

2021/1695

**REPORT TO WESTERN REGIONAL PLANNING PANEL
7 DECEMBER 2021**

FROM SENIOR PLANNER (B.HICKS)

DATE 3 NOVEMBER 2021

**ON MODIFICATION APPLICATION
643 MITCHELL HIGHWAY, ORANGE
ELECTRICITY GENERATING WORKS (SOLAR FARM)**

PR26437 – IC21/13449

Application Lodged	16 April 2021
Modification Application No	DA 423/2019(3)
Plan No/s	Nil
Applicant	ITP Development Pty Ltd Attention: Mr M Talent PO Box 6127 OCONNOR ACT 2602
Owner/s	Mr A and Mrs EB Ruggiero 13 Moulder Street ORANGE NSW 2800
Land Description	Lot 200 DP1194585, 643 Mitchell Highway, Orange
Proposed Land Use	Electricity Generating Works (solar farm)
Value of Proposed Development	\$8,965,861 (original cost of development)
Provisions of LEP 2011 (as amended)	RU1 Primary Production
Details of Advertisement of Project	Advertised/notified in accordance with EPA Regulation 2000.
Recommendation	Approval

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EXECUTIVE SUMMARY

Application has been made to modify development consent DA 423/2019(1) for the proposed *Electricity Generating Works (solar farm)* at Lot 200 DP1194585, 643 Mitchell Highway, Orange.

The approved development involves the construction and operation of electricity generating works comprising a 5MW solar energy facility. The application was approved by the Western Regional Planning Panel on 8 December 2020 subject to a series of deferred commencement conditions. The deferred commencement conditions were discharged on 11 October 2021 and the consent is now operative.

The consent authority for the original development was the Western Regional Planning Panel (WRPP). Pursuant to Section 123BA(2) of the Environmental Planning and Assessment Regulation 2000, an application to modify a development consent made under Section 4.55(2) of the Environmental Planning and Assessment Act 1979 is not to be determined by Council on behalf of the Regional Planning Panel where the modification seeks to amend a condition that was imposed by or amended by the Regional Planning Panel. In this regard, the determining authority for this modification application is the Western Regional Planning Panel (WRPP).

The subject application seeks to modify the conditions of consent, being Condition (1)(b) and Condition (44) of Part B, to extend the maximum period of the lifespan of the approved solar farm from 25 years to 35 years. Council, in its initial report and conditions to the Panel, recommended an operational timeframe of 35 years. Whilst the land had been identified within a strategy area as a long-term development option for residential land use, the recommendation of 35 years was based on the logical progression of urban residential expansion, serviceability, landform, and site environmental constraints. However, it is understood that the Western Regional Planning Panel found it necessary to restrict the life span of the development to a 25 year period in view of current housing supply demands in Orange and purported projections by the NSW State Government indicating that the subject land would be under pressure to be development before 2050.

A Section 4.55 assessment of the proposal has been carried out with a particular emphasis on the public interest in relation to Council's strategic planning framework, policy statement considerations and ecological sustainable development principals and concludes that the proposal can be operated on the subject land for period of 35 years without unreasonably impacting on urban residential land/housing supply, and without extraneous impacts on the natural or built environment. It needs to be acknowledged however that the draft Housing strategy is currently on public exhibition and the strategic priorities for future residential development in this locality may change when the new Council considers the housing strategy in 2022.

The proposal comprised advertised development pursuant to Schedule 1 of the Environmental Planning and Assessment Act 1979 and Clause 118 of the Environmental Planning and Assessment Regulation 2000 for a period of 28 days. At the completion of the notification period, 22 submissions had been received.

In accordance with Clause 120 of the Environmental Planning and Assessment Regulation 2000 notification was provided to Transport for NSW (TfNSW), Essential Energy, and the Natural Resources Access Regulator (NRAR).

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Lastly, the matters raised by the Department Planning dated 5 September 2021 in relation to the recent court of appeal judgement in *Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177* and the proposed amendments to the State Environmental Planning Policy (Infrastructure) 2007 concerning renewable energy and regional cities have been addressed in this report.

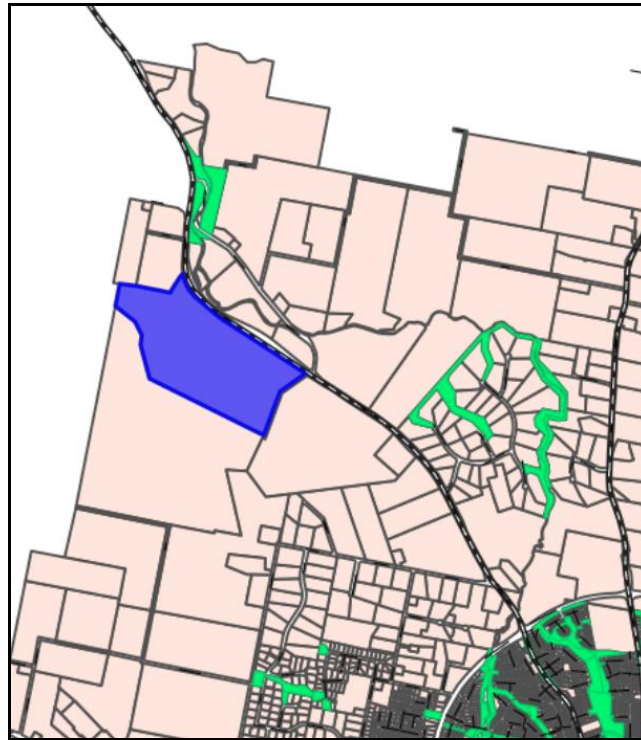


Figure 1 – Site Context and Locality Plan

FINANCIAL IMPLICATIONS

Nil

POLICY/GOVERNANCE IMPLICATIONS

Nil

RECOMMENDATION

That the Western Regional Planning Panel modifies development consent DA423/2019(1) for *Electricity Generating Works (solar farm)* at Lot 200 DP 1194585 – 643 Mitchell Highway, Orange pursuant to the attached modified notice of determination.

BACKGROUND

The following matters are of relevance to the modified development:

1. Consent Authority

The original development was *regionally significant development*, pursuant to SEPP (State and Regional Development) 2011: the proposal comprises electricity generating works with a capital investment value of more than \$5 million. The Western Regional Planning Panel is the consent authority for regionally significant development.

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Deferred Commencement consent was granted by the WRPP on 8 December 2020.

Determination of modification of a development made under Section 4.55(2) to amend a condition that was imposed by or amended by the Regional Planning Panel is a function that must be exercised Regional Panel pursuant to Section 123BA of the Environmental Planning and Assessment Regulation 2000. In this regard, Council has no authority to determine the subject modification.

2. Deferred Commencement and Compliance with Conditions

The original development was subject to the following Deferred Commencement Conditions. These conditions related to the provision of an amended landscape plan and general arrangement plan, details of lease arrangements and fire safety.

The above conditions were discharged with submission of amended plans and documentation. The development consent commenced operation on 11 October 2021.

