

**DETERMINATION AND STATEMENT OF REASONS**  
WESTERN REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	7 June 2022
<b>DATE OF PANEL DECISION</b>	3 June 2022
<b>DATE OF PANEL MEETING</b>	31 May 2022
<b>PANEL MEMBERS</b>	Sandra Hutton (Acting Chair), Graham Brown, Lindsay Mathieson, Josie Howard
<b>APOLOGIES</b>	Garry Fielding
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 24 May 2022.

**MATTER DETERMINED**

**PPSWES-71 – Dubbo Regional Council – DA21-141**

19L Sheraton Road, Dubbo -Electricity generating works (solar farm) (as described in Schedule 1)

**PANEL CONSIDERATION AND DECISION**

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

**Development application**

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

The decision was unanimous.

**REASONS FOR THE DECISION**

The panel determined to approve the application for the reasons outlined throughout the council assessment report and recommended conditions. The panel determined that the site is considered suitable for the proposed development and having regard to the relevant matters for consideration under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* and the recommended conditions, as amended by the Panel, the proposal is considered an appropriate form of development, complies with the relevant provisions of applicable environmental planning instruments and not considered to have any significant negative impacts upon the environment or amenity of the locality.

The Panel considered that the applicants reported exceedance of up to 10dB to one residential receiver (and minor exceedances to three other receivers) during parts of the construction process, not specifically addressed in the council assessment report, warranted the imposition of an additional condition to require specific noise mitigation efforts, rather than relying solely on the broader and less committal recommendations of the noise assessment.

The Panel obtained clarification from Council that the effect on Condition 3 would result in amendment to the proposal plans to exclude any works from the adjoining land in the absence of landowners consent. Council also advised they were satisfied that appropriate works could occur within the site to cater for turning paths and that the access outside the site was suitable to accommodate the anticipated vehicles without any further works (noting it was used for construction access for the adjoining solar farm).

The Panel heard from the applicant relating to amendments sought to recommended conditions relating to noise limits and noise recommendations and alternatives to dilapidation reporting pre and post construction,

maintenance and rectification on the public road network identified for construction traffic. The Panel also received a response from Council relating to the construction traffic and the public road network and in response to the applicant's request.

## CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- **Condition 1** – insert text into Condition 1 as per below, and notate the relevant approval plans to exclude any physical works on land outside the site that does not have landowners consent:
  - (1) The development shall be undertaken in accordance with the Statement of Environmental Effects and stamped approved plans detailed as follows except where modified by any of the following conditions or by red marking on any approval plans.
- **Condition 4** – part (a) amended to read as follows to ensure reporting is undertaken by persons holding appropriate insurances:
  - (a) The Applicant/proponent shall at its own expense, prior to work commencing, engage suitably experienced contractor/s with relevant or appropriate insurances to carry out an inspection of the adjoining allotments to the east (28R Wellington Road & 4R Lidscomb Road) and prepare and submit to Council a 'dilapidation report' documenting the current condition of all buildings on each allotment; and
- **Condition 16** - amended to read as follows to link this to operations only:
  - (16) During operation, noise from the development ( $L_{Aeq}$ ) shall not exceed the background ( $L_{A90}$ ) by more than 5dB(A) at any time including any allowance for impulsiveness and tonal characteristics when measured at the most affected residence.  
  
{Reason: Council requirement to prevent the generation of a noise nuisance}
- **Condition 20** - amended to read as follows to ensure appropriate consideration and mitigation to certain construction noise in certain areas that impact external residential receivers based on applicant's specialist report occurs:
  - (20) All noise mitigation measures outlined in the submitted Noise Assessment Report prepared by Muller Acoustic Consulting Pty Ltd Noise Assessment Report (Dubbo Solar Farm, Dubbo, NSW) dated 09/02/21 must be adhered to at all times.  
  
In addition, prior to the commencement of construction, temporary acoustic fencing is to be provided to ensure that all Receivers identified in Table 16, p31 of the Muller Acoustic Consulting Pty Ltd Noise Assessment Report (Dubbo Solar Farm, Dubbo, NSW) dated 09/02/21 achieve satisfaction with the Noise Management Level (NML) standards in Table 16. An addendum to the Noise Assessment report is to be provided to the Council to identify the area to be temporarily fenced or other proposed methods to achieve this requirement. The temporary acoustic fencing may be removed when the construction has been completed in the area identified in the addendum to the Noise Assessment report.  
  
