



DATE OF DEFERRAL	29 August 2022
PANEL MEMBERS	Graham Brown (Chair), Brian Kirk, Anthony McBurney
APOLOGIES	None
DECLARATIONS OF INTEREST	Peter Shelley and Katie Dicker acknowledged a perceived conflict of interests as they are elected Councillors on Mid-Western Regional Council

Public meeting held by Public Teleconference on 26 August 2022, opened at 10am and closed at 11.48am.

MATTER DEFERRED

PPSWES-129 – Mid-Western - RVA0002/2022 - Review of Determination - DA0288/2019 - Energy Generating Works (2 x 5MW Solar Farm)

REASONS FOR DEFERRAL

DA0288/2019 is subject to two separate and distinct processes for its determination. The Panel is involved in a Review of a refusal made by a previous Panel and at the same time the Applicant has filed to an appeal with the Land and Environment Court (LEC). The LEC appeal has progressed through a Conciliation Conference which was terminated, and hearing dates set for 20-23 September 2022.

Additional information was provided by the Applicant and the proceedings in the LEC were formally amended to include this additional information. The additional information includes:

- glare assessment report,
- water management plan,
- workforce management plan,
- vegetation management plan,
- decommissioning plan,
- noise assessment report,
- groundwater assessment report; and
- visual impact assessment report.

The Panel understands that there was a presumption that the new information provided by Applicant to amend the LEC proceedings would form part of the Review process. The Council maintained that this information was not provided in the correct form for the Review process and was not included in the assessment report that was before the Panel. The Applicant's representatives claimed they were denied the opportunity to put the additional information before the Panel given that it was provided to Council; albeit in the LEC proceedings. If the additional information could not be put to the Panel, the Applicant's representatives sought a deferral of the Panels decision to allow the additional information to be reported to the Panel.


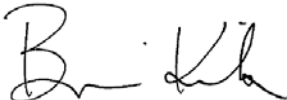
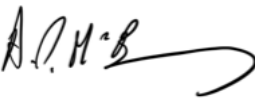
The Panel accepted that the amendment to the application in the LEC proceedings does not automatically provide a similar amendment to the Review proceedings. The Review proceedings are controlled by cl 55 of the Environmental Planning and Assessment Regulations 2000 (as the development is subject to the transitional provisions in the Environmental Planning and Assessment Regulations 2021). Clause 55(1) also provides that the additional information needs to be placed on the Planning Portal; which had not occurred at the time of the Panels meeting.

The Panel agreed that it was appropriate to defer the determination of the matter to allow the Applicant to amend the application for the Review process in accordance with Environmental Planning and Assessment Regulations 2000.

The Panel expects the additional information, as provided in the amendment to the LEC proceedings, be referred to Council within 2 weeks from the date of this deferral record. Council is requested to update their assessment within 4 weeks of the receipt of the additional information.

When this information has been received, the Panel will hold another public determination meeting. The Panel expects an addendum assessment report from Council responding to the additional information.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Graham Brown (Acting Chair)	 Brian Kirk
 Anthony McBurney	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSWES-129 – Mid-Western - RVA0002/2022
2	PROPOSED DEVELOPMENT	Electricity Generating Works (2 x 5MW Solar Farms) and Associated Infrastructure
3	STREET ADDRESS	3B Sydney Road, Burrundulla (Lot 6 DP1069441)
4	APPLICANT/OWNER	Applicant: Stephanie Fawcett – IT Power Australia Pty Ltd Owner: Burrundulla 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"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ Mid-Western Regional Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plan: <ul style="list-style-type: none"> ○ Mid-Western Regional Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 5 August 2022 • Written submissions during public exhibition: 42 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Daniel Stewart, Michael Azar, Sam Reece, Anita Ruster, Alison Broinowski, Mark Brett, Lynette Lablack, Dennis Armstrong, Des Kennedy (Mayor), Ken Sutcliff ○ On behalf of the applicant – Timothy Allen, Bob Chambers, Anne Hemmings • Total number of unique submissions received by way of objection: 42
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing: 8 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Graham Brown (Acting Chair), Brian Kirk, Anthony McBurney ○ <u>Council assessment staff</u>: Kayla Robson, Lindsay Dunstan ○ <u>DPE Representative</u>: Sung Pak • Final briefing to discuss council’s recommendation: 26 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Graham Brown (Acting Chair), Brian Kirk, Anthony McBurney ○ <u>Council assessment staff</u>: Kayla Robson

		○ <u>DPE Representatives:</u> Sung Pak, Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report