3. Time limited Consent

Council in its original report to the panel recommended that it would be appropriate to impose a time limited condition as a tool to manage the development of the land to allow for the potential re-development for urban residential purposes in view of the fact the land had been identified as a 'long term development option' within Council's Sustainable Settlement Strategy 2004 (as amended). Notwithstanding, a strategic planning analysis by Council's assessment staff at the time found that the site could be utilised as a solar farm for a period of up to 35 years without unreasonably restricting the growth of the city and thus it was recommended that a condition limiting the consent to 35 years be imposed. Council staff also advised that the condition should have flexibility to allow for an extension of time should the demand for urban residential land happen slower than expected.

Since the issuing of the consent, it is noted that Orange has maintained significant growth due to low interest rates, relocation of persons to the region as a part of the COVID recovery. There has also been considerable public interest in this land being used for possible future residential development following the release of the draft Housing strategy that is currently on public exhibition.

The Western Regional Planning Panel in determining the application restricted the life span of the development to a 25-year period in view of current housing supply demands in Orange and purported projections by the NSW State Government indicating that the subject land would be under pressure to be development before 2050¹.

The applicant asserts that there is no tangible strategic planning basis to limit the consent for any period less than 35 years and it is for this reason that a modification to the consent is sought.

THE PROPOSAL

Application has been made to modify development consent DA423/2019(1). The modified development involves amending Condition (1)(b) and Condition (44) of Part B, to extend the maximum period of the lifespan of the approved solar farm from 25 years to 35 years, as follows:

¹ Determination and Statement of Reasons PPSWES-24 dated 8 December 2020 pg2

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Condition	DA423/2019(1)	Proposed Modification
(1)	<p><i>The development must be carried out in accordance with:</i></p> <p><i>(a) Plans by ITP Renewables - drawings numbered:</i></p> <p><i>ORA2B-G-040 Rev 1 dated 28/8/2020;</i> <i>ORA2B-G-210 Rev 2 dated 28/8/2020;</i> <i>ORA2B-G-211 Rev 2 dated 28/8/2020;</i> <i>ORA2B-C-120 Rev 1 dated 7/8/2020;</i> <i>ORA2B-C-430 Rev 1 dated 27/8/2020;</i> <i>ORA2B-C-530 Rev 1 dated 24/10/2019;</i> <i>ORA2B-C-610 Rev 2 dated 28/8/2020;</i> <i>ORA2B-C-620 Rev 1 dated 9/12/2019;</i> <i>ORA2B-C-710 Rev 2 dated 10/8/2020;</i> <i>ORA2B-E-341 Rev 1 dated 7/8/2020;</i> <i>ORA2B-E-411 Rev 2 dated 28/8/2020;</i> <i>ORA2B-E-430 Rev 1 dated 24/10/2019;</i> <i>ORA2B-E-530 Rev 1 dated 24/10/2019;</i> <i>(13 sheets)</i></p> <p><i>(b) Statements of environmental effects Version B Dated 28 August 2020 or other similar associated documents that form part of the approval.</i></p> <p><i>as amended in accordance with any conditions of this consent and/or any plans.</i></p> <p><i>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.</i></p> <p><i>In accordance with the details set-out, the design of the solar panel array is to comply with the following:</i></p> <ul style="list-style-type: none"> <i>• The maximum height of any solar panel installed (at maximum tilt) at the premises is to be 2.617m.</i> 	<p><i>The development must be carried out in accordance with:</i></p> <p><i>(a) Plans by ITP Renewables - drawings numbered:</i></p> <p><i>ORA2B-G-040 Rev 1 dated 28/8/2020;</i> <i>ORA2B-G-210 Rev 2 dated 28/8/2020;</i> <i>ORA2B-G-211 Rev 2 dated 28/8/2020;</i> <i>ORA2B-C-120 Rev 1 dated 7/8/2020;</i> <i>ORA2B-C-430 Rev 1 dated 27/8/2020;</i> <i>ORA2B-C-530 Rev 1 dated 24/10/2019;</i> <i>ORA2B-C-610 Rev 2 dated 28/8/2020;</i> <i>ORA2B-C-620 Rev 1 dated 9/12/2019;</i> <i>ORA2B-C-710 Rev 2 dated 10/8/2020;</i> <i>ORA2B-E-341 Rev 1 dated 7/8/2020;</i> <i>ORA2B-E-411 Rev 2 dated 28/8/2020;</i> <i>ORA2B-E-430 Rev 1 dated 24/10/2019;</i> <i>ORA2B-E-530 Rev 1 dated 24/10/2019;</i> <i>(13 sheets)</i></p> <p><i>(b) Statements of environmental effects Version B Dated 28 August 2020 or other similar associated documents that form part of the approval.</i></p> <p><i>as amended in accordance with any conditions of this consent and/or any plans.</i></p> <p><i>The solar farm (maximum capacity of 5.0MW) is to operate for a maximum period of 35 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.</i></p> <p><i>In accordance with the details set-out, the design of the solar panel array is to comply with the following:</i></p> <ul style="list-style-type: none"> <i>• The maximum height of any solar panel installed (at maximum tilt) at the premises is to be 2.617m.</i>
(44)	<p><i>This consent allows the Electricity Generating Works (solar farm) to operate for a maximum period of 25 years from the date of occupation</i></p>	<p><i>This consent allows the Electricity Generating Works (solar farm) to operate for a maximum period of 35 years from the date of occupation</i></p>

The applicant has provided the following reasons for the modification:

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It is uncommon for land use consents, including those for solar farms, to be time limited. By restricting the operational lifespan of the project to 25 years, the financial viability of the project is undermined. Investment decisions are based on expected performance outputs generated by detailed technical modelling that forecasts energy output decades into the future based on historical, location specific weather conditions recorded in Orange.

The solar system components of the proposed development have a lifespan in excess of 35 years. Solar photovoltaic panels are designed with extensive performance warranties that usually cover several decades. Most industry solar panels on the market today come with a multistage warranty guaranteeing the panel's output of at least 90% of its rated performance after 10 years then at least 80% of its rated performance after 25 years. It is for this reason solar panels and its associated structures that make up a solar farm are designed to withstand significant environmental weather elements and challenges to continually produce renewable energy for many decades before warranting any significant overhauls of the plant as whole.

For example, the proposed solar panel intended to be used at the subject site can produce 530W of energy at its maximum new out of the box, in 10 years' time, despite being outdoors and exposed to the elements it is still expected to generate at least 477W. Then, in 15 years after this, the solar panel is still expected to produce 424W. If any modules do not live up to these warranty parameter set points, the manufacturer will essentially issue a new one or provide compensation for it.

As the solar panels themselves are non-mechanical featuring non-moving, non-serviceable parts with self-cleaning protective glass, there would be little cause to replace large quantities of panels for any reason other than physical damage caused by accidents or serious adverse weather conditions.

