



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number DA-34/2024
PAN-419240

Applicant Peter Taylor

Description of development Construction of a 3-megawatt ground mounted solar farm at the Bindaree Abattoir site to provide electricity to the Abattoir operation.

Property 7307 GWYDIR HIGHWAY INVERELL 2360
2/-/DP1028323
83/-/DP753638
1/-/DP1028323

Determination Approved
Consent Authority - Council

Date of determination 24/05/24

Date from which the consent operates 24/05/24

Date on which the consent lapses 24/05/29

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reasons for approval

1. The development is a Permitted Land Use in the RU1 zone pursuant to State Environmental Planning Policy (Transport and Infrastructure) 2021.
2. The development is compliant with the relevant clauses of the Inverell Local Environmental Plan 2012.

In consideration to the controls of the Inverell Development Control Plan 2013, the proposed

development is suitable for the site and compatible with the locality.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.



Anthony Alliston
Director Environmental Services
Person on behalf of the consent authority

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none"> 1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia. 2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences. 3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia. 4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made. 5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made. 6. This section does not apply— <ol style="list-style-type: none"> a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or b. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p>Erection of signs</p> <ol style="list-style-type: none"> 1. This section applies to a development consent for development involving building work, subdivision work or demolition work. 2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out— <ol style="list-style-type: none"> a. showing the name, address and telephone number of the principal certifier for the work, and

- d. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
3. The sign must be—
- a. maintained while the building work, subdivision work or demolition work is being carried out, and
 - b. removed when the work has been completed.
4. This section does not apply in relation to—
- a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
 - b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.

3

Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
1454-120	B	Electrical Layout	Agile Energy	31/05/2024
1454-130	A	Civil Layout	Agile Energy	25/01/2023
	2	Statement of Environmental Effects, including appendices	SMK Consultants	March 2024

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

4

Construction Certificate required prior to commencement of works on site

No activity is to be carried out on site until a Construction Certificate has been issued, other than:

- site investigation for the preparation of the construction; and/or
- implementation of environmental protection measures, such as erosion control etc. that are required by this consent.

Condition reason: To ensure no works commence until a Construction Certificate has been issued and any pre-construction conditions have been satisfied.

Building Work

Before issue of a construction certificate

5	<p>Construction Waste Management</p> <p>Before the issue of a Construction Certificate, a construction waste management plan must be submitted to the Accredited Certifier nominating all necessary construction waste management practices and details, including but not limited to the type of waste material and method of disposal, including any temporary storage on site or elsewhere.</p> <p>Condition reason: To ensure appropriate construction waste management will be undertaken.</p>
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Before building work commences

6	<p>Construction -Erosion and Sediment Control</p> <p>Prior to commencement of works (including earthworks), run-off and erosion control measures must be implemented to prevent soil erosion, water pollution and the discharge of loose sediment on the surrounding land. Measures are to include:</p> <ul style="list-style-type: none"> • Diverting uncontaminated run-off around cleared or disturbed areas; • Erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties; • Preventing the tracking of sediment by vehicles onto roads; and • Stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot. <p>Run-off and erosion control measures must be in place for the duration of building work and until adequate (more than 70%) vegetation (grass) cover is established on the site to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads. In the event that the building contract is completed, it is the responsibility of the owner to maintain the run-off and erosion control measures.</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
7	<p>Construction – Vegetation clearance</p> <p>The Applicant must not clear any native vegetation or fauna habitat located outside the approved solar farm footprint.</p> <p>Condition reason: To protect biodiversity and the presence of endangered ecological community vegetation on the site.</p>

