

# Department of Planning, Housing and Infrastructure



Our ref: SSD-10455

Bradley James  
Principal Case Manager  
Independent Planning Commission NSW

Via email: [REDACTED]

25/10/2024

---

Subject: Middlebrook Solar Farm (SSD- 10455) – Request for Comment – Recommended Conditions of Consent

Dear Mr James

I refer to your letter dated 15 October 2024 concerning the Independent Planning Commission's (the Commission's) consideration of Middlebrook Solar Farm (SSD- 10455).

The Department of Planning, Housing and Infrastructure's (the Department) responses to the Commission's Recommend Conditions of Consent are provided in Attachment A.

If you have any questions, please contact Iwan Davies on [REDACTED] or via email at [REDACTED].

Yours sincerely,

[REDACTED]  
Nicole Brewer  
**Director**  
**Energy Assessments**

Attachment A - Attachment A – Department of Planning, Housing & Infrastructure Response to Commission's Draft Proposed Conditions of Consent

# Middlebrook Solar Farm (SSD-10455)

## Changes to Conditions of Consent

### Notes:

1. Not all conditions in the table below are replicated in full, only necessary parts of the conditions to demonstrate changes.
2. As a result of new conditions, re-numbering of conditions will be required/undertaken.

| Condition No.  | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )   | Comments DPHI  |
|--|--|---|--|
| <b>COMPLIANCE MATTERS</b><br><b>UPDATED DEFINITIONS,<br/>CONDITIONS AND<br/>APPENDIX</b> | The Commission notes that on a recent wind farm project, the Department adopted new standard definitions and conditions (in part C and Appendix 7) related to compliance matters. Can the Department please confirm if these are to be adopted for this project, and if so, provide the updated definitions and conditions.<br><br>The Commission also intends to update the definition of 'EIS' to include the material provided to the Commission during the assessment process. | <b>Per the Commission's email to the Department on 24 October 2024 providing the updated definition of EIS and requesting the date of the minor request for information, 19 July 2024, has been included below.</b><br><br>The Environmental Impact Statement for Middlebrook Solar Farm dated 24 June 2023, Submissions Report dated 28 March 2024, Amendment Report dated 28 March 2024, and the additional information <b>provided to the Department</b> dated 24 June 2024, 10 July 2024, 19 July 2024, 26 July 2024 and 13 August 2024, <b>and the information provided to the NSW Independent Planning Commission on 13 September 2024, 26 September 2024, 4 October 2024, and 10 October 2024.</b>   | The updated standard definitions and conditions (in part C and Appendix 7) related to compliance matters were circulated within the Department post-referral of the project to the Commission and have subsequently not been included as part of the recommended conditions. Updated definitions and conditions have been provided as part of this document.<br><br>Noted regarding the update of the-EIS definition. The Commission has provided the updated definition and asked DPHI to provide the date information was submitted to in response to a minor request for information. This information was submitted to the Department on 19 July 2024. |
| <b>DEFINITIONS</b>   |  | <b>Is harm that:</b> <ul style="list-style-type: none"> <li>• involves actual harm to the environment that may include (but not be limited to) a leak, spill, emission other escape or deposit of a substance, and as a consequence of that environmental harm (pollution), may cause harm to the health or safety of people; or</li> <li>• results in actual loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment).</li> </ul> <b>Note: This definition excludes "harm" that is either authorised under this consent or any other statutory approval.</b><br><br><b>Note: For the purposes of this definition, material harm excludes incidents captured by Work Health and Safety reporting requirements.</b> | Updated definition for 'Material Harm' based on recent advice from the Department's Compliance Branch.   |
| <b>DEFINITIONS</b>   |  | <b>An occurrence or set of circumstances that causes or threatens to cause material harm to the environment, and as a consequence of that environmental harm, may cause harm to the health and safety of human beings, and which may or may not be or cause a non-compliance.</b>   | Updated definition for 'Incident' based on recent advice from the Department's Compliance Branch.  |
| <b>DEFINITIONS</b>   |  | <b>Energy Corporation of NSW</b>  | Include definition for EnergyCo based on recent advice from EnergyCo.  |
| <b>COMMUNITY ENHANCEMENT</b><br><b>A15.</b>  | The Panel's intention is to allow flexibility of the current terms of offer to allow for the Applicant and Council to continue negotiations such as Cpi adjustment for bot payments.   | Unless the Planning Secretary agrees otherwise, the Applicant must enter into a VPA with Council in accordance with: <ol style="list-style-type: none"> <li>Division 7.1 of Part 7 of the EP&amp;A Act; and</li> <li>the terms of Applicant's VPA letter dated 26 June 2024, which are summarised in Part A of Appendix 4 <b>or other such terms that may be offered by the Applicant and agreed to by Council.</b></li> </ol>  | The Department notes that this introduction creates a risk that the final VPA will be inconsistent with the general terms of agreement, as summarised in Appendix 4 of the consent.  |
| <b>Access Route</b><br><b>B3.</b>  | To ensure the use of Marsden Park Road is clearly restricted to address community concerns.  | Unless the Planning Secretary agrees otherwise, all heavy vehicles and heavy vehicles requiring escort associated with the development must travel to and from the site via the New England Highway and Middlebrook Road.<br><br>All vehicles associated with the development must avoid the use of Middlebrook Road east of Site Access Point 2 (as identified in Appendix 1) <b>and Marsden Park Road</b> except for emergency purposes, unless the Planning Secretary agrees otherwise.  | No comments.   |