Although the proponent is correct in saying that land use consents including those for solar farms are not typically time limited, it needs to be acknowledged that the JRPP considered necessary in the circumstances of this particular proposal to limit the operations of the development to a period of time, due to the fact the land had been identified within a strategy area for future urban residential development. The Council planning report recommended to the panel that a period of 35 years would be a reasonable time limit for this particular development. This was based on a number of factors including existing urban development focus areas, the logical progression of urban residential expansion, serviceability, landform, and site environmental constraints.

Furthermore, while it is understood that the operational period/lifespan of the project is important in terms of the economics and financial viability including investment decisions, revenues etc.; these are matters for the proponent and not for the consent authority to consider under the provisions of the Environmental Planning and Assessment Act 1979.

Aside from the strategic planning considerations, the useful life of the solar farm, (particularly the solar panels themselves) and ecologically sustainable development (ESD) principals are also considered relevant to this assessment. Fundamentally, the premature removal of the panels well before their useful life is likely to be contrary to the principles of ecologically sustainable development in terms of waste minimisation, reuse, and recycling and Inter-generational equity.

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The above matters are discussed further under section 4.15(1)(e) *public interest* of this report.

ENVIRONMENTAL PLANNING ASSESSMENT**Section 1.7 - Application of Part 7 of the *Biodiversity Conservation Act 2016* and Part 7A of the *Fisheries Management Act 1994***

Section 1.7 of the EP&A Act identifies that Part 7 of the *Biodiversity Conservation Act 2016* (BC Act) and Part 7A of the *Fisheries Management Act 1994* have effect in connection with terrestrial and aquatic environments.

Pursuant to Section 7.17 of the BC Act, applications for a modified consent are subject to biodiversity assessment and offsets as required under Part 7 of that Act. The BC Act requires the biodiversity offset scheme entry requirements to be applied to modification applications based on the ‘as modified’ project.

The Biodiversity Offset Scheme does not apply to the modified development. The applicable triggers will not be exceeded, or do not apply to the subject land or modified development.

Power to modify

The NSW Court of Appeal recently delivered judgment in *Ku-ring-gai Council v Buyozo Pty Ltd [2021] NSWCA 177* in which it held that the power to modify a development consent under Section 4.55(1A) and Section 4.55(2) only arises where the proposed modification ‘effects some change’ to the development itself.

In consideration of this judgement, the proponent has sought legal opinion from Shaw Reynolds Lawyers (copy attached) to support the subject modification application. The legal opinion provides that the proposal effects a change to the original consent through the modification to the operational lifespan of the solar farm, as follows:

1. The proposed modification is within the scope of “development” as defined under section 1.5 of the EPA Act, principally through the *use of land*.
2. A change to the way the land is “used”, or alternatively a change to an element of the development that is controlled in the planning instruments, is a change to the development that is capable of modification within a development consent. In this regard, the change to the lifespan of the solar farm is appropriately considered to be a change to the “development”, as it extends beyond merely a change in the terms of the development consent. It constitutes a change to the active “use” of the land.
3. The proposal seeks to effect a change to the development, that is, to extend the maximum period of the lifespan of the approved solar farm from 25 years to 35 years. Accordingly, the development itself is being modified.
4. The extension of the lifespan is a change to the development which is prospective in nature and is a modification in respect of which the public could make submissions.

Council planning staff concur with the advice provided by the applicant. The conditions to be modified relates to the future (prospective) and the change in duration of the development ‘effects some change’ on the use of land in the sense that it defers the site changing either back to the current agricultural use or some other post development use.

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On this basis, the proposed modification is considered to be consistent with the judgment in *Ku-ring-gai Council v Buyozo Pty Ltd* and thus conferring jurisdiction upon the regional planning panel to modify the conditions relating to the operational period.

Section 4.55 Modification of consents—generally

Section 4.55(2) of the EP&A Act 1979 states that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

Comment: Those matters that should be considered when determining what is “substantially the same development” is set out in *Council of Trinity Grammar School v Ashfield Council* [2015], *Innerwest 888 Pty Ltd v Canterbury Bankstown Council* [2017] and *Agricultural Equity Investments Pty Ltd v Westlime Pty Limited (No 3)* [2015]. The legal principles applying to what is “substantially the same development” test is considered below:

To alter without radical transformation:

The modification relates to amending the conditions of consent relating to the lifespan of the operations of the solar farm from 25 years to 35 years. The physical form and operations of the development will remain unchanged i.e., no change to the nature, scale, and intensity of the approved development. Therefore, it is considered that the changes proposed do not radically transform the development.

The development, as amended, is for precisely for the same use:

Pursuant to the original approval (DA 423/2019(1)), consent was granted for *Electricity Generating Works (5MW solar farm)*. The development as amended, does not alter the current approved use of the site, nor does it intensify the current approved use and thus is considered to be precisely the same use.

A quantitative and qualitative evaluation of the modification when compared to the original consent:

The proposed modification is considered to be the substantially the same as the development for which consent was originally granted when making a comparison between the original and proposed modified proposal. From a quantitative perspective, consideration needs to be given to any change to physical features or components of the proposal. In this regard, the development on the site will still function in essentially the same way and no essential element of the approved development is proposed to be changed in any material aspect i.e., physical form, layout/footprint, size/output etc. remains unchanged. While the proposal represents a 40% increase in terms of the project life, it cannot be seen as an intensification of the use, it is simply a continuation of the development as presently consented to but for an extended period of time.

Furthermore, consideration needs to be given to whether the key impacts of the proposed modification are substantially the same as those of the approved development, as well as

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the context and circumstances in which the original consent was granted (qualitative assessment). With respect to the impacts, it can reasonably be concluded, without going into great detail, that there would be no additional environmental impacts including visual and amenity impacts, social or economic impacts beyond those already assessed and consented to in the original application. Lastly, the focus of the original consent and imposition of a time limit was based on the strategic framework in relation to the future identified use of the site. Council's initial assessment and recommendation provided sufficient strategic justification supporting a 35-year operational period. The JRPP in determining the matter had a different view and restricted the life span of the development to a 25 year period in light of the current housing supply demands in Orange and purported projections by the NSW State Government indicating that the subject land would be under pressure to be development before 2050. A more comprehensive strategic planning analysis has been provided under *s4.15(1)(e) public interest* of this report. Whilst it is acknowledged that the draft housing strategy concludes that there is a low likelihood that the land would be released for urban development within the next 25-35 years it must be stressed that the strategy is draft only at this stage and currently on public exhibition. Council's Director of Development Services has advised that there has been considerable interest in this land during the public exhibition period of the draft Housing strategy and will be subject to further consideration by the new Council in the early part of 2022.