During building work

8	<p>Construction - Local amenity, noise and environmental pollution</p> <p>To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period:</p> <ul style="list-style-type: none"> • Works on site are to be carried out in accordance with the Protection of the Environment Operations Act 1997 in relation to noise, dust and associated nuisances from the site. The carrying out of works shall not interfere with the quiet enjoyment of the surrounding neighbourhood; • Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of
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	<p>any drainage path or easement, natural watercourse, footpath, kerb or road surface and shall implement measures to prevent the movement of such material off site;</p> <ul style="list-style-type: none"> • Building operations such as brick cutting, washing tools, concreting and bricklaying shall be undertaken on the building block. The pollutants from these building operations shall be contained on site; • Builders waste must not be burnt or buried on site. All waste (including felled trees) must be contained and removed to a waste disposal depot; • Where the proposed development involves the disturbance of any existing survey monuments, those monuments affected will need to be relocated by a registered surveyor under the <i>Surveying and Spatial Information Act 2002</i>. A plan showing the relocated monuments will then be required to be lodged as a matter of public record at the Lands Titles Office.
	Condition reason: To protect local amenity and survey monuments during construction.
9	<p>Site Access</p> <p>All vehicles associated with the development must enter and exit the site via the existing and approved main entry off Gwydir Highway.</p> <p>Condition reason: To prevent access from unsuitable location/s.</p>
10	<p>Internal Access, Loading and Unloading</p> <p>The Applicant must ensure:</p> <ul style="list-style-type: none"> a. The internal roads are capable of all-weather access. b. There is sufficient parking on site for all vehicles, and no parking occurs off site. c. All vehicles are loaded and unloaded on site and enter and leave the site in a forward direction. <p>Vehicles leaving the site are in a clean condition to minimise tracking of any materials off site onto the road network.</p> <p>Condition reason: To limit upgrades to remain in line with the development consent.</p>
11	<p>Demolition - general</p> <p>Any demolition work is to be carried out in accordance with <i>Australian Standard 2601 The demolition of structures</i>.</p> <p>Condition reason: All demolition work must comply with Australian Standard 2601.</p>
12	<p>Construction – Structural adequacy</p> <p>The Applicant must ensure that all new buildings and structures are constructed in accordance with the relevant requirements of the <i>Building Code of Australia</i>.</p> <p>Condition reason: Ensure the development is structurally sound and fit for purpose.</p>

Before issue of an occupation certificate

13	<p>Commencement of operations</p> <p>Prior to commencement of operations, an Occupation Certificate must be issued in accordance with <i>Environmental Planning and Assessment Act 1979</i>.</p> <p><i>Note: Prior to issue of the Occupation Certificate, the Principal Certifying Authority is required to be satisfied, amongst other things, that:</i></p> <ul style="list-style-type: none"> • all required inspections (including each applicable mandatory critical stage inspection) have been carried out; and
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	<p>any preconditions to the issue of the certificate required by a development consent have been met.</p> <p>Condition reason: To ensure an Occupation Certificate is obtained prior to commencement of operations.</p>
14	<p>Connection to the grid</p> <p>Prior to connection to the electricity grid, the Applicant must secure the necessary approvals from Essential Energy.</p> <p>Connection works must be carried out in accordance with Essential Energy requirements.</p> <p>Condition reason: To ensure that the necessary approvals and suitable connection into the grid are achieved in accordance with Essential Energy.</p>

Occupation and ongoing use

15	<p>Visual Amenity</p> <p>The Applicant must:</p> <ul style="list-style-type: none"> a. Minimise the off-site visual impacts of the development, including the potential for any glare or reflection; b. Ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape. <p>Not mount any advertising signs or logos on the site, except where this is required for identification or safety purposes.</p> <p>Condition reason: To protect the visual amenity of the locality.</p>
16	<p>Battery Storage Restriction</p> <p>The battery storage facility or systems associated with the development must not exceed a total delivery capacity of 3 Megawatts (MW).</p> <p>Condition reason: To limit battery storage to the maximum approved capacity.</p>
17	<p>Operating Conditions - General</p> <p>The Applicant must ensure that all plant and equipment use on site, or in conjunction with the development, is:</p> <ul style="list-style-type: none"> a. Maintained in a proper and efficient condition; and <p>Operated in a proper and efficient manner.</p> <p>Condition reason: To protect the amenity of the area.</p>
18	<p>Operation of Conditions - Water</p> <p>The Applicant must :</p> <ul style="list-style-type: none"> a. Ensure that the solar panels and ancillary infrastructure (including security fencing) are designed, constructed, and maintained to reduce impacts on surface water and groundwater at the site; and <p>Ensure the solar panels and ancillary infrastructure are maintained to avoid causing any erosion on site.</p> <p>Condition reason: To protect the amenity of the area relating to water.</p>
19	<p>Operation of Conditions - Bushfire</p> <p>The Applicant must :</p>