| Condition No.   | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )  | Comments DPHI  |
|---|--|--|--|
| <p><b>Access Route and Road Upgrades: Heavy Vehicles Requiring Escort</b></p> <p><b>B7.</b></p> | <p>Additional note added in accordance with recent consents in the region, at the request of Council.</p>  | <p>Notes:</p> <ul style="list-style-type: none"> <li>This Development Consent does not provide consent for the use of the public road network, or any upgrades, for heavy vehicles requiring escort on the route identified in the EIS between the Port of Newcastle to the New England Highway / Middlebrook Road intersection.</li> <li><b><u>The Applicant is required to obtain relevant permits under the Heavy Vehicle National Law (NSW) for the use of over-dimensional vehicles on the road network.</u></b></li> </ul>   | <p>The Department recommends an amendment to condition B7, to include a reference to Goonoo Goonoo Bridge to ensure any necessary road upgrades identified through the applicant's commitment to a future bridge assessment (management measure T6) are undertaken. This would be enforced through the applicant's requirement to obtain relevant permits under the Heavy Vehicle National Law (NSW) for the use of over-dimensional vehicles on the road network.</p> <p>B7. This Development Consent does not provide consent for the use of the public road network, or any upgrades, for heavy vehicles requiring escort on the route identified in the EIS between the Port of Newcastle to the New England Highway / Middlebrook Road intersection, <b>including Goonoo Goonoo Bridge.</b></p> |
| <p><b>Traffic Management Plan</b></p> <p><b>B10.</b></p>  | <p>Amendment to (c) to ensure the provisions in the Bridge Assessment in order for the bridge to be deemed as capable for the proposed vehicles are carried out.</p> <p>Minor wording amendments to delete repetition of lead in sentence of part (d).</p> <p>Addition of (d)(vii) to ensure the TMP captures large scale events within the LGA as per Council's concerns.</p> <p>Amendment to (x) to ensure the Applicant is utilising the provided shuttle buses to the maximum extent possible to further reduce traffic impacts.</p> | <p>(c) a reconciliation table to demonstrate all traffic-related management measures and recommendations identified in the EIS <b><u>(including the load and speed controls in the Goonoo Goonoo Bridge Assessment and Load Rating dated 10 October 2024)</u></b> have been included in the plan;</p> <p>(d) details of the measures that would be implemented to minimise traffic impacts during construction, upgrading or decommissioning works, including:</p> <ul style="list-style-type: none"> <li>(i) details of the dilapidation surveys required by condition <del>Error! Reference source not found.</del> of this consent;</li> <li>(ii) temporary traffic controls, including detours and signage;</li> <li>(iii) notifying the local community about development-related traffic impacts;</li> <li>(iv) procedures for receiving and addressing complaints from the community about development-related traffic;</li> <li>(v) <del>minimising</del> potential for conflict with school buses and other road users as far as practicable, including preventing queuing on the public road network;</li> <li>(vi) <del>minimising</del> potential cumulative traffic impacts with other projects in the area during construction, upgrading or decommissioning works;</li> <li>(vii) <b><u>potential for conflict with key tourism, cultural, sporting and entertainment related events in the LGA (e.g. music festivals), as far as practicable;</u></b></li> <li>(viii) <del>minimising</del> dirt tracked onto the public road network from development-related traffic;</li> <li>(ix) <del>measures for</del> managing light vehicle peak numbers;</li> <li>(x) details and volume of the employee shuttle bus service, including pick-up and drop-off points and associated parking arrangements for construction workers, and measures to <del>maximise</del> <del>encourage</del> employee use of this services, and monitoring measures;</li> <li>(xi) scheduling of heavy vehicle movements to minimise convoy length or platoons, and to minimise conflict with light vehicles;</li> <li>(xii) responding to local climate conditions that may affect road safety such as fog, dust, wet weather and flooding;</li> <li>(xiii) <del>measures to minimise</del> dust generated by construction traffic;</li> <li>(xiv) responding to any emergency repair or maintenance requirements; and</li> <li>(xv) a traffic management system for managing heavy vehicles requiring escort;</li> </ul> | <p>The Department does not object to the condition should the Commission wish to include it.</p> <p>Separately, since recommending the project to the Commission, the Department has received advice to include consultation with EnergyCo as a requirement for Traffic Management Plans. See recommended wording below. Further, a definition for EnergyCo has been included above.</p> <p>B10 Prior to commencing the road upgrades identified in condition B6, the Applicant must prepare a Traffic Management Plan for the development in consultation with TfNSW <del>and Council</del> <del>and EnergyCo</del>, and to the satisfaction of the Planning Secretary. This plan must include:</p>   |



| Condition No.   | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )   | Comments DPHI  |
|---|--|---|--|
| <p><b>LANDSCAPING</b></p> <p><b>B11.</b></p>              | <p>Amendment to (a) to remove any ambiguity in timing for the establishment of ground cover.</p> <p>Amendment to (c) to encourage the agricultural use to be maintained as far as practicable.</p> | <p>The Applicant must maintain the agricultural land capability of the site, including:</p> <ul style="list-style-type: none"> <li>(a) establishing ground cover of the site within 3 months following completion of <del>any</del> construction or upgrading;</li> <li>(b) properly maintaining the ground cover with appropriate perennial species and weed management; and</li> <li>(c) maintaining grazing within the development footprint, <del>where</del> <b>to the maximum extent practicable</b>,</li> </ul> <p>unless the Planning Secretary agrees otherwise</p>  | <p>The Department recommends the applicant should comment on implications of this condition.</p> <p>The site is currently used for grazing and some cropping. The applicant has proposed implementing concurrent grazing during the operation of the project. The Department is advised that the option agreement with the landowners includes 'grazing principles' to manage this activity. The implementation of grazing activities would occur in discussion with the landowner and consideration of the need to retain a year-round stable ground cover to protect soil and water resources. The timing and intensity of grazing would be managed to protect these values in the first instance. A lesser stocking rate will be required to but will also reduce soil compaction due to grazing.</p> <p>The Department recommends the wording of condition B11 (c) remains as recommended as the wording 'maximum extent' creates enforceability issues for what the 'maximum extent' entails and has the unintended consequence of potentially being inconsistent with agreements with the landowner.</p>   |
| <p><b>LANDSCAPING</b></p> <p><b>NEW CONDITION B12</b></p> | <p>To ensure the transition zone between Class 3 and Class 4 land is verified to ensure the intention of not completing works on Class 3 land is met.</p>  | <p><b>The Applicant must:</b></p> <ul style="list-style-type: none"> <li>(a) <b><u>undertake additional soil surveys and Land and Soil Capability mapping to verify the transition zone between Biophysical Strategic Agricultural Land (BSAL) and/or Class 3 land and Class 4 land on the Site in accordance with Mitigation Measure SO6 of Appendix B of the Applicant's Amendment Report dated 28 March 2024; and</u></b></li> <li>(b) <b><u>ensure no solar panels or ancillary infrastructure are located on BSAL or Class 3 land, as verified by the surveys and mapping required above in condition 0(a).</u></b></li> </ul> | <p>The Department does not object to the adjustments to proposed new condition B12(a) should the Commission wish to include it.</p> <p>However, it is noted that the applicant's commitment to carry out proposed mitigation measures in the EIS is captured by condition A2 of the consent which requires the development to be carried out generally in accordance with the EIS.</p> <p>The Department does not support the proposed condition B12(b) as it is inconsistent with the <i>Large-Scale Solar Guideline 2022</i> and the intent of the applicant's mitigation measure. The proposed change may have unintended consequences for the viability of the project if there is a reduction in the area of solar panels that can be constructed and operated.</p> <p>It is noted that the intent of mitigation measure SO6 is to "to inform remediation treatments during construction and operational management of the Project. Specifically to verify the transition zone between BSAL and Class 4 land and remediation treatments for soil management during construction and operation of the project" and not to initiate a change in the layout of proposed infrastructure.</p> <p>The <i>Large-Scale Solar Guideline 2022</i> requires a detailed assessment and justification of infrastructure on BSAL or Class 1-3 land, however the siting of infrastructure on this land is not prohibited. The current layout of the proposed solar panels and ancillary infrastructure avoids BSAL and the majority of Class 3 land, with the impact to Class 3 land comprising impacts within the road reserve of Middlebrook Road.</p> |

| Condition No.                              | Commission's Intended Outcome   | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )  | Comments DPHI   |
|--|---|--|---|
| <p>Dust<br/>B21.</p>                       | <p>Amendment to include specific controls the Applicant must put into place to achieve the intent of the condition and to provide tangible actions that the Applicant needs to comply with to address community concerns.</p>   | <p>The Applicant must minimise the dust generated by the development <b><u>through measures including but not limited to ensuring:</u></b></p> <ul style="list-style-type: none"> <li>(a) <b><u>activities are carried out in a manner that minimises dust including emission of windblown or traffic generated dust;</u></b></li> <li>(b) <b><u>all trucks entering or leaving the site with loads have their loads covered;</u></b></li> <li>(c) <b><u>trucks associated with the development do not track dirt onto the public road network; and</u></b></li> <li>(d) <b><u>the use of water tankers to spray the surface of unsealed roads when required.</u></b></li> </ul>   | <p>The Department does not support the proposed condition as drafted B21(a) due to potential workability and enforceability issues.</p> <p>Should the Commission wish to include the condition, the Department recommends the following changes:<br/>The Applicant must minimise the dust generated by the development <b><u>through measures including but not limited to ensuring:</u></b><br/><b><u>(a) activities are carried out in a manner that minimises dust including emission of windblown or traffic generated dust within the project site;</u></b></p> <p>The Department does not support the proposed condition B21(d) due to potential workability issues. Specifying water spraying for dust suppression may mean that it excludes other effective mechanisms for dust suppression and water spraying may not be an appropriate measure during drought times. The Department also considers this would be addressed by the proposed changes to B21(a).</p> <p>The Department notes that as per the Commissions proposed changes to Appendix 5, there would be no public roads that would be used by the project that are unsealed. The site would be accessed via New England Highway and Middlebrook Road, and under the modified conditions proposed by the Commission, Middlebrook Road is proposed to be sealed to the second access point.</p> <p>Further, the Department notes the Commission has recommended changes to condition B3 to strengthen requirements around the proposed access route (prohibiting access from the unsealed portion of Middlebrook Road to the east and Marsden Park Road) eliminating any need for further dust suppression requirements to be included in the conditions of consent.</p> |
| <p>Visual<br/>B22.</p>                     | <p>To provide further clarification of the suggested restrictions applying to the backtracking of the panels.</p>   | <p>The Applicant must:</p> <ul style="list-style-type: none"> <li>(a) unless the Planning Secretary agrees otherwise, limit the angle of solar panel backtracking in accordance with <b><u>Table 2 and Figures 2 to 5</u></b> of the additional information provided by the Applicant to the Department dated 24 June 2024;</li> </ul>   | <p>The Department recommends this condition remain as recommended, noting that specific restrictions are only represented by the yellow areas of Figures 2-5 (not the entirety of the figure). Given the complexity of the document, the Department suggests exclusion of specific reference to tables and figures.</p>   |
| <p>Visual<br/><b>NEW CONDITION B23</b></p> | <p>To address visual concerns of the hardstand/ancillary infrastructure area of the BESS and substation.</p> <p>The Commission also seeks advice on:</p> <ul style="list-style-type: none"> <li>a) whether this is best managed through an updated development layout; and</li> <li>b) if "unless the Planning Secretary" agrees is appropriate in this condition.</li> </ul> | <p><b><u>The Applicant must establish and maintain a vegetation buffer (landscape screening) along Middlebrook Road for the length of the BESS and substation areas. The landscape screening must:</u></b></p> <ul style="list-style-type: none"> <li>(a) <b><u>be planted within 9 months of commencement of construction;</u></b></li> <li>(b) <b><u>be comprised of species that are endemic to the area;</u></b></li> <li>(c) <b><u>be designed and maintained in accordance with RFS's Planning for Bushfire Protection 2019 (or equivalent); and</u></b></li> <li>(d) <b><u>be properly maintained for the life of the development, including appropriate weed management and replacement of mortalities upon identification.</u></b></li> </ul> | <p>The Department does not support the proposed condition B23 as it considers it is inconsistent with the Department's assessment and the <i>Large-Scale Solar Energy Guideline 2022</i>. The Department notes that:</p> <ul style="list-style-type: none"> <li>• the unmitigated visual impact rating on residences R9, R10, R12 and R15 are low to very low, as detailed in the Department's assessment; and</li> <li>• the <i>Technical Supplement - Landscape and Visual Impact Assessment</i> to the <i>Large-Scale Solar Energy Guideline 2022</i> notes that no mitigation is required where impacts are low to nil.</li> </ul> <p>In addition, the applicant has advised that the proposed requirement would have workability issues and unintended consequences. The introduction of a vegetation buffer may require a subsequent reduction in panel area to maintain the appropriate asset protection zones and have the unintended consequence of impacting project viability if there is a reduction in the area of solar panels that can be constructed and operated. In addition, a vegetation buffer at this location may impact the safe intersection sight distance for vehicles using access point 2.</p> <p>The Department suggests the applicant be afforded the opportunity to provide information on the implications of this condition.</p>  |