In summary, the "substantially the same" test is considered satisfied, as the proposed modification relates only to the period during which the development may be carried out on the land and therefore conferring jurisdiction upon the regional planning panel to modify the conditions relating to the operational period.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent*

The original application was identified as Integrated Development under Section 4.46 of the Environmental Planning and Assessment Act 1979 as the application was deemed to require a control activity approval under Section 90 of the Water Management Act 2000 for works within proximity to the Broken Shaft Creek system. The General Terms of Approval (GTA's) were received from the Natural Resource Access Regulator (NRAR) on 14 May 2020, and these were included in the conditions of the original approval. Pursuant to Clause 120 of the Environmental Planning and Assessment Regulation, the modification application was referred to NRAR. NRAR advised that the GTA's as originally issued are still considered applicable to the subject modification and will remain should the consent be amended.

The original application was also identified as Integrated Development under Section 138(2) of the Roads Act 1993 for vehicular access to a classified road (Mitchell Highway). Concurrence was received from Transport for NSW (TfNSW) on 23 September 2020. TfNSW advised on 9 August 2021 that they raise no objections regarding the proposed modification and that TfNSW requirements remain unchanged.

No objections were raised by Essential Energy.

- (c) it has notified the application in accordance with:*

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- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

Comment: The original application (DA423/2019(1)) was notified to adjoining landowners on two occasions, receiving 80 submissions in the first round and a further 13 in the second round concerning a number of matters. Pursuant to Clause 117(3A) of the Regulations, where a development application was determined by a regional panel, the Council are to notify and advertise the application in the same manner that the original application was advertised/notified. In this regard, the modification application was notified and advertised for 28 days from Monday, 5 July 2021 to Monday, 2 August 2021. Following the closure of the exhibition period, twenty-two (22) submissions were received. The submissions have been addressed later in this report.

- (b) *it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Comment: As stated above, the modification application received twenty-two (22) submissions which have been considered later in this report.

Section 4.55(3) of the EP&A Act 1979 provides that:

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in Section 4.15(1) as are of relevance to the development the subject of the application.*

Comment: The relevant matters under Section 4.15(1) have been addressed hereunder.

Section 4.15 Evaluation

Section 4.15(1) of the EP&A Act 1979 provides that 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:

S4.15(1)(a)(i) Provisions of any environmental planning instrument**Orange Local Environmental Plan 2011**

The initial development was assessed under the provisions of Orange LEP 2011. The subject land is zoned RU1 Primary Production. The original proposed development was defined in the planning assessment as Electricity Generating Work under OLEP 2011. Electricity Generating Works means:

a building or place used for the purpose of -

- (a) *making or generating electricity, or*
- (b) *electricity storage.*

The land-use table for the RU1 zone includes land-uses that are permissible with and without consent. As discussed in the initial assessment report, anything not listed in those two categories defaults to being impermissible. It was noted that electricity generating works are not expressly listed in either of the two permissible categories. Accordingly, the

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development was not permissible under the provisions of the LEP. However, the LEP references (via a note under Clause 2.1) a number of applicable environmental planning instruments, and expressly lists State Environmental Planning Policy (Infrastructure) 2007 and acknowledges that electricity generating works are regulated by the SEPP (Infrastructure). The ISEPP permits with consent electricity generating works in the RU1 Primary Production zone.

The proposed modification does not alter the nature of the use or any physical aspect of the approved development. Consequently, the previous assessment regarding the LEP zone objectives and special provisions including earthworks, terrestrial biodiversity, riparian land/watercourses, groundwater, and essential services remains equally valid to the original assessment.

State Environmental Planning Policies

The following State Environmental Planning Policies were applicable to the original development:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land

The modified development does not alter the previous assessment or requirements under any of these SEPPs. The modification was referred to TfNSW and Essential Energy in accordance with the provisions of the SEPP (Infrastructure). Both of these agencies advise that their requirements remain unchanged.

s4.15(1)(a)(ii) provisions of any draft environmental planning instrument that has been placed on exhibition

The following draft environmental planning instruments have been placed on exhibition since the WRPP considered the initial application and are relevant to the modification application:

Explanation of Intended Effect - Proposed Infrastructure SEPP Amendments: Renewable Energy and Regional Cities

The proposed amendments to the *State Environmental Planning Policy (Infrastructure) 2007* is a response to the substantial and rapid investment in renewable energy infrastructure which has the potential to create or exacerbate land use conflicts in regional NSW. While the introduction of the Renewable Energy Zones (REZ) has identified lands/ areas that are most suitable for such developments, the department acknowledges a large portion of existing solar and wind development is currently located outside REZs (approximately 70%) and continued development outside of the REZs will be required to support a transition to renewable energy.

To manage the emerging land use conflicts associated with utility-scale solar and wind energy developments, the NSW Government is proposing to amend the Infrastructure SEPP to include specific matters of consideration for utility-scale solar and wind energy development near certain regional cities. The EIE provides that the additional matters for consideration would apply to regional cities at risk of encroaching solar and wind

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development and would seek to protect land identified for future growth and the character and visual landscape qualities of these areas. These regional cities include Albury, Bathurst, Dubbo, Griffith, Orange, Tamworth and Wagga Wagga.

The additional matters of consideration would apply to land within 10 kilometres of land zoned B3 - Commercial Core, and within 5 kilometres of any residential land zoned R1 – General Residential, R2 – Low Density Residential and R3 – Medium Density Residential.

If the above triggers apply, the proposed additional matters of consideration include:

- Whether the development is located so as to avoid land use conflicts with existing and approved uses of land;
- whether the proposed development is likely to have a significant impact on, or conflict with, land that would be required to support the growth of a regional city having regard to any future growth areas identified in Regional Plans and Local Strategic Planning Statements and advice from Council; and
- whether the proposed development would significantly impact the scenic quality and landscape character of a regional city, including on any approaches to the city, taking into consideration any values identified by the community and Council.

In consideration of the above:

1. The site is located within 10km of the Orange City Centre (approximately 6km) and within 5km of residential zoned land (approximately 3km). Notwithstanding, the Western Regional Planning Panel has previously determined that the site is suitable for the proposed development and would not result in land use conflict given the immediately surrounding land is all zoned RU1 Primary Production. The initial assessment report outlined that the nearest non-RU1 zoned land is the land in Murphy Lane to the south of the development and Ammerdown Estate to the east. These two areas are well separated from the development site, and as such the development is not likely to result in any land-uses conflicts.
2. The strategic planning analysis provided under *s4.15(1)(e) public interest* of this report concludes that the proposal can be operated on the subject land for a period of 35 years without unreasonably impacting on urban residential land/housing supply.
3. The visual impact of the development was extensively considered in the initial assessment and determination of the application. Existing conditions of consent relating to landscape screening are considered sufficient to soften the visual impact of the development.

On this basis, the proposed modification is considered to be consistent with requirements contained within the draft planning policy.

s4.15(1)(a)(iii) provisions of any development control plan**Development Control Plan 2004**

The original development was assessed pursuant to the following chapters in DCP 2004:

- Chapter 0 - Transitional Provisions;
- Chapter 2 - Natural Resource Management;

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- Chapter 3 - General Considerations;
- Chapter 4 - Special Environmental Considerations;
- Chapter 5 - General Considerations for Zones and Development;
- Chapter 10 - Special Uses and Road Zones;
- Chapter 15 - Car Parking.

