

Decision Notice Approval Sustainable Planning Act 2009 s.335



Enquiries to: Megan Bradford
Our Ref: 226, CONS17/0002 SG.MB
Your Ref: N/A
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15th June, 2017.

Pacific Hydro Australia
Level 11/474 Flinders Street
MELBOURNE VIC 3000

Re: Development Application

IDAS Number	CONS17/0002
Proposal	Material Change of Use for Renewable Energy Facility (Solar Farm)
Property Location	Keith Venables Road, Upper Haughton
Property Description	Lot 4 on GS602 & Lot 30 on SP100843

Dear Sir/Madam,

I wish to advise that, on 13th June, 2017, the abovementioned development application was:

- ☐ approved in full or
- ☐ approved in part for the following or
- ☒ approved in full with conditions; or
- ☐ approved in part for the following, with conditions

The conditions of this approval are set out in **Attachment 1**. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Approval under s331

This application has not been deemed to be approved under section 331 of the *Sustainable Planning Act 2009* (SPA).

1. Details of the Approval

The following type/s of approval is given:

	Sustainable Planning Regulation 2009, Schedule 3, Reference	Development Permit	Preliminary Approval
Making a material change of use assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval to which section 242 applies		<input checked="" type="checkbox"/>	

2. **Preliminary approval affecting the planning scheme - NA**
3. **Details of any compliance assessment required for documents or work in relation to the development – N/A**
4. **Conflict with a relevant instrument and reasons for the decision despite the conflict – N/A**

5. Approved Plans

The approved plans and/or documents for this development approval are listed in the following table:

Plan/Document Name	Plan Number	Dated
Site Location Plan – Figure 1	PH – 1307 REV A	09/03/17
Cadastral Plan – Figure 2	PH – 1308 REV A	09/03/17
Indicative Layout Plan – Figure 4	PH – 1313 REV A	09/03/17

6. When Approval Lapses if Development Not Started (Section 341)

- ☒ the relevant periods stated in section 341 of the *Sustainable Planning Act 2009 (SPA)* apply to each aspect of development of this approval, as outlined below -
- ☒ material change of use – 8 years;
 - ☐ reconfiguring a lot not requiring operational works – 2 years;
 - ☐ reconfiguring a lot requiring operational works – 4 years;
 - ☐ any other development not listed above – 2 years.

If there is 1 or more subsequent related approvals (for meaning refer to Section 341(7) of SPA) for a development approval for a material change of use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

7. Appeal Rights

Attached is an extract from the Sustainable Planning Act 2009 which details the applicant's appeal rights and the appeal rights of any submitters regarding this decision.

If you wish to discuss this matter further, please contact Council's Planning & Development Department on 4783 9800.

Yours faithfully



Shane Great
MANAGER – PLANNING & DEVELOPMENT

Attachment 1—Conditions of the approval

Part 1—Conditions imposed by the assessment manager

Attachment 2—SPA extract on appeal rights



Burdekin Shire Council

Attachment 1 – Part 1 Assessment Manager Conditions Burdekin Shire Council

*SUSTAINABLE PLANNING ACT 2009, IDAS DEVELOPMENT
APPLICATION*

Approved Plans/Staging

- 1.1(a) The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the applications supporting material including all drawings/documents identified in the Table below, except as otherwise specified by any condition of this approval.

Document/Title	Reference	Revision	Date
Site Location Plan – Figure 1	PH - 1307	A	09/03/17
Cadastral Plan – Figure 2	PH - 1308	A	09/03/17
Indicative Layout Plan – Figure 4	PH - 1313	A	09/03/17

- (b) Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- (c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.
- 1.2 The development may be staged in accordance with the timeframes and capacities located in section 3.5, Staging; of the Planning Report submitted as part of the Development Application. If staged, the development need not be completed in the stage order indicated in section 3.5 submitted provided that any road access and infrastructure services required to service the particular stage are constructed with that stage.
- 1.3 Pursuant to s342 of the Sustainable Planning Act 2009, the uncompleted aspects of this development approval lapse if the whole of the approved use has not happened by 20th June, 2025. (8 years)

Compliance with conditions

2. The proposed development must comply with all conditions of this development permit prior to the commencement of the use.

Outstanding charges

3. All rates and charges (including regulated infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.

Notice of Intention to commence the use

4. Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.

Public Utility Services/Damage

- 5.1 The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development.
- 5.2 Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

Road/Access

- 6.1 Prior to commencement of construction upgrade the existing formed pavement of Keith Venables Road for a distance of 275 metres easterly from the property boundary of Lot 30 on SP100843. The upgrade is to provide a minimum 5 metre wide, 150mm thick compacted gravel pavement.
- 6.2 Prior to the commencement of construction, the developer must undertake a dilapidation audit of the existing Council road network of Keith Venables Road from the property boundary of Lot 30 on SP100843 for the entire gravel section of Keith Venables Road.
- 6.3 Prior to the commencement of the use, the developer must undertake a second dilapidation audit of the road sections addressed in the pre-construction report above. This audit must clearly quantify and damage that has been caused as a result of this construction traffic. Any damage created by this development must be rectified by a contractor approved by Council.
- 6.4 Provide evidence that the irrigation channel crossing on Keith Venables Road in close proximity to the property boundary has sufficient structural capacity to support the type and volume of proposed construction traffic.
- 6.5 The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

Stormwater

- 7.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.
- 7.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.