| Condition No.                                   | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )  | Comments DPHI   |
|---|--|--|---|
| <p>Visual<br/><b>NEW CONDITION B24</b></p>      | <p>To provide a mechanism for neighbouring landowners to request vegetation screening at their residence, as committed to by the Applicant in their correspondence dated 26 September 2024.</p>      | <p><b><u>For a period of 5 years from the commencement of construction, the owner of any non-associated residence within 3 km of the development footprint identified in the Final Layout Plan may ask the Applicant to implement measures on their land to minimise the visual impacts of the development on their residence (including its curtilage).</u></b></p> <p><b><u>Upon receiving such a written request from the owner of these residences, the Applicant must implement appropriate mitigation measures (such as landscaping and vegetation screening) in consultation with the owner.</u></b></p> <p><b><u>The mitigation measures must:</u></b></p> <ul style="list-style-type: none"> <li>(a) <b><u>be reasonable and feasible;</u></b></li> <li>(b) <b><u>be aimed at reducing the visibility of the solar panels and ancillary infrastructure from the residence and its curtilage;</u></b></li> <li>(c) <b><u>be commensurate with the level of visual impact on the residence;</u></b></li> <li>(d) <b><u>consider bushfire risk (including the provisions of Planning for Bushfire Protection 2019); and</u></b></li> <li>(e) <b><u>be implemented within 12 months of receiving the written request, unless the Planning Secretary agrees otherwise.</u></b></li> </ul> <p><b><u>If the Applicant and the owner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.</u></b></p> <p><b><u>Notes:</u></b></p> <ul style="list-style-type: none"> <li>• <b><u>To avoid any doubt, mitigation measures are not required to be implemented to reduce the visibility of solar panels and ancillary infrastructure from any other locations on the property other than the residence and its curtilage.</u></b></li> <li>• <b><u>The identification of appropriate visual impact mitigation measures will be more effective following the construction of the solar panels and ancillary infrastructure. While owners may ask for the implementation of visual impact mitigation measures shortly after the commencement of construction, it is recommended owners consider whether there is benefit in delaying such a request until the relevant solar panels and ancillary infrastructure are visible from their residence or its curtilage.</u></b></li> </ul> | <p>As noted above, the Department considers that further mitigation is inconsistent with the Department's assessment and the <i>Large-Scale Solar Energy Guideline 2022</i>.</p> <p>Should the condition be included, the Department suggests that B24 (c) should be updated to include a reference to the <i>Large Scale Solar Guideline 2022</i>, to remove any subjectivity from this condition. It is proposed that (c) is revised to the following:</p> <p style="padding-left: 40px;">(c) be commensurate to the level of visual impact assessed as per the <i>Large Scale Solar Guideline 2022</i></p> <p>The Department also recommends that the applicant should comment on implications of this condition.</p>  |
| <p>Lighting<br/><b>B25.</b></p>                 | <p>Updated to recent revision.</p>   | <p>(iii) complies with <i>Australian Standard/New Zealand Standard AS/NZS 4282:2019 2023 – Control of Obtrusive Effects of Outdoor Lighting</i>, or the latest version.</p>  | <p>No comments.</p>   |
| <p>Heritage Management Plan<br/><b>B27.</b></p> | <p>Correction to table numbers in (i) and (iii) (same change made in condition B26 also).</p> <p>Amendment to (ii) as identified by the Applicant to specify the items that require the fencing.</p> | <p>(d) include a description of the measures that would be implemented for:</p> <ul style="list-style-type: none"> <li>(i) protecting the heritage items identified in <del>Table 4</del> <b><u>Table 4</u></b> in Appendix 6 or items located outside of the approved development footprint;</li> <li>(ii) fencing / demarcation (as appropriate) of the identified heritage items <b><u>in Table 4 in Appendix 6 or items located within the development footprint</u></b> prior to carrying out any development that could directly or indirectly impact the identified heritage items;</li> <li>(iii) salvaging and relocating the heritage items located within the approved development footprint, as identified in <del>Table 2</del> <b><u>Table 5</u></b> in Appendix 6;</li> </ul>   | <p>The Department notes an error in the table numbering in Appendix 6 and recommends that Appendix 6 should be updated to reference Table 1 and Table 2 instead of Table 4 and Table 5 and that there be no change to table numbers in the respective condition B26.</p> <p>In addition, the Department proposes to update the condition B26(d) for consistency with other consents to replace (i), (ii) and (iii) with just revised (i) and (ii) as follows:</p> <p>(d) <b><u>include a description of the measures that would be implemented for:</u></b></p> <ul style="list-style-type: none"> <li>(i) <b><u>protecting the Aboriginal heritage items identified in Table 1 in Appendix 6 or items located outside of the approved development footprint, including fencing off the Aboriginal heritage items prior to carrying out any development that could directly or indirectly impact the heritage items;</u></b></li> <li>(ii) <b><u>salvaging and relocating the Aboriginal heritage items located within the approved development footprint, as identified in Table 2 of Appendix 6;</u></b></li> </ul> |