	<ul style="list-style-type: none"> a. Minimise the fire risks of the development, including managing vegetation fuel loads on-site; and b. Ensure that the development: <ul style="list-style-type: none"> i. Includes at least a 10 metre defendable space around the perimeter of the solar array areas and battery storage facility that permits unobstructed vehicle access; ii. Manages the defendable space and solar array areas as an Asset Protection Zone; iii. Complies with the relevant asset protection requirements in Planning for Bushfire Protection 2019 (or equivalent) and Standards or Asset Protection Zones; <p>Is included in the bushfire management plan for the site and suitably covered by the relevant water and firefighting management strategies.</p> <p>Condition reason: To protect the development and area in the event of a bushfire.</p>
20	<p>Upgrading of Solar Panels and Ancillary Infrastructure</p> <p>The Applicant may upgrade the solar panels and ancillary infrastructure on site provided those upgrades remain within the approved development footprint on the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the consent authority incorporating the proposed upgrades.</p> <p>Condition reason: To limit upgrades to remain in line with the development consent.</p>
21	<p>Land Management</p> <p>The Applicant must maintain the agricultural land capability of the site, including:</p> <ul style="list-style-type: none"> a. Establishing the ground cover of the site within 3 months following completion of construction or upgrading. b. Properly maintaining the ground cover with appropriate perennial species and weed management. <p>Maintaining grazing within the footprint where practicable.</p> <p>Condition reason: To ensure appropriate land management practices.</p>
22	<p>Decommissioning and Rehabilitation Plan</p> <p>Within 3 years of the commencement of the operation, the Applicant must prepare a Decommissioning and Rehabilitation Plan for the development. The Plan must:</p> <ul style="list-style-type: none"> a. Include detailed completion criteria for evaluation compliance with the rehabilitation objectives in Table 3 below; b. Describe the measures that would be implemented to: <ul style="list-style-type: none"> i. Decommission the development and rehabilitate the site in accordance with the objectives of Table 3; ii. Minimise and manage the waste generated by the decommissioning of the development; and iii. Include a program or monitor and report on the implementation of these measures against the detailed completion criteria.; c. Review the Plan and seek approval for the Plan by the consent authority prior to cessation of operations.

	<p>The Applicant must decommission and rehabilitate the site in accordance with the approved Decommissioning and Rehabilitation Plan.</p> <p>Condition reason: To ensure the solar farm is decommissioned and the site is rehabilitated suitably.</p>										
23	<p>Site Rehabilitation</p> <p>Within 18 months of the cessation of the operation, unless otherwise approved by the consent authority, the Applicant must rehabilitate the site to the satisfaction of the consent authority, in accordance with the approved Decommissioning and Rehabilitation Plan and Table 3:</p> <p><i>Table 3: Rehabilitation Objectives</i></p> <table border="1"> <thead> <tr> <th>Feature</th> <th>Objective</th> </tr> </thead> <tbody> <tr> <td>Site</td> <td> <ul style="list-style-type: none"> • Safe, stable and non-polluting • Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use </td> </tr> <tr> <td>Solar farm infrastructure</td> <td> <ul style="list-style-type: none"> • To be decommissioned and removed, unless the Secretary agrees otherwise • All underground cabling is to be removed </td> </tr> <tr> <td>Land use</td> <td> <ul style="list-style-type: none"> • Restore land capability to pre-existing use (at least Class 3 Land Capability for areas of mapped Biophysical Strategic Agricultural Land) </td> </tr> <tr> <td>Community</td> <td> <ul style="list-style-type: none"> • Ensure public safety at all times </td> </tr> </tbody> </table> <p>Condition reason: To ensure the site is rehabilitated suitably.</p>	Feature	Objective	Site	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use 	Solar farm infrastructure	<ul style="list-style-type: none"> • To be decommissioned and removed, unless the Secretary agrees otherwise • All underground cabling is to be removed 	Land use	<ul style="list-style-type: none"> • Restore land capability to pre-existing use (at least Class 3 Land Capability for areas of mapped Biophysical Strategic Agricultural Land) 	Community	<ul style="list-style-type: none"> • Ensure public safety at all times
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General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent. Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means INVERELL SHIRE COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Northern Regional Planning Panel.