An assessment of the proposed development against the relevant Planning Outcomes was undertaken for the original proposal. The development as modified does not alter any characteristic of the proposed development that suggests any departure or change in the conclusions drawn for the original DCP assessment.

s4.15(1)(a)(iv) provisions prescribed by the regulations

The modified development is not inconsistent with any provisions prescribed by Regulation.

s4.15(1)(b) the likely impacts of the development

The impacts of the modified proposal are considered to be entirely consistent with those assessed under the original development.

s4.15(1)(c) the suitability of the site

The Western Regional Planning Panel has previously determined that the site is suitable for the proposed development. There are no aspects of the site to indicate that it would be unsuitable to accommodate the modified development. Further discussion is provided below in relation to the strategic framework involving the site and surrounds.

s4.15(1)(d) any submissions made in accordance with the act

The proposed development was advertised and notified development under the provisions of the Environmental Planning and assessment Regulation 2000. Twenty-two submissions were received. The submissions have been addressed in the submission report below.

s4.15(1)(e) public interest

The public interest is an overarching concept and can include consideration of policy statements from State and Federal governments, planning studies, strategies, guidelines, or advisory documents that are relevant to the subject application. The public interest also embraces ecologically sustainable development principles in cases where issues relevant to the principles apply. The relevant matters are addressed below:

Strategic Planning Analysis**Sustainable Settlement Strategy (SSS) 2004**

One of the central matters identified in the original assessment report related to the suitability of the site to for the proposed development primarily relating to the development's effect on future housing supply under Council's settlement strategy.

The original assessment report noted that Council's Sustainable Settlement Strategy (SSS) 2004 is the current strategic planning framework that guides land-use planning decisions involving land on the fringe of the City's urban area. The Sustainable Development Strategy was subsequently reviewed and updated in 2010 which informed the preparation and implementation of the Orange Local Environmental Plan 2011.

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In preparing the SSS 2004, urban residential expansion was largely focused to the north of the existing Orange urban area due to historic planning strategies prioritising urban release in that direction, and the investment that Council had already made (and was planned to make) in infrastructure to support north Orange area. The structure plan identified this area as Land Units (LU) 1 through to 5. Notwithstanding, the SSS also evaluated land to the south of the city for urban expansion. These areas are identified as LU-6 through to LU-11 (Figure 2). However, the southern area land units were considered as not likely to be required for the life of the twenty-year plan.

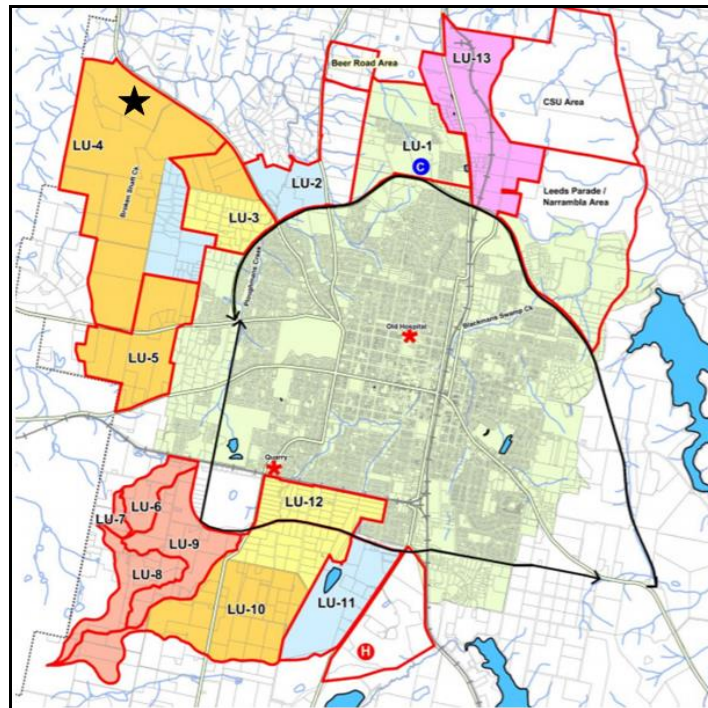


Figure 2 - excerpt from Sustainable Settlement Strategy Review (2010)
(Subject property identified by black star)

The subject land was identified in the original SSS as Land Unit 4 – Broken Shaft Creek Valley as a ‘long term development option’ for housing purposes. This was also reaffirmed as part of the 2010 review (refer Figure 2 above). The SSS however only identified LU-4 as an area for rural-residential housing rather than urban residential purposes, as suggested in Council’s initial assessment report. The SSS confirms this by saying that *“a minimum lot size of 4,000m² is considered appropriate in the Broken Shaft Creek valley view catchment.* This was based on serviceability, landform, and site environmental constraints and also demand for lifestyle size allotments within the LGA. Further detailed investigation of the site as part of a rezoning process could have increased the potential yield, although this would likely require significant engineering and earthworks to achieve.

The higher density/large scale urban residential development in the SSS was limited to LU–1 and LU–2 in the north-west area. Therefore, the impact on housing supply resulting from the solar farm in the location as reported in Council’s original assessment report may not reflect the final impact on housing supply in relation to the current strategy and future housing demand predictions. Council’s initial assessment provides the following:

The development footprint being 10.8ha and factoring in a reasonable curtilage of around the same area, equates to approximately 20ha...currently approximately

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230 houses are required annually within the Orange LGA. By 2040 this is expected to increase to approximately 300 houses annually. Based on 10 houses/ha this development equates to around 200 houses or 66% of an annual supply of housing.

While the 10 houses/ha is possible the actual density of the LU would require further investigation as part of a rezoning planning proposal. Since the time of the above comment further work on the preparation of the draft Local Housing Strategy (now on exhibition) has indicated that the topography and other constraints of the area are likely to result in a lower density than previously envisaged. Notwithstanding it is acknowledged that the solar farm site in particular is more level and less constrained than other areas of Broken Shaft Creek.

Based on the suggested lot size in the LU-4 area of 4,000m² (rural/residential or large lot typology/density) this would equate to only fifty lots and thus fifty potential houses under the current strategy. The actual potential lot yield in this area will need to factor in provision for roads, environmental features such as creek systems and ridge lines as well as buffers affecting the overall number and size of lots. Notwithstanding, in percentage terms it equates to 21% percent of the current housing demand and 16% of the predicted housing demand in 2040.

While this is not to say that the subject land would not ultimately be needed for higher density urban residential development at some point in the future (and potentially accommodate 10 houses/ha), it is beyond the life of the current strategy i.e., 2024 and is possibly beyond the life of the next strategy i.e., beyond 2041. However it must be acknowledged that the Draft Housing Strategy for the City is draft only at this stage and is currently on public exhibition. The Director of Development Services has indicated that considerable interest in this land has been expressed to him during the public exhibition period to date which will likely lead to the receipt of submissions in relation to this land which will need to be considered by the new Council in their deliberations on this issue in the early part of 2022.