| Condition No.  | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )  | Comments DPHI  |
|--|--|--|--|
| <p>Operating Conditions<br/><b>B30.</b></p>                  | <p>New part (f) to address concerns regarding contamination of fire extinguishing activities.</p>  | <p>(e) ensure the solar panels and ancillary infrastructure are designed, constructed and maintained to avoid causing any erosion on site;</p> <p>(f) <b><u>ensure the adequate management of water runoff (including potential contamination) from fire extinguishing activities during and after an on-site fire event; and</u></b></p> <p>(g) ensure all works are undertaken in accordance with the following:</p>   | <p>The Department recommends the proposed revision is included as part of the Soil and Water Management Plan under condition B31 as the inclusion of this requirement as an operating condition could lead to non-compliance by fire services against the conditions of consent.</p>   |
| <p>WASTE<br/><b>B38.</b></p>                                 | <p>Amendment to address Council's concerns with availability of Council facilities for waste and include the WMP committed to by the Applicant.</p>  | <p>The Applicant must:</p> <p>(a) <b><u>prepare a Waste Management Plan in consultation with Council prior to commencing construction;</u></b></p> <p>(b) minimise the waste generated by the development;</p> <p>(c) classify all waste generated on site in accordance with the EPA's <i>Waste Classification Guidelines 2014</i> (or its latest version);</p> <p>(d) store and handle all waste on site in accordance with its classification;</p> <p>(e) not receive or dispose of any waste on site; and</p> <p>(f) remove all waste from the site as soon as practicable, and ensure it is reused, recycled or sent to an appropriately licensed waste facility for disposal <b><u>(in consultation with Council for use of Council facilities).</u></b></p>   | <p>The Department proposes the following changes. Since recommending the project the Department has received advice to include consultation with EnergyCo as a requirement for Waste Management Plans. See recommended wording below. Further, a definition for EnergyCo has been included above.</p> <p>(a) prepare <b>and implement</b> a Waste Management Plan in consultation with Council <b>and EnergyCo</b> prior to commencing construction;</p>   |
| <p>ACCOMMODATION AND EMPLOYMENT STRATEGY<br/><b>B39.</b></p> | <p>Amendments to address specific concerns relevant to the Accommodation and Employment Strategy within the region and to ensure consultation with other SSD projects to ensure the strategies for each are not prepared in isolation and without consideration of the use of accommodation by other projects.</p> | <p>Prior to commencing construction, the Applicant must prepare an Accommodation and Employment Strategy for the development <del>in consultation with Council</del>. This strategy must:</p> <p>(a) <b><u>be prepared in consultation with Council and informed by consultation with local accommodation (including social and crisis accommodation) and employment service providers;</u></b></p> <p>(b) propose measures to ensure there is sufficient accommodation for the workforce associated with the development <b><u>(including but not limited to consideration of potential conflicts with key tourism, cultural, sporting and entertainment-related events in the LGA, as far as practicable);</u></b></p> <p>(c) consider the cumulative impacts associated with other State significant development projects in the area, <b><u>including through consultation with applicants for these projects where practical;</u></b></p> <p>(d) investigate options for prioritising the employment of local workers for the construction and operation of the development, where feasible; and</p> <p>(e) include a program to monitor and review the effectiveness of the strategy over the life of the development, including regular monitoring and review during construction.</p> <p>The Applicant must provide a copy of the Accommodation and Employment Strategy to the Planning Secretary prior to commencement of construction, and implement the plan throughout construction.</p> | <p>The Department proposes the following changes. Since the recommending the project DPHI has received advice to include consultation with EnergyCo on this plan.</p> <p>Prior to commencing construction, the Applicant must prepare an Accommodation and Employment Strategy for the development <del>in consultation with Council</del>. This strategy must:</p> <p><b>(a) be prepared in consultation with Council <b>and EnergyCo</b> and informed by consultation with local accommodation (including social and crisis accommodation) and employment service providers;</b></p> |



