

DATE OF DETERMINATION	8 December 2020
PANEL MEMBERS	Garry Fielding (Chair), Sandra Hutton, Clare Brown, Allen Renike, Cr Russell Turner
APOLOGIES	Andrew Hutton
DECLARATIONS OF INTEREST	Cr Turner advised that he did not attend or participate in the debate on this application at the Orange City Council meeting of 17 November 2020 when the Council resolved to object to the proposal. He therefore had no conflict of interest in this matter.

Public meeting held by teleconference on 8 December 2020, opened at 3.20pm and closed at 5.50pm.

MATTER DETERMINED

PPSWES-24 – Orange – DA423/2019(1) at 643 Mitchell Highway Orange for Electricity Generating Works (5MW solar farm and associated works) (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.

The panel adjourned at the end of the public meeting to deliberate on the matter and formulate a resolution.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 4:1, against the decision was Cr Russell Turner.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the comprehensive Council assessment report, and as further outlined below:

- Solar farm infrastructure is enabled in rural zoned lands by the State statutory planning framework, is not recognised nor characterised as an 'industrial' land use, and does not warrant being segregated from other rural and rural holdings land uses.
- Giving significant weight to rejecting the proposed solar farm in order to protect agricultural and existing rural outlook and amenity values is challenging given the expressed local strategic planning framework that identifies the subject land (and surrounding lands) and the existing outlook and amenity values of the locality being proposed to significantly change as part of likely future long term urban potential of the area..
- The proposed solar farm has been appropriately setback from the main watercourse and contained to the topography of one side of the watercourse to limit its footprint across the landscape more broadly, and so presents as one element in the broader landscape, rather than the only element.
- The visual impact to users of the Mitchell Highway entering and exiting Orange is acceptable, and is partly mitigated by the existing road embankments and topography, the specific siting of the panels within the topography, and can be further mitigated by the additional conditions.
- It is not reasonable to expect or require a solar farm to be completely hidden from public and private domain views in considering visual impact assessment and outlook and amenity. In recognising the lineal and regular spacing and character of the solar arrays, the Panel is of the view that partial

screening with a more natural landscape arrangement is warranted and can be achieved for this proposal, particularly for the views towards the arrays on facing slopes from west, north-west, south and east. The Panel is of the view that visual impact and change to rural amenity and outlook to private residences and rural holdings which interface with and have outlooks to and across the subject land, does not warrant refusal of the application.

- Impacts arising from construction including traffic and noise from piling activities, and waste management have been appropriately identified and mitigated by recommended conditions of consent, with the state road authority supporting the site access arrangements.
- Whilst the Panel would have preferred the existing mature and significant paddock tree to have been acknowledged as a constraint to the solar farm set out and arrangement, the Panel accepts Council's recommendation to support removal, subject to compensatory planting included in conditions of consent.
- The Panel concurs with the need for appropriate decommissioning and responsibilities to ensure that the solar farm is not left derelict or abandoned and not appropriately decommissioned, with attention given to waste avoidance, minimisation and mitigation.
- A time limit, set in advance of current predictions on timing of the need for lands for long term urban potential, can be applied to the land use, to enable transition from solar use to urban use when required. The applicant can then make a clear investment decision based on that time limit, and planning for future development of land to the west of Orange can look to extend towards the solar farm in the interim. Any change to that time limit, if proposed, would be subject to application and assessment at the time.

Cr Russell Turner voted against the application for the following reasons:

- The accelerated growth that Orange is currently experiencing is placing pressure on Orange City Council to release further land for subdivision to the west of Orange.
- Mr Turner believes that the current projection by the State Government that land approaching the proposed solar farm site would not be required for up to 30 years to be short-sighted and that this land would be under pressure to be developed well before 2050.
- Whilst other panel members appeared to spend considerable time in debating the decommissioning time frame of the project there is no guarantee that the proponents would not seek an extension or upgrade to increase the viability of the project.
- There is no guarantee that the proposed share issue to local residents will be supported up to the level projected and this could reduce the perceived benefits of the proposed location.

Whilst Cr Turner supports solar energy, he strongly believes that a more suitable site is available on less productive land which does not impede on the natural attraction of Orange and does not impact the future development of land to the west of Orange.