Operational Works

8. Where operational works are required to be carried out for the proposed solar farm, the developer must, within the timeframe required by the Sustainable Planning Act 2009 and prior to the commencement of any work, lodge with Council an application for a development permit for operational works. As part of such application, the developer must submit:-
 - (a) detailed and complete engineering drawings and specifications of the proposed works prepared by a civil engineer, who is both registered under the Professional Engineer's Act 2002 and is current Registered Professional Engineer of Queensland; and
 - (b) a certificate from the engineer who prepared the drawings stating that the design and specifications have been prepared in accordance with these conditions, relevant Council Codes and Planning Scheme Policies and the relevant Australian Standard Codes of Practice;

Amenity

9. The use of the development must not cause an unreasonable nuisance to the surrounding rural area.

On-site Sewerage Disposal

10. Prior to commencement of construction the development must be serviced by an appropriate sewerage disposal system.

Refuse Facilities

11. All waste generated as a result of the construction activities is to be effectively controlled and contained entirely within the boundaries of the site before disposal, unless otherwise approved by Council.

Management Plans

- 12.1 Prepare, implement and maintain a Construction Management Plan (CMP) for the subject site. The CMP must be prepared and certified by a Registered Professional Engineer of Queensland (RPEQ), submitted to the Council and available on site at all times. The CMP must include, but not be limited to, the following details for the construction phase of the approved development:
 - a) a description of all relevant activities to be undertaken on the site during construction including the anticipated staging for bulk earthworks and the construction works program
 - b) a description of the roles and responsibilities for all relevant employees involved in the construction of the project including relevant training and induction provisions for ensuring that all employees, contractors and sub-contractors are aware of their environmental and compliance obligations under these conditions of approval
 - c) details of any construction sites and mitigation, monitoring, management and rehabilitation measures specific to the site that would be implemented
 - d) statutory and other obligations that the applicant is required to fulfil during construction including all relevant approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies
 - e) details of how the environmental performance of construction will be monitored, and what actions will be taken to address identified potential adverse environmental impacts including soil and water impacts and dust emissions
 - f) emergency management measures including measures to control bushfires.

- 12.2 Prior to the commencement of construction, the applicant must submit to the Council a Traffic Management Plan (TMP) prepared and certified by a Registered Professional Engineer of Queensland (RPEQ). The TMP must include, but is not limited to:
- i) details of how construction of the project will be managed in proximity to local and regional roads
 - ii) details of traffic routes for heavy vehicles, including any necessary route for oversized loads
 - iii) details of how any potential safety hazards resulting from the increased vehicle movements will be mitigated during the construction phase
 - iv) procedures for informing the public where any road access will be restricted as a result of the project.
- 12.3 No later than one month prior to the decommissioning of the project, or otherwise agreed to by the Chief Executive Officer, the applicant is to submit to the Council a Decommissioning and Rehabilitation Management Plan prepared and certified by a suitably qualified person. The plan must include but is not limited to:
- i) identification of structures, including but not limited to all solar panels, the substation, the control and facility building and electrical infrastructure, including underground infrastructure to be removed, except where the substation, control room or overhead electricity lines are transferred to or in control of the local electricity network operator, and how they will be removed
 - ii) measures to reduce impacts of the development on the environment and surrounding land uses
 - iii) details of how the land will be rehabilitated back to its predevelopment condition, including slope and soil profile.

Decommissioning/Post Operations

- 13.1 If the solar farm is not used for the generation of electricity for a continuous period of 12 months, the use shall be considered decommissioned, and the site shall be returned as far as practical, to its condition prior to the commencement of the use, unless otherwise agreed by the Chief Executive Officer.
- 13.2 Within 18 months of the site being decommissioned the site shall be returned as far as practicable to its condition prior to the commencement of construction. All solar panels and associated above ground structures including but not necessarily limited to, the substation, the control and facilities building and electrical infrastructure, including underground infrastructure shall be removed from the site unless otherwise agreed by the Chief Executive Officer, except where the substation, control room or overhead electricity lines are transferred to or in the control of the local electricity network operator.

Advice;

- *Given that the site is located in a cyclonic region defined as C2, it will be necessary for all buildings and for the solar panel supporting framework (Special structures) to be designed assessed and constructed in accordance with relevant Building Regulations.*
- *All waste is to be disposed of in accordance with the Environmental Protection (Waste Management) Regulation 2000.*

Attachment 2 – SPA Extract Appeal Rights

SUSTAINABLE PLANNING ACT 2009, IDAS DEVELOPMENT APPLICATION

The following is an extract from the *Sustainable Planning Act 2009* (Chapter 7, Part 1).

MATERIAL CHANGE OF USE, RECONFIGURING A LOT & OPERATIONAL WORKS

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following—
 - (a) the refusal, or the refusal in part, of the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—
 - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
 - (b) otherwise—the day a decision notice was required to be given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

462 Appeals by submitters—general

- (1) A submitter for a development application may appeal to the court only against—
 - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) the part of the approval relating to the assessment manager's decision under section 327.
- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
 - (a) the giving of a development approval;
 - (b) any provision of the approval including—
 - (i) a condition of, or lack of condition for, the approval; or
 - (ii) the length of a period mentioned in section 341 for the approval.
- (3) However, a submitter may not appeal if the submitter—
 - (a) withdraws the submission before the application is decided; or
 - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

463 Additional and extended appeal rights for submitters for particular development applications

- (1) This section applies to a development application to which chapter 9, part 7 applies.
- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a prescribed concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—
 - (a) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
 - (b) if the prescribed concurrence agency is the chief executive (fisheries)—development that is—
 - (i) a material change of use of premises for aquaculture; or
 - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
 - (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive (fisheries);
 - (b) a referral agency's response mentioned in subsection (2).

464 Appeals by advice agency submitters

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—
 - (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
 - (b) any part of the approval relating to the assessment manager's decision under section 327.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.

- (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

465 Appeals about decisions relating to extensions for approvals

- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

- (1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—
- (a) if the responsible entity for making the change is the assessment manager for the application—
- (i) the person who made the request; or
- (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
- (b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.
- (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.
- (3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency

- (1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.