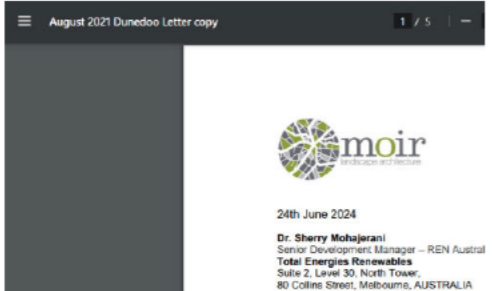
| Condition No.   | Commission's Intended Outcome   | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )   | Comments DPHI   |   |  |
|---|---|---|---|---|--|
| <p><b>DECOMMISSIONING AND REHABILITATION</b></p> <p><b>B40.</b></p> | <p>Included to ensure the Applicant is responsible for the forward planning of decommissioning in response to community concerns regarding the effectiveness and probability of appropriate decommissioning and rehabilitation.</p>   | <p><b><u>Within 3 years of the commencement of operation, the Applicant must prepare a Decommissioning and Rehabilitation Plan. The Plan shall be updated by the Applicant at a minimum 15 years into the operation of the project, and within 2 years prior to decommissioning. The Plan must:</u></b></p> <p>(a) <b><u>include detailed completion criteria for evaluating compliance with the rehabilitation objectives in Error! Reference source not found. below; and</u></b></p> <p>(b) <b><u>describe the measures that would be implemented to:</u></b></p> <p>(i) <b><u>decommission the development and rehabilitate the Site in accordance with the objectives in Error! Reference source not found.;</u></b></p> <p>(ii) <b><u>minimise and manage the waste generated by the decommissioning of the development;</u></b></p> <p>(iii) <b><u>include a program to monitor and report on the implementation of these measures against the detailed completion criteria; and</u></b></p> <p>(iv) <b><u>ensure that best practice is employed in respect of utilising available recycling technologies.</u></b></p> | <p>With the implementation of objective-based conditions and monitoring requirements, as noted in Table 5 and in accordance with the <i>Large-Scale Solar Guideline 2022</i>, the Department considers the solar farm and ancillary infrastructure would be suitably decommissioned at the end of the project life, or within 18 months if operations cease unexpectedly, and that the site be appropriately rehabilitated.</p> <p>Further, if an applicant or landholder fails to meet the decommissioning and rehabilitation obligations prescribed by the development consent, the Department can use its enforcement powers under the EP&amp;A Act to address any breaches of the consent conditions.</p> <p>With the above in mind, if the Commission intends to keep this Decommissioning and Rehabilitation Plan, the Department requests that as per the proposed changes, the Commission does not make 'to the satisfaction of the Secretary' as this would add to the post approval burden on the Department for a plan that the Department does not consider is necessary.</p> |   |  |
| <p><b>DECOMMISSIONING AND REHABILITATION</b></p> <p><b>B41.</b></p> | <p>Amendment to ensure all infrastructure is removed, with the exception of those required for ongoing electricity operations or where a landowner wishes to retain infrastructure to return the land to its previous state where practicable.</p>  | <p>Table 5</p> <table border="1" data-bbox="1003 898 1656 1264"> <tr> <td data-bbox="1003 898 1163 1264">Solar farm and ancillary infrastructure</td> <td data-bbox="1163 898 1656 1264"> <ul style="list-style-type: none"> <li>All infrastructure, including above and below ground, to be decommissioned and removed <b><u>with the exception of:</u></b> <ul style="list-style-type: none"> <li><b><u>the sub-station and any infrastructure essential for its ongoing use; and</u></b></li> <li><b><u>any ancillary infrastructure to be retained with the agreement of the landholder where it facilitates the future post-operational use of the land,</u></b></li> </ul> </li> <li><del>to a depth of 500mm, unless the Planning Secretary agrees otherwise.</del></li> </ul> </td> </tr> </table>  | Solar farm and ancillary infrastructure   | <ul style="list-style-type: none"> <li>All infrastructure, including above and below ground, to be decommissioned and removed <b><u>with the exception of:</u></b> <ul style="list-style-type: none"> <li><b><u>the sub-station and any infrastructure essential for its ongoing use; and</u></b></li> <li><b><u>any ancillary infrastructure to be retained with the agreement of the landholder where it facilitates the future post-operational use of the land,</u></b></li> </ul> </li> <li><del>to a depth of 500mm, unless the Planning Secretary agrees otherwise.</del></li> </ul> | <p>The Department recommends this condition remains as recommended, as the proposed condition would give landowners and applicants the power to agree to retain infrastructure.</p> <p>Regarding the substation, the recommended condition by the Department could still facilitate the retention and ongoing operation of the substation (if required). This could occur through the Planning Secretary's discretion included in the recommended condition.</p> <p>In addition, it is typical for applicants to remove infrastructure to a particular depth, in order to leave in low laying infrastructure which may be particularly difficult to remove and will not impact the long-term use of the site. DPI Agriculture supports the removal of all below ground infrastructure to a depth of 500 mm to avoid excessive ground disturbance.</p> <p>The Department recommends the condition as recommended is retained.</p> |
| Solar farm and ancillary infrastructure                             | <ul style="list-style-type: none"> <li>All infrastructure, including above and below ground, to be decommissioned and removed <b><u>with the exception of:</u></b> <ul style="list-style-type: none"> <li><b><u>the sub-station and any infrastructure essential for its ongoing use; and</u></b></li> <li><b><u>any ancillary infrastructure to be retained with the agreement of the landholder where it facilitates the future post-operational use of the land,</u></b></li> </ul> </li> <li><del>to a depth of 500mm, unless the Planning Secretary agrees otherwise.</del></li> </ul> |   |   |   |  |
| <p><b>Notification of Department</b></p> <p><b>C7.</b></p>          | <p>To include Council to ensure Council has accurate records of timeframes of projects in the region.</p>   | <p>Prior to commencing the construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify <b><u>in writing</u></b> the Department <del>in writing</del> (via the Major Projects website portal) <b><u>and Council</u></b> of the date of commencement, or cessation, of the relevant phase.</p> <p>If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to commencing the relevant stage, and clearly identify the development that would be carried out during the relevant stage.</p>  | <p>No comments.</p>   |   |  |