CONDITIONS

The development application was approved subject to the conditions in Schedule 2. The conditions were amended from the set contained in the Council assessment report to:

- Provide for Deferred Commencement Conditions that require:
 - A revised landscape plan prepared by a suitably qualified expert to provide for additional landscaping areas to mitigate impacts and improve partial screening of the proposal;
 - Information demonstrating arrangements and responsibilities for operation, maintenance and decommissioning of the land use;
 - A report that identifies all fire safety requirements for the proposal and how they are accommodated within the site plan
 - Amendments to the Solar Farm General Arrangements Plan and other plans to incorporate and be consistent with the outcomes arising from the previous conditions.
- Require certain plans to be approved by Council prior to works commencing on site, including decommissioning plan and construction environmental management plan.
- Require landscaping to be maintained in perpetuity;

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the public exhibition. The Panel acknowledges that technical difficulties experienced at the outset of the public meeting required a new public meeting link to be provided, and that one registered speaker was not present when called to present. Notwithstanding, the Panel had the benefit of the written submission made by that registered speaker, and has fully considered that and all submissions.

The Panel also considered the strong written objection and reasons submitted by the majority of Orange City Council Councillors, and the views outlined by the Mayor in a statement read to the public meeting.

The Panel notes that issues of concern included:

- Inappropriate site selection given location at entry to Orange, site topography, number of residences which overlook the site, and limitations to future growth of Orange to the west
- Impact to rural outlook, views, character and amenity and level of visual impact
- Inconsistency and conflict with local planning framework
- Concern about need for project
- Inadequacy of landscaping and screening
- Traffic and access issues including safety
- Construction impacts and management
- Operational impacts and management
- Fire and safety risk
- Security and privacy impacts
- Land use conflicts and agricultural viability
- Decommissioning
- Water quality and soil and erosion impacts
- Glare and glint
- Waste management and contamination risk
- Network connection
- Limited community benefit
- Errors in material
- Biodiversity impacts
- Risk of future expansion
- Application details and lack of consultation
- Suitability due to meteorological conditions






The Panel considers that concerns raised by the community have been carefully and appropriately addressed in Council's assessment report and that no new issues requiring assessment were raised during the public meeting.

The Panel specifically notes that the various errors and omissions in the application (particularly on critical assessments such as visual impact assessment), as noted in submissions and the Council assessment report, and deficiencies in information, details and specifics (such as overlaying the proposal on existing topography and providing accurate and considered landscaping mitigation, aided by qualified experts) was unhelpful and unfortunate given the public interest in the matter. Notwithstanding, the Panel is of the view that this was adequately acknowledged and comprehensively addressed through the Council assessment report and the Panel's own observations and understandings or, where appropriate, addressed via further and amended conditions.

The Panel notes that issues of support included:

- General support for renewable energy;
- Ability to invest directly in renewable energy under investment structure and community benefits arising from same;
- Positive benefit to Orange in having renewable energy
- Jobs, economic and social benefits
- Positive outcome


Finally, the Panel commends Council staff on the quality and thoroughness of their assessment report. The staff have been highly professional in their approach to their processing and assessment of the development proposal in circumstances which have been made difficult by deficiencies in the application material and by the controversial nature of the proposal.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Sandra Hutton
 Clare Brown	 Allen Renike
 Russell Turner	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-24 – Orange – DA423/2019(1)
2	PROPOSED DEVELOPMENT	Electricity Generating Works (Solar Farm and Battery Storage and associated works)
3	STREET ADDRESS	643 Mitchell Highway (Molong Road) Orange, NSW 2800
4	APPLICANT/OWNER	ITP Development Pty Ltd (applicant) Mr Antonio Ruggiero & Mrs Enrichetta Ruggiero (owners)
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 (State and Regional Development) 2011 State Environmental Planning Policy (Infrastructure) State Environmental Planning Policy 55 - Remediation of Land State Environmental Planning Policy 33 – Hazardous and Offensive Development Orange Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Orange Development Control Plan 2004 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: 9 November 2020 Written submissions during public exhibitions: 93 Unique submissions received by way of objection: 93 Written objection dated 26 November 2020 from elected Council objecting to the proposal and the assessment report and recommendation Verbal submissions at the public meeting: <ul style="list-style-type: none"> Community members – Robert Green on behalf of SOS community group, Alan Major on behalf of The Energy Democracy Central West NSW Cooperative Group, Neil Jones on behalf of Environmentally Concerned Citizens of Orange, Granton Smith, Dean Collett, Melanie McDonell, Matthew Ward, Kerry Green, Cr Stephen Nugent, Greg McFarlen, Greig Lawrie, John Dowler, Deborah Smith, Eric Cother, Paul Brouwers, David Oakden Council assessment officer – Mark Hodges (verbal submission read out on behalf of Mayor of Orange) On behalf of the applicant – Andrew Walton, Allen Grimwood
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing and Site inspection: 30 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Sandra Hutton <u>Council assessment staff</u>: Andrew Crump, Mark Hodges

