no concerns raised from the public. The proposed development poses no risk to public safety. With the above in mind, it is seen that the construction of the proposed development will be in the public interest.

## **4. Recommendation**

It is recommended that DA 2020/029 be approved subject to the draft conditions contained in Appendix 1.

## **APPENDIX 1 – DRAFT CONDITIONS OF CONSENT**

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### **Development in Accordance with Plans**

1. The Applicant shall carry out the development generally in accordance with the:
  - a) Statement of Environment Effects dated 17 December 2019;
  - b) Noise Assessment Hay 2A Solar Farm dated 16 December 2019
  - c) Hay Solar Farm Development Traffic Impact Assessment Report dated 15 February 2019
  - d) Hay 2A Solar Farm Water Assessment dated 10 January 2019
  - e) Environmental Planning and Assessment Act and Environmental Planning Instruments (where applicable), the Local Government Act, the Plumbing and Drainage Act and other applicable statutory codes or legislation

### **Inconsistency Between Documents**

2. If there is any inconsistency between the plans and documentation referred to above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this approval prevail to the extent of any inconsistency. Where there is an inconsistency between approved elevations and plans, the elevations prevail.

### **Limits of Approval**

3. This consent will lapse five years from the date of consent unless the works associated with the development have physically commenced.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

### **Construction certificate required**

4. Prior to commencement of any works, it is necessary to obtain a Construction Certificate. A Construction Certificate may be issued by Council or an Accredited Certifier. Plans submitted with the Construction Certificate are to be amended to incorporate the conditions of the development consent. A Construction Certificate issued by a Private Accredited Certifier is to be deposited with Council at least 48 hours prior to the commencement of any works.

*(Reason: Statutory requirement)*

### **Utility Services**

5. Prior to the commencement of work the Applicant is to negotiate with the utility authorities in connection with the relocation and/or adjustment of the services affected by the development. Any necessary alterations to, or relocations of, utility services must be carried out at no cost to the council.

*(Reason: Protection of infrastructure)*

### **Prescribed conditions of development consent**

6. In accordance with the Act, the following conditions are prescribed for development that involves building work:
  - a) That the work must be carried out in accordance with the requirements of the National Construction Code,
  - b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract



of insurance is in force before any building work authorised to be carried out by the consent commences.

*(Reason: Statutory requirement)*

## **Drainage**

Develop a site erosion and sediment control plan, to be approved by Council before construction commences.

*(Reason: Protection of ground water)*

## **PRIOR TO COMMENCEMENT OF WORKS**

### **Site Safety**

7. Satisfactory arrangements are to be made with Essential Energy with respect to the proposed solar farm which will form part of the development. It is the Applicant's responsibility to enter into the required Connection Agreement/s and any other requirements with Essential Energy for the development, which may include the payment of fees and contributions. Refer to Essential Energy's Network Connections team for requirements via email.  
networkconnections@essentialenergy.com.au

*(Reason: Essential Energy Safety Requirement)*

8. Any proposed access and/or exit to the property must remain at least 3 metres away from any electricity infrastructure (power pole, stays etc) at all times to prevent accidental damage. If this cannot be achieved, then the Applicant will be responsible for the costs in meeting this requirement..

*(Reason: Essential Energy Safety Requirement)*

9. Minimum safety ground clearance requirements and minimum safe distance requirements for all fixed height vehicles (under maximum operating temperature) must be maintained at all times for any proposed access and/or exit to the property, as such access will pass under Essential Energy's existing overhead powerlines located on the boundaries of the property. 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. If this cannot be achieved, then the Applicant will be responsible for the costs in meeting this requirement..

*(Reason: Essential Energy Requirement)*

10. Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.

*(Reason: Essential Energy Safety Requirement)*

11. 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).

*(Reason: Essential Energy Safety Requirement)*

## Subdivision

12. Subdivision to be completed before commencing work on Hay 2A Solar farm.  
*(Reason: To ensure no conflict between subdivision and construction occurs).*
13. As part of the subdivision, easement/s are to be created for any existing or new electrical infrastructure, using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works team for requirements via email [contestableworks@essentialenergy.com.au](mailto:contestableworks@essentialenergy.com.au).  
*(Reason: Essential Energy Requirement)*
14. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with..  
*(Reason: Essential Energy Requirement)*
15. The proposed solar farm must remain outside the easement area..  
*(Reason: Essential Energy Requirement)*
16. The proposed vegetation/planting must remain outside the easement area, especially when plantings are fully grown  
*(Reason: Essential Energy Requirement)*
17. A Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is to be issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions.
18. *(Reason: Essential Energy Safety Requirement)*