| Condition No.   | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )   | Comments DPHI   |
|---|--|---|---|
| <p><b>Incident Notification</b><br/>Replace C10 and new Condition C11</p>             |  | <p>Replace the existing Condition with:</p> <p>C10. The Applicant must notify the Department within 24 hours of becoming aware of an incident. The notification must be made via the NSW planning portal (Major Projects) and address details of the incident including:</p> <ul style="list-style-type: none"> <li>(b) date, time and location;</li> <li>(c) a brief description of what occurred and why it has been classified as an incident;</li> <li>(d) a description of what immediate steps were taken in relation to the incident; and</li> <li>(e) identifying a contact person for further communication regarding the incident.</li> </ul> <p>C11. The Applicant must provide the Department with a subsequent incident report in accordance with Appendix 8 [Incident Notification and Reporting Requirements].</p> | <p>Updated based on recent advice from the Department's Compliance Branch.</p>  |
| <p><b>Non-Compliance Notification</b><br/>Replace Conditions C11-C12</p>              |  | <p>Replace these Conditions with:</p> <p>C12. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing and must be submitted via the NSW planning portal (Major Projects). The notification must identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply, the reasons for the non-compliance (if known), and what actions have been undertaken, or will be undertaken, and when, to address the non-compliance.</p> <p><i>Note: A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.</i></p>                                     | <p>Updated based on recent advice from the Department's Compliance Branch.</p>  |
| <p><b>INDEPENDENT ENVIRONMENTAL AUDIT</b><br/>C13<br/>(replace conditions C13-15)</p> |  | <p>Independent Environmental Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements (2020) <u>or as updated from time to time and published on the Department's website.</u></p>   | <p>Updated based on recent advice from the Department's Compliance Branch.</p>  |
| <p><b>ACCESS TO INFORMATION</b><br/>C17.</p>  | <p>A new sub-clause (xi) to ensure the applicant keeps the community informed of the projects key milestones and any delays.</p> | <ul style="list-style-type: none"> <li>(viii) a complaints register <b><u>(including a summary of all complaints received by issue and impact)</u></b>;</li> <li>(ix) compliance reports;</li> <li>(x) any independent environmental audit, and the Applicant's response to the recommendations in any audit;</li> <li>(xi) <b><u>construction progress updates at appropriate milestones, including identification of any substantial delays</u></b>; and</li> <li>(xii) any other matter required by the Planning Secretary; and</li> </ul>   | <p>No comments.</p>   |
| <p><b>APPENDIX 1 DEVELOPMENT LAYOUT</b></p>   | <p>Can the Department please confirm the figure included in Appendix 1 is the development layout post amendments.</p>            |   | <p>The Department confirms the figure provided in Appendix 1 is the amended project layout and notes this figure will be updated in response to proposed condition changes above.</p> |