Further, as noted in the 2010 review/update of the SSS, planning and infrastructure decisions by the NSW State Government were expected to affect Council's strategic land sequencing decisions for urban expansion. The decisions by the State Government involved the construction of a new base hospital at Bloomfield (also resulting in the construction of a private hospital and medi-hotel in the area) and rezoning of the Department of Primary Industries (DPI) land holdings (identified as LU-11 in the SSS) for urban residential purposes. Following these decisions, Council was placed into the position of expediting water, sewer, and road infrastructure to this area. It was therefore logical for Council to release the southern land units as priority over the release of land in north and north-west Orange, (effectively placing the need to develop the north and north-west land units well beyond a period of 20 years).

Consequently, the southern land units LU-10 (part) and LU-12 were brought forward for urban release in 2014-2015. This initially includes the provision of around 1,800 lots (approximately 7 years of supply based on current housing demands). Residential development has been occurring in this area since 2018/2019. In addition, the DPI lands (LU-11) accounts for an additional 550 lots and 20 lots in the newly released Towac Park precinct (LU-9). In total, the South Orange Urban Release Area contains approximately 9.5 years supply of residential land and only 120 lots have been registered in this precinct to date. As per the SSS structure plan for this area, there remains possible capacity for

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residential development in the southern portion of LU-10 (Figure 3) should it be needed, and given the investments in public infrastructure (roads, hospitals, water, sewer) in the south orange area over recent years as well as recent rezoning's, suggested that future greenfield development would be concentrated in this precinct at least over the next 10+ years. It is expected, however, that there will be no residential expansion beyond the LU-10 point, and even the remainder of LU-10 is uncertain at this time, as it is likely to compromise the ongoing viability of agriculture and have significant implications on environmental features south of this area².

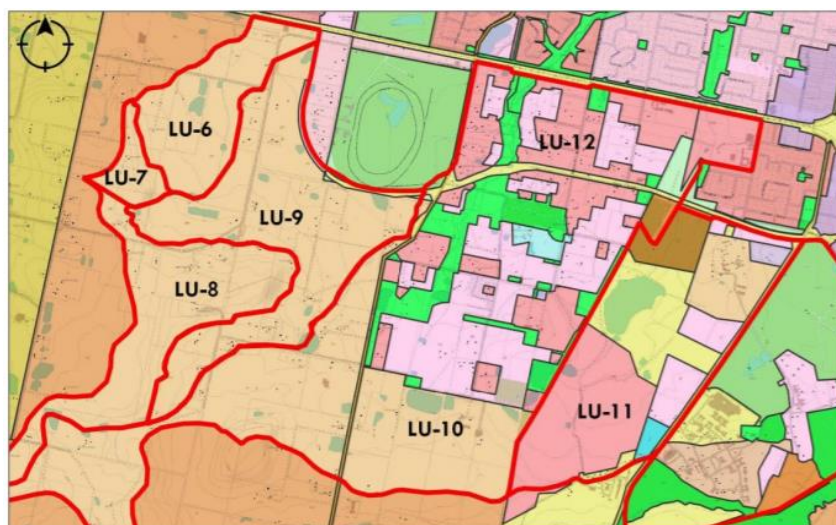


Figure 3 - current land use zoning of SSS South areas (LHS Research Report, 2019)

The 2010 update of the SSS also looked at the issue of residential land banks. It was noted that Orange has a large proportion of land zoned ready for urban residential development particularly on the urban fringes that has remained undeveloped (Table 1). The land bank noted in the 2010 update has been reviewed as part of this assessment and shows that there is still a healthy 7-8 years (approx.) supply remaining in these areas, discounting the Waratah and West Orange areas which have largely been exhausted.

Area	Number of potential new allotments	
East Orange (including Glenrol, Bowen, Suma Park and Clifton Grove)	342	238
North East Orange (Leeds Parade)	300	241
North and North West Orange (including Bletchington and Ammerdown)	410	186
West Orange (including Calare)	40	
Ploughman's Valley	895	580
Waratah	863	
Bloomfield / DPI land	540	
Total	3,390	1,785

Table 1 - Urban Residential Land Bank (SSS, 2010)

Preliminary analysis ahead of Draft Local Housing Strategy

² Blayney, Cabonne and Orange Subregional Rural and Industrial Lands Strategy 2019-2036 DRAFT

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Council has recently prepared a draft Housing Strategy to coincide with the state level policies and legislative requirements. This strategy will guide land use decision making in Orange for the next 20 years (i.e., to 2041). A research paper was prepared in 2019 was used to inform the new draft strategy.

The report provided an analysis of the most recent Australian Bureau Statistics data regarding demographics, population projections and housing stock issues. A key issue identified in the report was that the Orange housing stock lacks diversity and is dominated by larger detached houses (approximately 85% which is 10% higher than the national average). The report states that this form of housing is less suited to addressing issues of housing affordability and is not reflective of the changing way in which households' function and the trends for how they will function in the coming years e.g., ageing population, lone person households, couple with no children etc³. Effectively, the current housing stock/trends of larger dwelling types (3–4 bedroom homes on large blocks) and historic planning practices of expansive urban sprawl is unsustainable into the future.

Councils recently adopted *FutureCity Planning and Design Framework 2020* comes part way in addressing this issue. The framework aims to increase the number of people living (infill) and working within the city. Infill development has the potential to occur in a range of locations throughout the city. There are a number of sites that have been identified as 'Renewal Projects' under this framework including the western portion of the former hospital site, Robinson Park precinct and East Orange, amongst others. The plan outlines the potential of these sites to accommodate between 70-100 residences, each of varying typologies such as terrace housing/attached dwellings, apartment buildings and shop top housing etc. It is also expected that infill development opportunities will be further explored in the new housing strategy given that the future city framework is mainly contained to the CBD area.

Lastly, the most recent population projection data as reported in the research report suggests Orange's population will grow to between 47,828 and 51,775 (current population of 42,500). This growth indicates between 3,185 to 4,609 additional dwellings are needed in that period based on levels of housing vacancy and trends in household types. These additional dwellings can wholly be accommodated in the Shiralee URA, existing residential land banks and infill development as discussed above.

In light of the above analysis, the draft strategy concludes that urban residential development will largely be concentrated in the Shiralee Urban Release Area (9.5 years supply), existing residential land banks and extension thereof (7-8 years supply) and infill development (2+ years supply) over the next 20 years/life of the impending strategy. Beyond this period however urban residential development may then be redirected to the north-west land unit (LU-4) including the subject land. However, the strategic planning framework at that time i.e., 2041+ will determine whether or not if the land is released for urban residential development. If it were to be identified for urban residential development in that strategy, it is likely to be a medium-term development option (5–15-year timeframe) and one of the last properties to be developed given its positioning at the north-western most extent of the area i.e., expansion/progression generally occurs by extension of existing

³ Lone person and couple only households are expected to increase as a proportion of household types to 57.4% of all households by 2036 while the proportion of people aged 65+ will make up 22% by 2036 (LHS Research Report, 2019)

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urban areas first as extending infrastructure is cost prohibitive otherwise. In this regard, the additional 10 years sought by the proponent will not be material in addressing supply/demand in that period. To constrain the development prior to this period would be a departure from the accepted approach which requires that weight be given only where future zonings are imminent and certain and given that the land has not been pursued under the current strategy and is most likely to remain as a 'long-term development option' under the next (based on the above analysis) demonstrates the limited potential for this area to be developed for residential purposes in the next 20 years. As discussed above the draft housing strategy is currently on public exhibition until the early part of 2022. The future strategic direction of this land will be the subject of further consideration by the new Council in 2022.