{Reason: Consent authority requirement to ensure neighbourhood amenity is preserved}
- **Condition 28** – amended to read as follows to provide for a pragmatic approach to heavy vehicle use of the public roads whilst providing a mechanism for attributable damages to be repaired at the applicants cost:
  - (28) The applicant is to provide a Traffic Management Plan to Council. In addition, the applicant is to provide a minimum of two (2) weeks' notice to Council of works commencing involving

heavy vehicle use of the public roads, which will allow a Council inspection of relevant roads to be undertaken 48 hours prior to works commencing.

During heavy vehicle deliveries, monitoring and management of the roads surface (being Wheelers Lane, Sheraton Road & Myall Street – see Figure 1 of the submitted Traffic Impact Assessment, dated January 2021) shall be undertaken by the applicant. A summary of the monitoring and management of the road surface and evidence of the roads condition in relation to the pre work road conditions is to be provided to Council on completion of the heavy vehicle movements on site. The applicant is to provide a minimum of two (2) weeks' notice to Council of likely completion of these movements, which will allow a Council inspection of relevant roads to be undertaken 48 hours following completion.

Any attributable damages as determined by Council shall be repaired at the applicant's cost.

{Reason: Implementation of Council policy in acknowledgement of the submitted Traffic Impact Statement}

- **Condition 33** – amended to read as follows:





- (33) All building work must be carried out in accordance with the provisions of the Building Code of Australia (National Construction Code).

{Reason: Prescribed statutory condition under EP&A Act}

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the written submission made during public exhibition that related to excessive vibration from construction drilling works and damage to nearby residential properties, impacts of future solar panel fires and concerns over impacts of any high landscaping that may block views. The Panel also considered the written correspondence received by Council that related to the right of way and access arrangements.

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

PANEL MEMBERS	
 Sandra Hutton (Chair)	 Graham Brown
 Josie Howard	 Lindsay Mathieson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-71 – Dubbo Regional Council – DA21-141
2	PROPOSED DEVELOPMENT	Electricity generating works (solar farm)
3	STREET ADDRESS	Lot 2101 DP 1227782, 19L Sheraton Road, Dubbo
4	APPLICANT/OWNER	NSW Community Renewables (Dubbo) Pty Ltd / South Keswick Family Company Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>Dubbo Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Dubbo Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 20 May 2022</li> <li>General Terms of Approval – Heritage NSW 28/4/22 20 May 2022 <ul style="list-style-type: none"> <li>Architectural Plans – Revision C – 22/2/21</li> <li>Civil Plans – Revision A – 9/2/21</li> <li>Statement of Environmental Effects – March 2021</li> <li>Visual Analysis and Landscape Concept Report – July 2021</li> <li>Detailed Cost Report – 3/2/21</li> <li>Capital Investment Value Report – 3/2/21</li> <li>Noise Assessment – 9/2/21</li> <li>Due Diligence Assessment – 14/12/20</li> <li>Aboriginal Cultural Heritage Assessment – January 2022</li> <li>Waste Management Plan – March 2021</li> <li>Traffic Impact Assessment – January 2021</li> </ul> </li> <li>Stormwater Management Report – 10/2/21</li> <li>Written submissions during public exhibition: 1</li> <li>Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 3 June 2021 <ul style="list-style-type: none"> <li><u>Panel members</u>: Garry Fielding (Chair), Sandra Hutton, Graham Brown, Lindsay Mathieson, Josie Howard</li> <li><u>Council assessment staff</u>: Josh Smith, Shaun Reynolds, Tracie Smart, Cathy Ching</li> <li><u>DPIE</u>: Jane Gibbs, Kim Holt</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 31 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Sandra Hutton (Chair), Graham Brown, Lindsay Mathieson, Josie Howard</li> <li>○ <u>Council assessment staff</u>: Josh Smith, Shaun Reynolds</li> <li>○ <u>Applicant</u>: Jeremy Every, Patrick Quinlan, Yannis Comino, Jason Gao</li> <li>○ <u>DPIE</u>: Carolyn Hunt</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	<b>Approval</b>
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report