| Condition No.   | Commission's Intended Outcome  | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> )   | Comments DPHI  |  |   |                             |  |  |   |
|---|--|---|--|--|---|-----------------------------|--|--|---|
| <p><b>APPENDIX 4<br/>GENERAL TERMS OF<br/>THE APPLICANT'S VPA<br/>OFFER</b></p>         | <p>Deletion of the sealing of Middlebrook Road, as agreed to by the Applicant in its correspondence dated 4 October 2024 to remove confusion and leave the proposed sealing to Appendix 5.</p> <p>The Commission would also like feedback on the annual payment of \$32,000 not being required to be CPI adjusted.</p>   | <p>Part A</p> <table border="1" data-bbox="1006 317 1656 684"> <tr> <td data-bbox="1006 317 1169 684">Tamworth Regional Council</td> <td data-bbox="1169 317 1656 684"> <ul style="list-style-type: none"> <li>An annual payment of \$82,070 (CPI adjusted) from commencement of operations for the operational life of the project to be paid to Council;</li> <li>An annual payment of \$32,000 from commencement of operations for the operational life of the project to be paid into the community benefit fund; and</li> <li><del>sealing the surface of Middlebrook Road, as identified in Figure 1 of Appendix, to the approximate value of \$321,550</del></li> </ul> </td> </tr> </table>   | Tamworth Regional Council  | <ul style="list-style-type: none"> <li>An annual payment of \$82,070 (CPI adjusted) from commencement of operations for the operational life of the project to be paid to Council;</li> <li>An annual payment of \$32,000 from commencement of operations for the operational life of the project to be paid into the community benefit fund; and</li> <li><del>sealing the surface of Middlebrook Road, as identified in Figure 1 of Appendix, to the approximate value of \$321,550</del></li> </ul> | <p>VPA terms are for the Council and applicant to agree, any update to Appendix 4 would need to be reflected in an updated letter of offer and appropriately referenced as part of Condition A15.</p> <p>Note that the current letter of offer VPA letter terms states no escalation of the \$32,000 community fund payment.</p> <p>For reference please find the VPA letter here:<br/><a href="https://majorprojects.planningportal.nsw.gov.au/vpaletter">https://majorprojects.planningportal.nsw.gov.au/vpaletter</a>.</p> |                             |  |  |   |
| Tamworth Regional Council   | <ul style="list-style-type: none"> <li>An annual payment of \$82,070 (CPI adjusted) from commencement of operations for the operational life of the project to be paid to Council;</li> <li>An annual payment of \$32,000 from commencement of operations for the operational life of the project to be paid into the community benefit fund; and</li> <li><del>sealing the surface of Middlebrook Road, as identified in Figure 1 of Appendix, to the approximate value of \$321,550</del></li> </ul> |   |  |  |   |                             |  |  |   |
| <p><b>APPENDIX 5<br/>ROAD UPGRADES AND<br/>SITE ACCESS</b></p>                          | <p>The Panel's intention is to further reduce dust and traffic concerns.</p> <p>Figure 1, 3 and 4 of the Appendix will also require updating – can the Department please liaise with the Applicant to provide an updated Figure 1, 3 and 4 with sealing up to site access point two.</p>   | <table border="1" data-bbox="1006 726 1656 1104"> <tr> <td data-bbox="1006 726 1169 926">Middlebrook Road</td> <td data-bbox="1169 726 1418 926">Middlebrook Road between the New England Highway and <b>site access point two</b> <del>440 m east of site access point one</del>, as identified in Figure 1.</td> <td data-bbox="1418 726 1656 926">Upgrade and seal to 7 m, to comply with the Australian Road Research Boards Best Practice Guide.</td> </tr> <tr> <td data-bbox="1006 926 1169 1104"><del>Middlebrook Road</del></td> <td data-bbox="1169 926 1418 1104"><del>Middlebrook Road, 440 m east of the first access point to the site access point 2, as identified in Figure 1.</del></td> <td data-bbox="1418 926 1656 1104"><del>Upgrade and seal to 7 m (unsealed), to comply with the Australian Road Research Boards Best Practice Guide.</del></td> </tr> </table>  | Middlebrook Road   | Middlebrook Road between the New England Highway and <b>site access point two</b> <del>440 m east of site access point one</del> , as identified in Figure 1.  | Upgrade and seal to 7 m, to comply with the Australian Road Research Boards Best Practice Guide.  | <del>Middlebrook Road</del> | <del>Middlebrook Road, 440 m east of the first access point to the site access point 2, as identified in Figure 1.</del> | <del>Upgrade and seal to 7 m (unsealed), to comply with the Australian Road Research Boards Best Practice Guide.</del> | <p>The Department supports this change and understands that this is acceptable to the applicant and in line with Council's request. Note that Appendix 1 and Appendix 5 should be updated to reflect this change.</p> |
| Middlebrook Road  | Middlebrook Road between the New England Highway and <b>site access point two</b> <del>440 m east of site access point one</del> , as identified in Figure 1.  | Upgrade and seal to 7 m, to comply with the Australian Road Research Boards Best Practice Guide.  |  |  |   |                             |  |  |   |
| <del>Middlebrook Road</del>   | <del>Middlebrook Road, 440 m east of the first access point to the site access point 2, as identified in Figure 1.</del>   | <del>Upgrade and seal to 7 m (unsealed), to comply with the Australian Road Research Boards Best Practice Guide.</del>  |  |  |   |                             |  |  |   |
| <p><b>APPENDIX 6<br/>ABORIGINAL HERITAGE<br/>ITEMS</b></p>                              | <p>Movement of item from Table 4 to Table 5 as identified by the Applicant.</p>  | <p>Kiah Creek ISO 1/ 22-9-0263 (Isolated Find) deleted from Table 4 and inserted into Table 5.</p>  | <p>The Department and Heritage NSW agree with the proposed change.</p>         |  |   |                             |  |  |   |
| <p><b>APPENDIX 7 – INCIDENT<br/>NOTIFICATION AND<br/>REPORTING<br/>REQUIREMENTS</b></p> |  | <p>Replace the text in the existing Appendix with the following:</p> <p><b>INCIDENT NOTIFICATION REQUIREMENTS</b></p> <ol style="list-style-type: none"> <li>All incident notifications and reports must be submitted via the NSW planning portal (Major Projects).</li> <li>The Applicant must provide notification as required under these requirements, even if the Applicant fails to give the notification required under condition C10 or, having given such notification, subsequently forms the view that an incident has not occurred.</li> <li>Within 7 days (or as otherwise agreed by the Planning Secretary) of the Applicant making the immediate incident notification (in accordance with condition D10), the Applicant is required to submit a subsequent incident report that:             <ol style="list-style-type: none"> <li>identifies how the incident was detected;</li> <li>identifies when the Applicant became aware of the incident;</li> <li>identifies any actual or potential non-compliance with conditions of consent;</li> <li>identifies further action(s) that will be taken in relation to the incident; and</li> <li>a summary of the incident;</li> <li>outcomes of an incident investigation, including identification of the cause of the incident;</li> <li>details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence, including the period for implementing any corrective and/or preventative actions; and</li> <li>details of any communication with other stakeholders regarding the incident.</li> </ol> </li> <li>The Applicant must submit any further reports as directed by the Planning Secretary.</li> </ol> | <p>Updated based on recent advice from the Department's Compliance Branch.</p> |  |   |                             |  |  |   |



| Condition No. | Commission's Intended Outcome   | Revised Condition<br>(Additions in <b>bold and underlined</b> , deletions in <del>strikethrough</del> ) | Comments DPHI  |
|---------------|---|---|--|
| Other items   | <p>Applicant has identified the <a href="#">additional Glint and Glare info document</a> shows as 'Dunedoo Letter' on the Major Projects website when opened – the Applicant would like this updated if possible.</p>  |   | <p>The Department has requested an updated copy of this information from the applicant to rectify this matter.</p> |

DRAFT