Draft Orange Local Housing Strategy

Council has recently completed the drafting of the Housing Strategy. Council at the Planning Development Committee meeting held on 2 November 2021 considered a planning report on the draft Housing strategy and resolved to place on exhibition the Draft Housing Strategy⁴, with exhibition finalising 21 February 2022.

The draft strategy largely confirms the conclusions made in the above analysis. The panel should note the following from the draft strategy:

- Council has a notional land supply of 15.8 years and the draft strategy, intended to plan for a 20-year horizon, effectively adds an additional 18.9 years of supply. The existing stock and the proposed expansion sites takes the supply availability through to 2055 on the assumption that all land zoned and identified gats developed (i.e. No land banking).
- The draft strategy finds that Orange is set to grow to approximately 52,000 by 2041 and the City will need an additional 6,091 dwellings over that timeframe to accommodate this growth, or about 244 dwellings per year. Council's initial report anticipated that Orange would need approximately 300 new dwelling per year.
- The draft strategy advises that a majority of the Broken Shaft Creek Land Unit is not considered suitable for development in the 2021 Housing Strategy and thus excluded due to the presence of riparian land along Broken Shaft Creek, terrestrial biodiversity in other parts of the LU as well as the undulating nature of the topography in this area - the solar farm site is located within the Broken Shaft Creek Land Unit – West.
- The land directly south-east of the site (Molong Road Entrance) remains a candidate site for large lot residential development (Figure 4). The staging plan for this area anticipates that the western section may be released for development in the medium-long term (10-20 years).
- Expressions of interest from landowners (received during the drafting of the housing strategy) surrounding the subject land have been assessed and deemed unsuitable for urban development in this strategy for matters relating to

⁴ Draft Housing Strategy can be viewed here <https://yoursay.orange.nsw.gov.au/orange-s-housing-future/widgets/354105/documents>

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environmental constraints, serviceability/contributions planning, and supply/demand matters.

- The draft strategy is now on public exhibition until 21 February 2022 and while there are currently no submissions in relation to this site or the broader land unit at the time of writing, the potential for submissions to be received that may result in some alterations to the strategy in this locality prior to adoption remains. The Director of Development Services has indicated that considerable interest in this land has been expressed to him during the public exhibition period to date which will likely lead to the receipt of submissions in relation to this land which will need to be considered by the new Council in their deliberations on this issue in the early part of 2022.
- The draft strategy has been formed on the basis of having rolling 5 year reviews. Each such review may identify additional areas to 'top up' the supply of land suitable for rezoning. In this respect the exclusion of this site from the strategy at this time may be revisited during a future review and should not be regarded as a judgement that the site would never be required for urban growth.
- The draft strategy targets concentrated sites rather than have development on all the urban fringes of the city. This ensures the growth is sustainable and can be feasibly serviced with roads, sewer and water and has good connections to employment, education, health, and recreation opportunities.

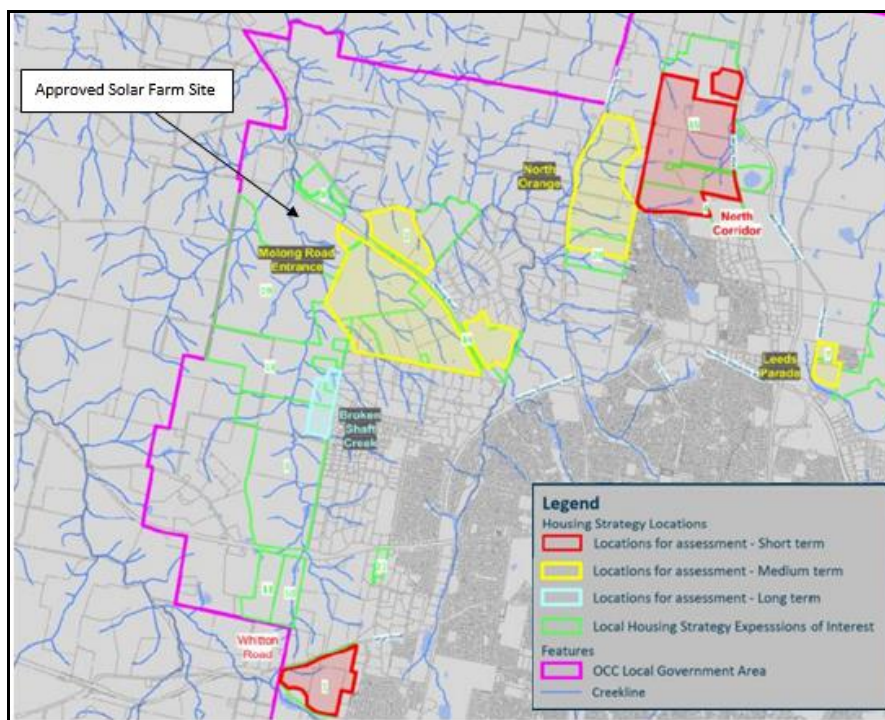


Figure 4 – Locations for Assessment (Draft LHS 2021)

Ecologically Sustainable Development Principles

Ecologically sustainable development (ESD) is a relevant matter to be considered as an element of the public interest required to be considered under s4.15(1)(e) of the EPA Act where issues relevant to one or more of the principles of ESD are raised by the development the subject of the development application.

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The concept of “ecologically sustainable development” is defined as ‘using, conserving and enhancing the community’s resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased’⁵

The ESD principles relevant to the assessment of this modification application include the *precautionary principle, inter-generational equity, conservation of biological diversity and ecological integrity* and *improved valuation, pricing, and incentive mechanisms*. These principals have been considered below:

The precautionary principle and Conservation of Biological Diversity and Ecological Integrity

No serious environmental effects are expected as a result of the proposed modification. The original development application was approved on the basis that it was considered suitable for the site. Conditions were also imposed to ensure any environmental impacts are appropriately managed as well as including appropriate measures for site rehabilitation and waste management. Therefore, it is considered that whether the development operates for 25 years or 35 years, it will not result in any threats of serious or irreversible environmental damage and will not conflict with the principles of conservation of ecological integrity.

Inter-generational equity

The approved development is consistent with the principle of inter-generational equity as it will contribute to the sustainable transition of electricity generation in NSW to a more reliable, affordable, and cleaner energy future while supporting Commonwealth and State climate change commitments including the United Nations Paris Climate Change Agreement (of which Australia is a signatory), NSW Climate Change Policy Framework 2016 and the NSW Renewable Energy Action Plan 2013 which collectively aim to produce greater resilience to a changing climate while attaining net-zero emissions.

