


Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Nicole Brewer
Director
Energy Assessments

Sydney

22 October 2021

SCHEDULE 1

Development consent: SSD 8392 granted by the Executive Director, Resource Assessments and Business Systems, as delegate of the Minister for Planning on 7 December 2018

For the following: Darlington Point Solar Farm

Modification: Increasing the battery energy storage system capacity

SCHEDULE 2

1. In the table of DEFINITIONS in Schedule 1:
 - i) delete the definition of DoI – L&W, OEH and RMS, and insert the following in alphabetical order:

BCS	Biodiversity, Conservation and Science Directorate within the Department
DPIE Crown Lands	The Department's Crown Lands Group
DPIE Water	The Department's Water Division
EPA	Environment Protection Authority
FRNSW	Fire and Rescue NSW
Heritage NSW	Heritage NSW within the Department of Premier and Cabinet
MW	Megawatt
MWh	Megawatt-hour
TfNSW	Transport for NSW
 - ii) in the definition of EIS, delete "." and replace with:
, as amended by:
 - *Darlington Point Solar Farm Modification Report*, dated June 2021 and additional information provided on 29 June 2021.
 - iii) in the definition of Minister, after "Planning" insert "and Public Spaces".
 - iv) in the definition of RFS, before "Rural" insert "NSW"
2. Delete all references to "Department of Planning and Environment" and replace with "Department of Planning, Industry and Environment"
3. Delete all references to "RMS" and replace with "TfNSW".
4. After condition 13 of Schedule 2, insert the following:

BATTERIES

Battery Storage Restriction

14. The capacity of the battery storage facility must not exceed a total:
 - (a) delivery capacity of 200 MW; or
 - (b) storage capacity of 400 MWh.

Note: This condition does not prevent the Applicant from seeking to lodge a separate development application or modify this consent to increase the capacity of the battery storage facility in the future.

5. In condition 6 of Schedule 3, delete "DoI – L&W" and replace with "DPIE Crown Lands".
6. In condition 9, 11 and 12 of Schedule 3, delete "OEH" and replace with "BCS".
7. After condition 14 of Schedule 3, insert:
 - 14A. The Applicant must ensure that the noise generated by the operation of the development during the evening and night does not exceed 35 dB(A) $L_{Aeq15\ min}$ to be determined in accordance with the procedures in the *NSW Noise Policy for Industry* (EPA, 2017) at any non-associated residence.
8. In condition 19 and 20 of Schedule 3, delete "OEH" and replace with "Heritage NSW".
9. In condition 23 of Schedule 3, in the first subpoint in (b):
 - i) delete "at least a 10 metre".
 - ii) delete "around the perimeter of the solar array area" and replace with "as outlined in the EIS,".
 - iii) after "vehicle access" insert "to the site".
10. In condition 23 of Schedule 3, in the second subpoint in (b) delete the word 'areas'.