## Access

19. The conditions of the previous consent for the Hay 1A solar farm (DA 2019/040) are to be complied with complied with.
20. Only one (1) Access driveway to Mid-Western Highway for access to the 2 proposed allotments is permitted. Any shared driveway is to be constructed as one driveway within the road reserve. Splitting of the driveway is to occur within the subject property. A right of way shall be created over the proposed Lot 1 in favour of the proposed Lot 2 to allow continued legal access for Lot 2 via the existing driveway and proposed internal service road. These legal arrangements are to be written with Council empowered to uplift.

21. The driveway to proposed Lots 1 and 2 from the Mid-Western Highway shall be constructed in accordance with the conditions of consent for DA2019-040 prior to construction of any works on the subject site
22. As a minimum the access driveway to the Mid Western Highway shall be constructed and maintained to the satisfaction of Roads and Maritime Services to provide the following:
  - i) the required sight distance criteria for a reaction time of 2.5 seconds in either direction along the highway in accordance with the Austroads Publications as amended by the supplements adopted by Roads and Maritime Services for the posted speed limit. Compliance with this requirement is to be certified by an appropriately qualified person prior to construction of the vehicular access.
  - ii) a Basic Left Turn (BAL) treatment at its intersection with the Mid Western Highway in accordance with the Austroads Guide to Road Design as amended by the supplements adopted by Roads and Maritime Services for the posted speed limit on the Mid Western Highway. The intersection is to be constructed to the standards required for an approved road train route.
  - iii) two way movement and be sealed for at least 20 metres from its intersection with the Mid Western Highway. The intersection shall be designed and constructed so that vehicles turning between the Mid Western Highway and the access road are not required to cross to the opposing travel lane in order to perform a turn manoeuvre.
  - iv) Not reduce the capacity of the existing roadside drainage network and prevent water from proceeding onto, or ponding within, the carriageway of the Mid Western Highway. If a culvert is be installed and is to be located within the required clear zone of the Mid Western Highway for the posted speed limit it is to be constructed with a traversable type headwall.
23. A management plan to provide measures to suppress dust generation from the development site and the transportation route shall be prepared and implemented to the satisfaction of Council and Transport for NSW.
24. No external lighting of any infrastructure associated with the project is permitted at night that may cause distraction to road users other than low intensity security lighting.
25. Glint and glare from the solar panels shall not cause a nuisance, disturbance or hazard to the travelling public on the public road network. In the event of glint or glare from the solar plant being evident from a public road, the proponent shall immediately implement glare mitigation measures such as construction of a barrier (e.g. fence) or other approved device to remove any nuisance, distraction and/or hazard caused as a result of glare from the solar panels.
26. Prior to the commencement of construction on-site, the Proponent must undertake all works to upgrade any road, its associated road reserve and any public infrastructure in that road reserve, to a standard suitable for use by heavy vehicles to meet any reasonable requirements that may be specified by the relevant roads authority. The design and specifications, and construction, of these works must be completed and certified by an appropriately qualified person to be to a standard to accommodate the traffic generating requirements of the project. On Classified Roads the geometric road design and pavement design must be to the satisfaction of the TfNSW.
27. Any works within the road reserve of the Mid Western Highway requires approval under Section 138 of the Roads Act, 1993 from the road authority (Council) and concurrence from Roads and Maritime Services prior to commencement of any such works. The developer is responsible for all public utility adjustment/relocation works, necessitated by the development and as required by the various public utility authorities and/or their agents.
28. All works associated with the project shall be at no cost to the TfNSW.

*(Reason: Conditions received from the TfNSW, to ensure adequate arrangements for parking, access and traffic.)*

### **Soil Conditions**

A baseline soil conditions report should be included prior to the project commencing so that rehabilitation plans and performance measures can be developed, to inform the proponent when decommissioning occurs.

*(Reason: Condition received from DPI Agriculture, to ensure rehabilitation at site decommissioning to an acceptable state.)*

### **No Dwelling Entitlement**

No Dwelling entitlements are created as a result of subdivision.

*(Reason: Condition received from DPI Agriculture, due to Lot size)*

### **Waste Agreement**

A Waste Agreement proposal to be sent to and agreed by Council for the waste from the development.