The additional 10 years sought by the proponent is expected to result in a further contribution to the reduction in the reliance on energy sources derived from non-renewable energy sources i.e., those that produce greenhouse gas emissions. Limiting the proposal well before its useful life would be contrary to Commonwealth and State energy and climate commitments.

Improved valuation, pricing, and incentive mechanisms

This principle requires that environmental factors should be considered in terms of the overall costs of the proposal i.e., from the manufacturing of various components, through to construction works and finally costs relating to the demolition and waste management of the product/development at the end of its life from an environmental perspective.

The solar panels and associated infrastructure are all produced with a great deal of material and input of energy. The applicant advises that solar plant/infrastructure are generally designed with the intention of being permanent structures, tailored to each specific location and therefore it is not feasible to relocate the infrastructure to an alternative site after 25 years. In this regard, it would be tremendously wasteful to require the infrastructure to be decommissioned and disposed of prematurely, more than 10 years short of its full operating capacity. Council planning staff agree that this is entirely

⁵ Australia's National Strategy for Ecologically Sustainable Development (1992)

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contradictory to this principle and ESD in general when considering the low likelihood of the land being needed for urban residential development over the next 35 years.

SUBMISSIONS

The modification application was notified and advertised for 28 days from Monday, 5 July 2021 to Monday, 2 August 2021 in accordance with the Environmental Planning and Assessment Regulation 2000. Following the closure of the exhibition period 22 submissions were received – 11 objections and 11 in support. The submissions have been considered and the key themes have been identified as either concerns from those submissions that are in opposition to the development, and comments of support for those submissions in support of the development.

Submissions in Support of the Proposal

The issues raised in the supporting submissions are summarised as follows:

- The proposal will contribute to government carbon reduction strategies and electricity grid stability.
- There is a need for more renewable energy options to provide for an energy resilient future for Australian communities as coal and gas plants reach their end-of-life.
- There is a low likelihood of the land being needed for urban residential development over the next 35 years.
- The premature and forced redundancy/disposal of the infrastructure will waste a decade or a third of the life of the plant, and the embodied energy in the plant.
- The proposal allows local residents who do not have access to traditional rooftop solar to participate and receive incentives.

The issues raised in support of the proposal are noted by Council staff.

Submissions Against the Proposal

The relevant planning issues raised in the opposing submissions are summarised and addressed below as key themes:

Site Suitability and Urban Settlement Plan

The submissions objecting to the proposed modification argue that the site will be needed for urban residential development in less than 25 years. The submissions also continue to question the suitability of the site for the development.

The Western Regional Planning Panel has previously determined that the site is suitable for the proposed development and thus it is not a matter for consideration in the assessment of the subject modification. The only matter for consideration in the assessment of the subject modification is the proposed increase in the lifespan of the approved solar farm by a further 10 years.

In terms of urban expansion/growth concerns, this matter has been discussed in detail above under *s4.15(1)(e) public interest*. That analysis shows that the land would not be needed for urban development over the next 20 years/next strategy. The land may be needed for urban development post 2041; however, it would be expected to be a medium-term development option at that time i.e., 5–15-year timeframe and thus one of the last properties to be developed based on its location and servicing needs. Notwithstanding,

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until such time that Council prepares a land use strategy which clearly identifies that the land will be subject to urban release in the next 25-35 years, the assessment framework for the subject application must only consider the current strategic and statutory planning framework that exists in relation to the site. To do otherwise would be departure from the accepted approach which requires that weight be given only where future zonings are imminent and certain.

Decommissioning, Rehabilitation and Waste Management

Concerns have been raised regarding the development being abandoned and the site not properly rehabilitated. Questions were also raised regarding waste management of the development following decommissioning and disposal of hazardous materials.

Conditions of consent require that the solar farm infrastructure be decommissioned in accordance with an approved plan and that the land be rehabilitated to its pre-existing agricultural use standards. Conditions also require the proponent to prepare an end-of-life waste management plan outlining strategies for waste minimisation, reuse, and recycling.

Vehicle Access Upgrades and Road safety

A number of submissions have questioned the level/standard that the access will be upgraded to as well implications concerning road safety.

The new access for the solar farm has been the subject of assessment and approval by the state transport authority (Transport for NSW) in the original application. The subject modification does not seek any intensification of the use of the site/any additional traffic movements or change in access location. The modification application was referred to TfNSW who advised that their requirements remain.

Capital Investment Value and Financial Viability

Concerns were raised around the CIV for the project (the original costing), suggesting that the CIV should be validated as it has likely increased. It was also suggested that the CIV should have reflected the cost associated with the works required to comply with the various conditions of consent. Further, a majority raise the financial viability/modelling as an issue.

The CIV for the original DA is not a matter for debate under the subject application as that DA was approved on the basis of the CIV confirmed at that time, which was conducted by a suitably qualified quantity surveyor. As the subject application seeks consent for an additional operational lifespan, there will be no change in the overall CIV that applies to the approved development.

The economics and financial viability/modelling including investment decisions, revenues/returns etc. are matters for the proponent and not for the consent authority to consider under the provisions of the Environmental Planning and Assessment Act 1979.

Safety Risk

A number of submissions suggest that there is considerable risk of fire concerning electricity storage batteries and the solar panels.

This matter was assessed under the original application and conditions of consent require the proponent to incorporate a fire design safety system and management plan to ensure the risks of fire can be suitably managed.

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Technology advances and long-term energy efficiency

Many submissions objecting to the modification suggest that the solar technology used will become obsolete/redundant by 25 years of operation and also question the long-term energy efficiency of the panels. In response to these concerns, the applicant submits the following:

The solar system components of the proposed development have a lifespan in excess of 35 years. Solar photovoltaic panels are designed with extensive performance warranties that usually cover several decades. Most industry solar panels on the market today come with a multistage warranty guaranteeing the panel's output of at least 90% of its rated performance after 10 years then at least 80% of its rated performance after 25 years. It is for this reason solar panels and its associated structures that make up a solar farm are designed to withstand significant environmental weather elements and challenges to continually produce renewable energy for many decades before warranting any significant overhauls of the plant as whole. Furthermore, unlike traditional forms of energy generation, the fuel for solar energy is derived from the sun for free with the physical nature of the assets possessing very minimal maintenance. Coupled with historical weather and climate data, the energy production and returns can be forecasted well into the future. Therefore, whilst technological improvements can optimise future solar farms, the output of the proposed farm remains a known quantity against an increasing energy demand.

INTERNAL REFERRAL COMMENTS

The proposed modification was not required to be referred to any internal specialist staff.

ASSESSMENT CONCLUSION/RECOMMENDATION

The application has been assessed in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979. The site remains suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, heritage, environmental or economic impact. It is recommended that the modification application be approved, subject to the recommended modified conditions of consent.