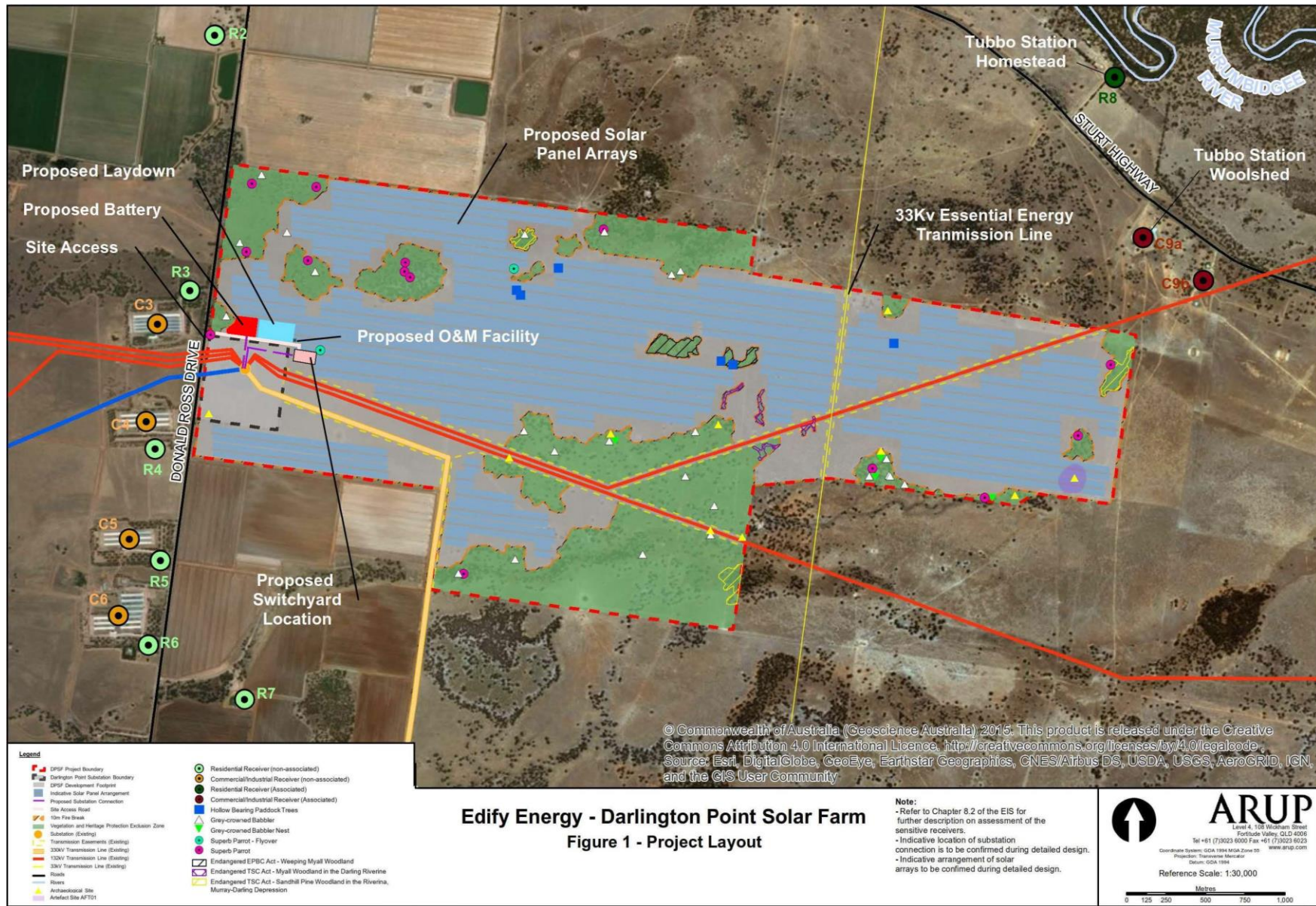
11. In condition 23 of Schedule 3, in the third subpoint in (b), delete “2006” and replace with “2019”.
12. In condition 24 of Schedule 3:
- i) after “the Applicant must prepare a Fire Safety Study of the development” insert “, in consultation with RFS, and”.
 - ii) after “to the satisfaction of” insert “FRNSW and”.
 - iii) delete “be consistent with the” and replace with:
 - :
 - (a) be consistent with the:
 - iv) after “*Treatment Systems*” delete “.” And insert the following:
 - ; and
 - (b) describe the final design of the battery storage facility.
 - v) At the end of condition 24 of Schedule 3, insert the following:

Following the Secretary’s approval, the Applicant must implement the measures described in the Fire Safety Study.
13. In condition 26 of Schedule 3:
- i) after “emergency procedures for the development” insert “, in consultation with FRNSW and the RFS”.
 - ii) in (a), after “*Emergency Planning*’ delete “,” and replace with “and RFS’s *Planning for Bushfire Protection 2019* (or equivalent);”
 - iii) delete items (b) to (d) and replace with:
 - (b) identify the risks and hazards and detailed measures for the development to prevent or mitigate fires igniting;
 - (c) include procedures that would be implemented if there is a fire on-site or in the vicinity of the site;
 - (d) list works that should not be carried out during a total fire ban;
 - (e) include availability of fire suppression equipment, access and water;
 - (f) include procedures for the storage and maintenance of any flammable materials;
 - (g) detail access provisions for emergency vehicles and contact details for both a primary and alternative site contact who may be reached 24/7 in the event of an emergency;
 - (h) include a figure showing site infrastructure, Asset Protection Zone and the fire fighting water supply;
 - (i) include location of hazards (physical, chemical and electrical) that may impact on fire fighting operations and procedures to manage identified hazards during fire fighting operations;
 - (j) include details of the location, management and maintenance of the Asset Protection Zone and who is responsible for the maintenance and management of the Asset Protection Zone;
 - (k) include bushfire emergency management planning;
 - (l) include details of how RFS would be notified, and procedures that would be implemented in the event that:
 - there is a fire on-site or in the vicinity of the site;
 - there are any activities on site that would have the potential to ignite surrounding vegetation; or
 - there are proposed activities to be carried out during a bushfire danger period;
 and
 - (m) include details on how the battery storage facility and sub-systems can be safely isolated in an emergency.

The Applicant must implement the Emergency Plan for the duration of the development.
14. In condition 2 of Schedule 4, in the second sub-point of (b), after “condition 6” insert “or 7”.
15. Delete condition 4 of Schedule 4, and replace with:

4. The Planning Secretary must be notified in writing via the Major Projects website immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 3.
16. