



DETERMINATION AND STATEMENT OF REASONS
WESTERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	3 September 2026
DATE OF PANEL DECISION	2 September 2026
PANEL MEMBERS	Garry Fielding (Chair), Graham Brown, Donna Rygate, George Weston, Boston Edwards
APOLOGIES	Tracey Morris
DECLARATIONS OF INTEREST	Boston Edwards declared a reasonably perceived conflict of interest as his partner is employed at Murrumbidgee Irrigation which owns/operates the irrigation channels to the north and east of the site. The Panel Chair decided this perceived conflict did not preclude Cr. Edwards from participating on the Panel for this application.

Papers circulated electronically on 19 August 2026.

MATTER DETERMINED

PPSWES-373 – Leeton – DA 17/2026 at MacKellar Road, Cudgel NSW 2700 – MacKellar Road Electricity generating facility (5.83 MW Solar Farm and 11MW Battery Energy Storage System (BESS)) (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 the briefing listed at item 8 in Schedule 1.

Development Application

The Panel determined to approve the development application pursuant to section 4.16(3) of the *Environmental Planning and Assessment Act 1979* subject to a deferred commencement condition requiring a detailed Landscape Management Plan.

The decision was 3:2 in favour. Against the decision were Cr. George Weston and Cr. Boston Edwards.

REASONS FOR THE DECISION

The Panel determined to approve the application, by majority, contrary to the recommendation for refusal outlined in the Council Assessment Report.

In response to the matters raised in the Council Assessment Report, the Panel majority makes the following comments:

1. Chapter 2 Part 2.1 section 2.7 of *SEPP (Transport & Infrastructure) 2021* provides that “if there is an inconsistency between this Chapter and any other environmental planning instrument, whether made before or after the commencement of this Chapter, this Chapter prevails to the extent of the inconsistency”. Accordingly, the issues cited in the Council’s Assessment Report regarding *SEPP (Primary Production) 2021* and Leeton Local Environmental Plan 2014 cannot be grounds to refuse consent to the proposed development. Furthermore, the specific provisions in the Council’s policy of March 2026 to formally oppose development applications for solar farms within Leeton Shire are not valid planning reasons to refuse the application.
2. The proposed solar farm will occupy an area of 11 hectares, comprising less than 0.06% of overall class 6 (very low capability) agricultural lands in the LGA.

3. The Panel is satisfied that *SEPP (Primary Production) 2021* that seeks to identify State significant agricultural land cannot be given any determinative weight given advice from the Department that there is currently no plan to formalise the identification of State significant agricultural land.
4. The Panel is satisfied that the provision of landscaping through the Deferred Commencement Condition will provide suitable screening of the proposed development. The Panel considers that the proposed development, with landscaping, will not have a “significant adverse impact” on the “scenic quality and landscape character”.
5. The Panel is satisfied that any concerns about uncertainty about the decommissioning of the solar farm can be properly addressed through a condition requiring a Decommissioning and Rehabilitation Plan (condition 20). The Panel notes that this plan requires the approval of the council. The Panel was not satisfied that a Decommissioning Security Bond (condition 22) is appropriate or necessary.
6. The Panel does not accept that there any land use conflicts that cannot be addressed through conditions of consent. Similarly, any issues regarding permissibility (or consistency with zone objectives) cannot be supported given that the proposed use is permissible in the RU1 zone, as are a number of other uses that are more industrial than agricultural.
7. The Panel was satisfied that any noise impacts can be addressed by conditions. A Noise and Vibration Management Plan is to provided (condition 17).
8. The Panel was satisfied that any glare and glint impacts can be addressed by conditions. A Glint and Glare Management Plan is to be provided (condition 17).
9. The Panel also notes the contribution that solar farm development is having to address the adverse impacts of climate change, as promoted by Object (e) of the EP&A Act. This is an important public interest consideration when determining development applications and should not be overlooked when evaluating proposals pursuant to Section 4.15 of the EP&A Act.

Cr. George Weston and Cr. Edwards disagreed with the majority decision for the following reasons:

Cr. Weston:

Cumulative loss of irrigation land within the Shire and the potential damaged to the social and economy “health” of the Shire.