		<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 8 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Sandra Hutton, Allen Renike, Russell Turner ○ <u>Council assessment staff</u>: Andrew Crump, Mark Hodges
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

Schedule 2 – Deferred Conditions of Consent

	<p style="text-align: center;">ORANGE CITY COUNCIL</p> <p style="text-align: center;">Development Application No DA 423/2019(1)</p> <p>NA20/ Container PR26437</p>
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NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the *Environmental Planning and Assessment Act 1979*
Section 4.18

DEFERRED COMMENCEMENT CONSENT

issued under the *Environmental Planning and Assessment Act 1979*
Section 4.16(3)

Development Application

Applicant Name:	ITP Development Pty Ltd
Applicant Address:	PO Box 6127
	O'CONNOR ACT 2602
Owner's Name:	Mr A and Mrs EB Ruggiero
Land to Be Developed:	Lot 200 DP 1194585 - 643 Mitchell Highway, Orange
Proposed Development:	Electricity Generating Works (5 MW solar farm)

**Building Code of Australia
building classification:**

To be determined by the PCA

**Determination made under
Section 4.16**

Made On:	TBC
Determination:	DEFERRED COMMENCEMENT CONSENT GRANTED SUBJECT TO CONDITIONS DESCRIBED BELOW

Consent to Operate From:

**DEFERRED COMMENCEMENT CONSENT GRANTED SUBJECT TO
CONDITIONS (A), (B) AND (C) DESCRIBED BELOW BEING SATISFIED
WITHIN 12 MONTHS OF THIS CONSENT**

Consent to Lapse On:

**5 YEARS FROM THE DATE DEFERRED COMMENCEMENT CONDITIONS
(A), (B) AND (C) DESCRIBED BELOW BEING SATISFIED**

Terms of Approval

The reasons for the imposition of conditions are:

- (1) To minimise the impacts to neighbourhood amenity and character.
 - (2) To ensure compliance with relevant statutory requirements.
 - (3) To provide adequate public health and safety measures.
 - (4) To ensure the utility services are available to the site and adequate for the development.
 - (5) To prevent the proposed development having a detrimental effect on adjoining land uses and ensure it does not compromise the Council's strategic planning objectives for the locality.
 - (6) To minimise the impact of development on the environment.
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Conditions (cont)

PART A - DEFERRED COMMENCEMENT CONDITIONS

This is a deferred commencement Consent pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act. This consent does not become operative until the conditions (A), (B) and (C) below have been satisfied. All deferred commencement conditions shall be satisfactorily resolved within a period of 12 months from the determination date as shown on this consent.

- (A) A revised landscape plan shall be submitted to and approved by Council's Manager Development Assessments prior to the consent becoming operative. The amended landscape plan shall provide a mix of shrubs and eucalypt tree species comprising 75%:shrubs and 75%:trees. Selected shrubs must have a mature height of at least 3m. All plants must be endemic to the Orange area. Eucalypt species must be a combination of the following; White Box *Eucalyptus albens*, Yellow Box *E. melliodora* and Blakely's Red Gum *E. blakelyi*, with consideration also given to drought tolerance. The planting arrangement must be irregular to emulate a natural setting, shrubs must be planted at maximum 2.5m centres. Trees can be planted sporadically within the landscaped corridors, but must be distributed throughout all the landscape corridors and areas.

All landscape corridors must be a minimum of 5m wide, with greater widths and expanded areas being provided to accommodate the required planting of eucalyptus species throughout the site without change to the approved siting of the solar arrays.

Additional landscaping (over and above that shown on the stamped approved plans) at the ratio and species types specified above shall be provided in the following locations:

- Along all boundaries with a primarily East/West Axis (including all southern orientated boundaries) of the development site;
- In the area between the new access and the eastern boundary of the development site.
- Adjacent to the north-western corner of the development site.
- Between the stand of native trees to the west of the solar panels and the western edge of the development site.

The additional landscaping areas and outcomes must be sufficient to provide additional filtered screening of the solar farm in those locations.

Shrub plants along the northern, southern and western boundaries must be advanced species with a 15L pot size or greater. Trees can be tube stock.

The amended landscape plan shall be prepared by a suitably qualified and registered landscape architect.

The plan shall also show the stock proof perimeter farm fence on the outside of the landscape corridors, detail the irrigation and maintenance measures to ensure the establishment and growth to maturity of all required landscaping, and detail landscape replacement and succession measures to apply for the life of the solar farm.

The lease area for the 5MW solar farm shall be increased to include the additional required Landscaping.

- (B) Documentary evidence shall be provided to the satisfaction of Council's Manager Development Assessments prior to the consent becoming operative demonstrating that the lease arrangements proposed to accommodate the 5MW solar farm sufficiently protect the interests of the land owner and Council. The required documentation must suitably demonstrate that the owner/operator (and any successors) of the solar farm will be entirely responsible for the; operation, maintenance (including landscaping and the access road), decommissioning upon cessation of the solar farm use; timeframe of decommissioning commencing following cessation of the solar farm use; and remediation and rehabilitation of the development site in accordance with the required decommissioning plan.
- (C) A report by a suitably qualified person shall be provided to and approved by Council's Manager Development Assessments prior to the consent becoming operative that demonstrates that the development is satisfactory in respect of fire safety. The report shall detail matters such as, but not limited to;
- the proposed separation distances between the inner edge of the landscape area and the edge of the solar arrays being sufficient to act as a defensible area,

(deferred commencement condition (c) continued over the page)

Conditions (cont)

Deferred Commencement Conditions (cont)

(C) (cont)

- that the fire protection measures are sufficient for the BESS station, including:
 - A reliable, automated monitoring and control systems, with alarm and shutdown response capability shall be installed.
 - BESS-specific fire response plan, in conjunction with the NSW Rural Fire Service shall be prepared. The plan shall incorporate safe measures to prevent the risks of external heat effects in the event of a bushfire.
 - Demonstration of compliance with all applicable Australian codes and standards.
 - The design shall demonstrate appropriate separation and isolation between battery cubicles, and between the BESS and other infrastructure, in accordance with the manufacturers' recommendations, and including gravel set-off areas around the facility.
 - Adequate supply of firefighting water within close proximity to the BESS facility if required by the BESS-specific fire response plan.
- That the provision of a 50KL water tank is sufficient for fire-fighting purposes and also the means to be employed to ensure the required static water supply will be permanently maintained at a 90% capacity or greater.

- (D) Amended Solar Farm General Arrangement Plan ORA2B-G-210 Rev 2 prepared by ITP Renewables dated 28/8/20 and Setback Dimensions Plan ORA2B-G-211 Rev 2 dated 28/8/20, that incorporates landscape areas and provides consistency with Deferred Commencement Conditions (A)-(C).

PART B – OPERATIVE CONDITIONS

- (1) The development must be carried out in accordance with:

(a) Plans by ITP Renewables - drawings numbered:

ORA2B-G-040 Rev 1 dated 28/8/2020;
ORA2B-G-210 Rev 2 dated 28/8/2020;
ORA2B-G-211 Rev 2 dated 28/8/2020;
ORA2B-C-120 Rev 1 dated 7/8/2020;
ORA2B-C-430 Rev 1 dated 27/8/2020;
ORA2B-C-530 Rev 1 dated 24/10/2019;
ORA2B-C-610 Rev 2 dated 28/8/2020;
ORA2B-C-620 Rev 1 dated 9/12/2019;
ORA2B-C-710 Rev 2 dated 10/8/2020;
ORA2B-E-341 Rev 1 dated 7/8/2020;
ORA2B-E-411 Rev 2 dated 28/8/2020;
ORA2B-E-430 Rev 1 dated 24/10/2019;
ORA2B-E-530 Rev 1 dated 24/10/2019; (13 sheets)

- (b) statements of environmental effects Version B Dated 28 August 2020 or other similar associated documents that form part of the approval

as amended in accordance with any conditions of this consent and/or any plans .