## **DURING WORKS**

### **Erosion and Sediment Control**

29. Run-off and erosion controls must be effectively maintained until the site has been stabilised and landscaped.

*(Reason: Environmental protection)*

### **Toilet facilities**

30. Toilet facilities must be provided on the work site 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: Health and amenity)*

### **Approved Plans to be on-site**

31. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Subject Site at all times and shall be readily available for perusal by any officer of Council or the PCA.

*(Reason: To ensure compliance with approved plans)*

### **Site Notice**

32. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - d. Showing the name, address and telephone number of the principal certifying authority for the work, and
  - e. 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

- f. Stating that unauthorised entry to the work site is prohibited.

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

*(Reason: Statutory requirement)*

### **Maintenance of site**

- 33.
- g. Building materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
  - h. Waste materials must be disposed of at a waste management facility.
  - i. The work site must be left clear of waste and debris at the completion of the works.

*(Reason: To ensure that building and any other site works are undertaken in a manner which will be non-disruptive to the local area.)*

### **Source and content of imported fill**

34. The person responsible for importing fill to the site shall provide validation by way of a statutory declaration confirming the source and content of the fill to ensure that it is suitable for the proposed land use and free from contamination. Details are to be provided to Council prior to the pouring of any slab or footings.

*(Reason: To ensure that imported fill is of an acceptable standard for environmental protection purposes.)*

### **Occupation certificate required**

35. Occupation or use of the whole or any part of a new building shall not commence unless an occupation certificate has been issued by the Certifying Authority. The final occupation certificate shall not be issued until such time as all relevant conditions of the development consent have been complied with.

*(Reason: Statutory requirement)*

### **Noise**

36. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the Interim Construction Noise Guideline (DECC, 2009), or its latest version.

### **Visual**

37. The Applicant must:
- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
  - (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
  - (c) not mount any advertising signs or logos on site, except where this is required for safety purposes.

### **Lighting**

38. The Applicant must:
- (a) minimise the off-site lighting impacts of the development; and
  - (b) ensure that all external lighting associated with the development:
    - is installed as low intensity lighting (except where required for safety or emergency

- purposes);
- does not shine above the horizontal; and
- complies with Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting, or its latest version.

### **Loading and Unloading**

39. All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the Subject Site at all times.

*(Reason: Safety and amenity)*

### **Obligation to minimise harm to the environment**

40. The Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation or decommissioning of the Development.

*(Reason: Environmental protection)*

### **Operation of plant and equipment**

41. The Applicant shall ensure that all plant and equipment used for the Development is:
- j. Maintained in a proper and efficient condition; and
  - k. Operated in a proper and efficient manner.

*(Reason: Neighbourhood amenity)*

### **Dust Management**

42. The Applicant shall carry out all reasonable and feasible measures to minimise dust generated during the construction, operation and decommissioning of the Development.

*(Reason: Environmental protection and neighbourhood amenity)*

### **Pest, Vermin & Noxious Weed Management**

43. The Applicant shall:
- l. Implement suitable measures to manage pests, vermin and declared noxious weeds on the site of the development; and
  - m. Inspect the site on a regular basis to ensure that these measures are working effectively, and that pests, vermin or noxious weeds are not present on site in sufficient numbers to pose an environmental hazard, or cause the loss of amenity in surrounding area.

*Note: For the purposes of this condition, noxious weeds are those species subject to an order declared under the Noxious Weed Act 1993.*

*(Reason: Environmental protection)*

### **Overland water flows**

44. The applicant shall ensure that the development will not result in the diversion of overland surface waters onto adjoining properties or the Midwestern Highway and where necessary shall construct appropriate surface drainage systems.

*(Reason: Health and amenity)*

45. Aboriginal Findings: In the event any Aboriginal site is found in an area affected by works, work will immediately cease and the applicant will contact the Office of Environment and Heritage. Any works

which may result in destruction or damage to known Aboriginal sites will require an Aboriginal heritage impact permit from the Office of Environment and Heritage in accordance with Section 90 of the *National Parks & Wildlife Act 1974*.

Reason: To ensure that Aboriginal sites are protected. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

## **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

### **46. Structural Adequacy**

A compliance certificate prepared by an appropriately qualified and practising structural engineer, certifying that the structure has been constructed in accordance with the approved plans prior to the issue of an occupation certificate.

## **POST DEVELOPMENT**

### **47. Post-development remediation**

Within 18 months of the cessation of operations, unless the Council agrees otherwise, the Applicant shall rehabilitate the site to the satisfaction of the Council.

*(Reason: Site remediation)*