I have concerns regarding the potential loss and erosion of agricultural resources and associated infrastructure within the locality. In particular, the continued viability of irrigation infrastructure, including the Murrumbidgee Irrigation (MI) channel network, relies on a sufficient and stable agricultural customer base.

The introduction of non-agricultural land uses on highly productive agricultural land may contribute to a gradual reduction in demand for such infrastructure over time. This raises a reasonable apprehension that critical irrigation assets may become underutilised and potentially subject to rationalisation if agricultural activity within the locality continues to diminish.

In addition, I have concerns regarding the visual and aesthetic impacts of the proposed development. The subject site is located on sloping land, which increases the prominence and visibility of the development within the surrounding landscape. Given the site's topography, I consider that the proposal has the potential to adversely affect the rural character and visual amenity of the area.

I am not satisfied that the proposal appropriately responds to the site's landscape setting or that sufficient regard has been given to minimising the visual impact of the development when viewed from surrounding areas. The scale and appearance of the development, in conjunction with the site's elevated position, may result in an outcome that is inconsistent with the established character of the locality.

While some of these impacts may not be readily quantifiable at an individual development scale, I consider that the cumulative effect of permitting such developments has the potential to adversely affect both the

long-term sustainability of irrigation-dependent agriculture and the visual qualities that contribute to the identity and character of the region.

Cr. Edwards

I resolved to oppose the development having regard to the following grounds.

1. Broader public interest and cumulative impacts

At a broader level, I opposed the development on public interest grounds, having regard to the importance of agriculture and irrigated agriculture to Leeton Shire.

The land is identified as of state significance under the draft State Significant Agricultural Land. Agriculture and irrigation are fundamental to the economic prosperity of Leeton Shire and are also an important part of the social and cultural identity of the community.

I also consider the protection of agricultural land to be relevant to broader considerations of food security. Productive agricultural land is a finite resource, and decisions which facilitate its conversion to other uses should have regard to the longer-term capacity of the region to support agricultural production.

I was not satisfied with the argument that the proposal should be considered insignificant because it represents only a relatively small area of land. While the individual proposal may be limited in scale, planning decisions should also have regard to their cumulative effect. This proposal represents a further development within an area containing productive agricultural land, following other developments which have already been approved, and may be followed by further proposals in the future.

2. Agricultural capability and classification of the site

I also had significant concerns regarding the assessment of the agricultural capability of the particular site. The LSC of the land Class 6, described as having very severe limitations and being principally suitable for uses such as native vegetation and grazing.

I was not satisfied that this classification provided a sufficiently reliable basis upon which to determine the actual productive agricultural capability of the particular site.

In reaching this view, I had regard to the agricultural uses of surrounding properties. The same mapping methodology appears to classify properties in the immediate vicinity in the same Class 6 category, notwithstanding that those properties are currently being used for productive agriculture. For example, the property immediately to the east, known as Yamba, produces wheat and barley. A property to the north-west is used for almond production, while a property less than 500 metres to the south is an established citrus orchard.

These examples caused me to question whether the agricultural classification, at least as applied to this particular site, adequately reflected the actual agricultural capability of the land.

I acknowledge that the classification is one factor to be considered and that the agricultural uses of neighbouring properties do not, of themselves, establish that this particular site is capable of the same uses. However, I considered that the apparent discrepancy warranted further investigation and a more detailed assessment of the physical and agricultural characteristics of the site.

3. Reliance upon landowner evidence and desktop assessment

I was also concerned by the extent to which the assessment appeared to rely upon desktop information and information provided by the owner of the property.

During the meeting, the applicant indicated that reliance had been placed upon the evidence of the property owner that the land could not be irrigated. It was also submitted that the topography of the site was a significant factor limiting its suitability for irrigation.

I was not satisfied that the evidence before the Panel provided a sufficiently robust basis upon which to accept those propositions.

In particular, when I asked whether the consultant responsible for the assessment had personally inspected the site, I was advised that this question would be taken on notice. I was therefore concerned that the assessment of the site's agricultural capability and suitability had been undertaken substantially through desktop assessment rather than being informed by a sufficiently detailed physical inspection of the land.

I do not consider that a desktop assessment is necessarily inadequate in itself. However, given the significance of the agricultural capability of the site to the determination of this application, and the apparent inconsistencies between the agricultural classification and the actual agricultural uses of surrounding properties, I was not satisfied that the assessment undertaken was sufficiently comprehensive.

4. Topography and irrigation

I was similarly not satisfied that the argument concerning topography provided sufficient justification for concluding that the land could not reasonably be used for irrigated agriculture.

The applicant submitted that the topography of the site presented a significant impediment to irrigation. However, there is productive agricultural land less than 500 metres from the site which appears to present comparable, and in some respects more challenging, topographical characteristics and is nevertheless being successfully used for irrigated agriculture, including an established citrus orchard.

This does not necessarily establish that the subject land is capable of being used for the same purpose. However, it raised a material question as to whether topography alone was sufficient to establish that the site was unsuitable for irrigated agriculture.

I was not satisfied that this issue had been sufficiently investigated or demonstrated by the evidence before the Panel.

5. Visual impact and landscaping

I was also not satisfied that the proposal incorporated adequate landscaping measures to sufficiently mitigate its visual impact.

Having regard to the location of the proposal and the surrounding agricultural landscape, I considered that greater consideration should have been given to landscaping and visual screening to ensure that the development was appropriately integrated into its rural setting.

6. Fire safety and separation

Finally, I was concerned that the proposal did not adequately address appropriate separation distances and firebreak requirements.

Given the nature and location of the proposed development, I considered that appropriate consideration should have been given to the provision of adequate firebreaks and separation from surrounding land uses. I was not satisfied that the proposed arrangements sufficiently addressed these risks.

CONDITIONS

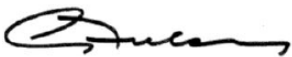
The Development Application was approved subject to a Deferred Commencement Condition pursuant to s.4.16(3) of the EP&A Act which requires a detailed Landscape Management Plan, followed by a series of Operational Conditions, as appended to the Council Assessment Report. However, the Panel considers Condition 22, Decommissioning Security Bond, is unreasonable and is therefore deleted from the Operational Conditions. The Panel notes Condition 17 requires a detailed Noise and Vibration Management Plan to be submitted prior to the issuing of a Construction Certificate, and Condition 43 which requires the Council's approval of an Operational Noise Compliance Report. As framed, these two conditions satisfy the Panel's concerns regarding noise impacts associated with the proposal.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and notes that issues raised included:

- notification
- water table and irrigation channel contamination
- loss of prime agricultural land
- decommissioning
- fire hazard
- dust
- adjoining property value
- site contamination
- construction traffic
- community benefit
- visual amenity and neighbourhood character
- BESS impacts
- adequacy of water storage
- APZ effectiveness
- future expansion
- land use compatibility
- accuracy of the SEE

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and conditions of consent.

PANEL MEMBERS	
 Garry Fielding (Chair)	 Graham Brown
 Donna Rygate	 George Weston
 Boston Edwards	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-373 – Leeton – DA 17/2026
2	PROPOSED DEVELOPMENT	MacKellar Road Electricity generating facility (5.83 MW Solar Farm and 11MW Battery Energy Storage System (BESS)) (as described in Schedule 1).
3	STREET ADDRESS	MacKellar Road, Cudgel NSW 2700
4	APPLICANT/OWNER	Applicant: Charlie Sammoun / Green Gold Energy Pty Ltd. Owner: Stephen James
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resources and Energy) 2021 ○ Leeton Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: ○ Leeton Development Control Plan 2022 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	• Council Assessment Report: 18 August 2026 • Written submissions during public exhibition: 5 • Applicant's slide presentation: uploaded to the Portal 25 Aug 2026
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Briefing to discuss Council's final recommendation: 25 August 2026 ○ <u>Panel members</u>: Garry Fielding (Chair), Graham Brown, Donna Rygate, George Weston, Boston Edwards ○ <u>Council representatives</u>: Simon Hearn, Ali Mehdi ○ <u>Applicant representatives</u>: Elton Zhang, Charlie Sammoun, Natalie Swannack ○ <u>Department staff</u>: Lillian Charlesworth
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Included in the Council Assessment Report as uploaded by Council to the NSW Planning Portal on 18 August 2026