The solar farm (maximum capacity of 5.0MW) is to operate for a maximum period of 25 years from the date of occupation. The applicant is required to provide written confirmation to Council within 7 days of the solar farm operation commencing, advising of the date on which the solar farm operation has commenced.

In accordance with the details set-out, the design of the solar panel array is to comply with the following:

- The maximum height of any solar panel installed (at maximum tilt) at the premises is to be 2.617m.

- (2) The development shall be carried out in accordance with the General Terms of Approval issued by the Natural Resources Access Regulator annotated Annexure "A"; along with the requirements of Essential Energy and TfNSW as listed in this document.

Conditions (cont)

PRESCRIBED CONDITIONS

- (3) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- (4) A sign is to be erected in a prominent position on any 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 certifying authority 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 site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- (5) The security fence (including; posts, strainer posts, strainer wire and wire netting) (the barb wire does not need to be black) and any gates around the entire perimeter of the development shall be black in colour. The plans submitted with an application for a construction certificate shall be amended to clearly show that the fence is to comprise a black finish.
- (6) Prior to the issue of a construction certificate the plans shall be amended to show that the setback of the security fence to the northern boundary (common boundary with the Mitchell Highway) is a minimum of 5m.
- (7) The applicant is to submit a waste management plan that describes the nature of wastes to be removed, the wastes to be recycled and the destination of all wastes. Any waste stockpile on site during construction is to be located to minimise impact on amenity of neighbouring properties and the public domain. All wastes from the demolition and construction phases of this project are to be deposited at a licensed or approved waste disposal site.
- (8) A Decommissioning Plan for the solar farm shall be submitted to Council's Manager Development Assessments for approval prior to the issue of a construction certificate. The decommissioning plan shall, as a minimum, detail the process for removing the infrastructure from the site including timeframes, waste minimisation and recycling strategies to minimise waste going to landfill (including opportunities to reuse and/or recycle solar panels and other best practice waste minimisation actions available), the expected means of disposal of the waste; and proposed remediation and rehabilitation of the site as part of returning the site to the owners of the land and completing the obligations under the lease of land. The decommissioning must comply with the following table:

Feature	Objective
Development site (as a whole)	Safe, stable and non-polluting
Solar farm infrastructure and all ancillary infrastructure	To be decommissioned and removed
Land use	Restore land capability to pre-existing agricultural use, unless the Council agrees otherwise
Community	Ensure public safety

This plan shall form part of the terms of the lease of the land. Evidence shall be provided to Council to demonstrate that the decommissioning plan is a binding condition on the lease of the land for the purposes of the solar farm.

- (9) Engineering plans, showing details of all proposed work and adhering to any Orange City Council and TfNSW conditions of development consent, are to be submitted to, and approved by, Orange City Council prior to the issuing of a Construction Certificate.

- (10) A Road Opening Permit in accordance with Section 138 of the *Roads Act 1993* must be approved by Council prior to **a Construction Certificate being issued or any intrusive works** being carried out within the public road or footpath reserve.

PRIOR TO WORKS COMMENCING

- (11) A Construction Environmental Management Plan (CEMP) shall be prepared for the development and be approved by Council's Manager Development Assessment prior to works commencing on-site. The CEMP shall be implemented prior to works commencing on-site and shall be adhered to for the entire life of the solar farm.

The CEMP must, as a minimum, address the following; dust suppression, noise mitigation, construction activities and scheduling, working hours, stakeholder/community engagement, complaints register, etc.

Conditions (cont)

Prior to works commencing (cont)

- (12) A Construction Certificate application is required to be submitted to, and issued by Council/Accredited Certifier prior to any excavation or building works being carried out onsite.
- (13) A temporary onsite toilet is to be provided and must remain throughout the project or until an alternative facility meeting Council's requirements is available onsite.
- (14) Soil erosion control measures shall be implemented on the site.

DURING CONSTRUCTION/SITEWORKS

- (15) The eucalypt tree required to be removed from the site as shown on the approved plans shall be removed in the following way:
 - The tree is to be inspected to identify any hollows or any other nesting or habitat that may contain fauna,
 - If any fauna be identified, it shall be appropriately relocated within the site,
 - All branches and trunk with a diameter of 300mm or greater shall be cut into 6m or greater lengths.
 - The 6m or greater sections of branches and trunk shall be placed on the ground amongst the stand of native trees within the subject land located to the immediate west of the solar farm footprint.
- (16) If Aboriginal objects, relics, or other historical items or the like are located during development works, all works in the area of the identified object, relic or item shall cease, and the NSW Office of Environment and Heritage (OEH), and representatives from the Orange Local Aboriginal Land Council shall be notified. Where required, further archaeological investigation shall be undertaken. Development works in the area of the find(s) may recommence if and when outlined by the management strategy, developed in consultation with and approved by the OEH.
- (17) In the event of an unexpected find during works such as (but not limited to) the presence of undocumented waste, odorous or stained soil, asbestos, structures such as underground storage tanks, slabs, or any contaminated or suspect material, all work on site must cease immediately. The beneficiary of the consent must discuss with Council the appropriate process that should be followed therein. Works on site must not resume unless the express permission of the Director Development Services is obtained in writing.
- (18) Only clean and verified VENM fill shall be imported onto the site and excess excavated material shall be used onsite or disposed at an appropriate location.
- (19) The required landscaping must occur as the first works to occur on the land following the issue of a construction certificate. This is to ensure the plants can begin to establish as early as possible. During this period construction personnel must monitor, maintain and water the landscaping on a weekly basis. Replacement plantings must be undertaken if plants die.
- (20) A construction noise management protocol is to be in place to minimise noise emissions, manage out of hours minor works, and to respond to potential concerns raised by the community. The use of project related community consultation forums to notify residential receivers of project progress, proposed/upcoming potentially noise generating works, including the duration and nature, are to be conducted.
- (21) Localised mobile screens or construction hoarding is to be in place around plant to act as a barrier between construction works and residential receivers. Screens or hoarding is also to be in place where equipment is being operated near to site boundaries and/or residential receivers. This includes screening of areas in constant or regular use, including unloading and laydown areas.
- (22) Plant is to be operated in a conservative manner, with no over revving of motors/engines, and is to be shut down when not in use. Only plant with quiet operation performance is to be used on the project.

Conditions (cont)

During construction/siteworks (cont)

- (23) Multiple noisy plant/equipment working simultaneously is to be avoided, and impact noise is to be minimised.
- (24) A broadband reversing alarm is to be fitted on vehicles in lieu of high frequency reversing alarm.
- (25) Signage is to be placed in a prominent position at the front entrance to the site, advising truck drivers of their requirement to minimise noise when entering and exiting the site.
- (26) Training and education is to be provided to all drivers and contractors accessing the site during the construction period, to ensure they are aware of the location of noise sensitive receivers, and their obligation to generally minimise noise generating activities which may impact on those receivers.
- (27) All construction/demolition work on the site is to be carried out between the hours of 7.00 am and 6.00 pm Monday to Friday inclusive. No work (including deliveries) is authorised on weekends or public holidays. Written approval must be obtained from the General Manager of Orange City Council to vary these hours.
- (28) All materials onsite or being delivered to the site are to be contained within the site. The requirements of the *Protection of the Environment Operations Act 1997* are to be complied with when placing/stockpiling loose material or when disposing of waste products or during any other activities likely to pollute drains or watercourses.
- (29) Building demolition is to be carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the requirements of Safe Work NSW.
- (30) Asbestos containing building materials must be removed in accordance with the provisions of the *Work Health and Safety Act 2011* and any guidelines or Codes of Practice published by Safe Work NSW, and disposed of at a licenced landfill in accordance with the requirements of the NSW EPA.
- (31) Any adjustments to existing utility services that are made necessary by this development proceeding are to be at the full cost of the developer.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE
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- (32) Prior to the issue of an occupation certificate the requirements of the fire safety report required by deferred commencement condition (C) shall be implemented.
- (33) A stock proof farm fence shall be installed on the outside of the 5m wide landscaping corridors and landscape areas on the western, southern and eastern sides of the development footprint. The farm fence shall butt up to the northern boundary fence. The fence shall be designed and installed to prevent livestock from damaging the perimeter landscape screening.
- (34) Suitable sheep and cattle yards shall be installed within the subject land. The location of the stock yards shall allow suitable heavy vehicle access. The stock yards shall be installed prior to the issue of an occupation certificate.
- (35) Prior to the issue of an occupation certificate, evidence shall be provided to the principle certifying authority that an anti-reflective coating has been applied to all solar panels.
- (36) Prior to the issue of an occupation certificate a rainwater tank with a minimum capacity of 50KL equipped for firefighting shall be installed within the fenced area of the solar farm. The tank shall also be filled to capacity with water prior to the issue of an occupation certificate. The tank shall be permanently maintained with a water level not less than 90% of the capacity. A static water supply notice shall be attached to the front gate of the development site.

Conditions (cont)

Prior to the issue of an occupation certificate (cont)

- (37) No person is to use or occupy the building or alteration that is the subject of this approval without the prior issuing of an Occupation Certificate.
- (38) Certification from Orange City Council is required to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate stating that all works relating to connection of the development to Council assets, works on public land, works on public roads, stormwater, sewer and water reticulation mains and footpaths have been carried out in accordance with the Orange City Council Development and Subdivision Code and the foregoing conditions.
- (39) A Road Opening Permit Certificate of Compliance is to be issued for the works by Council prior to any Occupation/Final Certificate being issued for the development.
- (40) All of the foregoing conditions are to be at the full cost of the developer and to the requirements and standards of the Orange City Council Development and Subdivision Code, unless specifically stated otherwise. All work required by the foregoing conditions is to be completed prior to the issuing of an Occupation Certificate, unless stated otherwise.

MATTERS FOR THE ONGOING PERFORMANCE AND OPERATION OF THE DEVELOPMENT

- (41) Any outdoor lighting must be in accordance with the *Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting*.
- (42) The energy generated by this development shall not exceed of 5MW (AC) at any time.
- (43) The storage of dangerous goods within the site shall be in accordance with Australian Standard AS 1940-2004.
- (44) This consent allows the Electricity Generating Works (solar farm) to operate for a maximum period of 25 years from the date of occupation.
- (45) Upon the issue of an occupation certificate, a 24 month long landscape monitoring period shall commence. The landscape monitoring period as a minimum shall involve fortnightly watering of all landscaping, bi-annual mulching of all landscaping and quarterly inspections of all landscaping looking for sick or dead plants. Any sick or dead plants identified during the quarterly inspections shall be replaced like for like within 7 days of the respective inspection period.
Council officers, or an officer/s appointed by the Council may inspect the landscaping at any time.
The required Landscaping shall be maintained in perpetuity to the satisfaction of Councils' Manager Development Assessments and consistent with measures documented in Part A of this consent.
- (46) Upon the issue of an occupation certificate, bi-annual environmental monitoring and auditing shall commence and continue for the life of the development. The bi-annual environmental monitoring and auditing shall comprise an inspection of the solar panels for damaged or deteriorating panels. Should a damaged or deteriorating panel be found, it must be replaced immediately. Depending on the extent of damage, discreet soil testing for heavy metals in the immediate location may be required. A report is required to be submitted to Council within 14 days of each bi-annual environmental monitoring and auditing period detailing the findings and any actions taken for the respective period.
- (47) An assessment of noise emissions from the solar farm is to be provided to Council **within 3 months from the issue of any Occupation Certificate**. This commissioning report is to indicate noise levels through the monitoring of noise emanating from the normal use of the facility and determine, if any, necessary noise mitigation measures. Any identified mitigation works shall be carried out within 1 month of the commissioning report, and the operation of the facility shall be carried out in accordance with any recommendations set out in the report
- (48) Within 3 months of the cessation of operations, the site must be rehabilitated to the satisfaction of Council, consistent with the Decommissioning Plan. Documentary evidence is to be provided to Council,

from a suitably qualified person, to confirm that the development has been successfully decommissioned to the required standards.

Conditions (cont)

REQUIREMENTS OF ESSENTIAL ENERGY

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. Essential Energy has existing 11kV overhead powerlines located on the Private Road street frontage of the property. Any proposed fencing or landscaping located near the existing overhead powerlines must comply with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
4. Prior to demolition of the existing shed, any service line must be disconnected. Refer to Essential Energy's Contestable Works team for requirements via email contestableworks@essentialenergy.com.au.
5. Satisfactory arrangements are to be made with Essential Energy for the provision of power with respect to all improvements that will form part of the development. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions. Refer to Essential Energy's Contestable Works team for requirements via email contestableworks@essentialenergy.com.au.
6. 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 Essential Energy's Network Connections team for requirements via email networkconnections@essentialenergy.com.au.
7. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity to the property. Any activities within these locations must be undertaken in accordance with ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
8. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
9. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.

Conditions (cont)

REQUIREMENTS OF TRANSPORT FOR NSW

- Prior to the commencement of any onsite construction work, the following site access improvements are to be constructed at the proposed intersection with the Mitchell Highway (State HW7) to the satisfaction of Council as the roads authority and TfNSW:
 - a bitumen-sealed rural Basic Left turn treatment (BAL) in accordance with Figure 8.2 of Austroads Guide to Road Design Part 4A,
 - a bitumen-sealed rural Basic Right turn treatment (BAR) in accordance with Figure A28 of Austroads Guide to Road Design Part 4, AND
 - upgrade of the site access driveway in conformance with Figure 7.4 of Austroads Guide to Road Design Part 4, but with the gate or grid set back at least 30m from the edge of the highway, and a bitumen seal extending from the road edge to the gate,

(Copies of those diagrams are enclosed at Annexure "B") with all works also to be in accordance with relevant TfNSW Supplements to Austroads.
- The intersection works are to be designed and constructed for the posted speed limit at this location and be able to accommodate up to 26m B-Doubles and Performance Based Standards (PBS) Level 2B truck combinations nominally 30m in length.
- Truck warning signs (W5-22 Size B) with distance plates (W8-5 Size B) under are to be installed 300m in advance of the site access in both directions on the Mitchell Highway, and are to be removed after completion of construction. Provide details of proposed signage and locations for TfNSW concurrence as part of the road works design review.
- Details of any ancillary works are to be provided including (but not limited to) line marking, intersection and road name signage, drainage transitions, batter slopes, vegetation removal, services relocation, and road reserve widening acquisition.
- Safe Intersection Sight Distance (SISD) requirements as outlined in Austroads Guide to Road Design Part 4A and relevant TfNSW Supplements to Austroads is to be provided and maintained in both directions at the site access intersection.
- The developer will be required to undertake private financing and construction of works on a State classified road in which TfNSW has a statutory interest. A formal agreement in the form of a Works Authorisation Deed (WAD) is required between the developer and TfNSW prior to works commencing.
- A Road Occupancy Licence (ROL) is required prior to any works commencing within three (3) metres of the travel lanes of a State classified road, or work that has potential to impact traffic flow such as the use of traffic control devices or signage to protect workers. Please contact 1300 656 371 for further information regarding a ROL. A Traffic Control Plan prepared by a TfNSW accredited person is to be submitted as part of the ROL application.
- Prior to the commencement of construction works a Traffic Management Plan (TMP) including Driver Code of Conduct is to be submitted to and concurrence obtained from Transport for NSW. The preparation of the TMP will require consultation with Transport for NSW, Orange City Council, principal contractor(s) and relevant stakeholders. The requirements of the TMP and Driver Code of Conduct are to cover the matters referred to within the TMP Annexure "B" (attached).
- The TMP is to include management controls to ensure the specified maximum hourly light vehicle movements (32 to/from east of site and 8 to/from west of site) and maximum 9 daily heavy vehicle arrivals (18 movements), as approved under this consent, are not exceeded.
- The TMP is to be reviewed and updated in response to any changes in operating conditions. A copy of the TMP and Driver Code of Conduct is to be provided to contractors and employees as a part of the site induction and a copy is to be made available to Transport for NSW with each major update.
- At all times during construction and operation of the development, movements between the highway and the site shall be in a forwards-only direction, and all vehicle parking or storage of materials shall be contained within the site boundary unless otherwise agreed to in writing by Council as the roads authority and Transport for NSW.
- The panel tracking hubs and all screening vegetation as approved under this consent shall be maintained in good condition for the life of the development, including prompt repair or replacement of any breakdowns or losses that occur, to ensure the development operates in accordance with the consent.

Other Approvals

- (1) *Local Government Act 1993* approvals granted under section 68.

Nil

- (2) General terms of other approvals integrated as part of this consent.

Nil

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court. Pursuant to Section 8.10, an applicant may only appeal within 6 months after the date the decision is notified.

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 references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act* currently available in Australia.

Disclaimer - S88B of the Conveyancing Act 1919 - 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.

Signed:

On behalf of the consent authority **ORANGE CITY COUNCIL**

Signature:

Name:

PAUL JOHNSTON - MANAGER DEVELOPMENT ASSESSMENTS

Date:

TBC