

<b>DATE OF DETERMINATION</b>	3 August 2020
<b>PANEL MEMBERS</b>	Garry Fielding (Chair), Clare Brown, Andrew Hutton, Russell Holden
<b>APOLOGIES</b>	Sandra Hutton
<b>DECLARATIONS OF INTEREST</b>	<p>Councilor Paul Cavalier declared a reasonably perceived conflict of interest, noting previous Council discussions on solar farms in the local government area.</p> <p>Councilor Russell Holden noted that whilst he is a Councilor for Mid-Western Council he has managed potential conflicts by removing himself from Council meetings when solar farms were listed on a meeting agenda. The panel Chair accepted his declarations and is satisfied that he has effectively managed potential conflicts and is therefore able to participate on the panel.</p>

Public meeting held by Public Teleconference on 3 August 2020, opened at 4pm and closed at 6.10pm.

**MATTER DETERMINED**

PPSWES-1 – Mid-Western – DA283/2019 at 129 Old Mill Road Gulgong for a proposed 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 refuse 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 refuse the application for the following reasons:

1. The development site is not considered suitable for the proposed solar farm given its physical relationship to the township of Gulgong and the inability to visually screen the proposal from the township and from the surrounding rural landscape in a manner sympathetic to its setting and the rural landscape. In this respect the proposal is considered contrary to the objectives of the RU1 Rural Zone which seek to maintain the visual amenity and landscape quality of the area by preserving its rural landscape and environmental and cultural heritage values.
2. The proposal is considered unsatisfactory as the development application has not adequately addressed the potential impacts associated with the proposal and has failed to consider the potential impacts on all adjoining and adjacent residential and rural properties.
3. The development application has failed to demonstrate that appropriate mitigation measures can be implemented to address the potential impacts of the proposal.

4. The development application has failed to provide adequate details in relation to the decommissioning of the proposal and the rehabilitation of the site.
5. For the above reasons the granting of development consent to the proposal is not in the public interest.





**CONDITIONS**

Not applicable.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Visual impact
- Cultural heritage
- Acoustics
- Bushfire impacts
- Potential contamination
- Lack of local economic benefit

PANEL MEMBERS	
 Garry Fielding (Chair)	 Clare Brown
 Andrew Hutton	 Russell Holden

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-1 – Mid-Western – DA283/2019
2	PROPOSED DEVELOPMENT	Electricity Generating Works (5MW) and Associated Infrastructure
3	STREET ADDRESS	129 Old Mill Road, Gulgong
4	APPLICANT/OWNER	Applicant: Mr Mishka Talent C/- IT Power Australia Pty Ltd Owner: Dr William Watt
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 No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ Mid-Western Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Mid-Western 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: 10 July 2020</li> <li>• Applicant memo: 31 July 2020</li> <li>• Written submissions during public exhibition: 445</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Community members: Dennis Armstrong on behalf of Gulgong Save our Surrounds, Perry Thompson, Tinos Mutyiri, Margaret Armstrong, Ken Sutcliffe, Rodney Hill, Lillian Mutyiri, Kundiso Mutyiri, Chidochashe Mutyiri, Beth Haggerty, Anita Rusten, Mayor Des Kennedy on behalf of Mid-Western Council, Mick Price, Hunter Watt</li> <li>○ On behalf of the applicant – Allen Grimwood, Mishka Talent</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: 27 July 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Andrew Hutton, Russell Holden</li> <li>○ <u>Council assessment staff</u>: Kayla Robson</li> </ul> </li> <li>• Site inspection: 3 August 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Andrew Hutton, Russell Holden</li> <li>○ <u>Council assessment staff</u>: Kayla Robson</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 29 July 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Garry Fielding (Chair), Clare Brown, Andrew Hutton, Russell Holden</li> </ul> </li> </ul>

		o <u>Council assessment staff</u> : Kayla Robson
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report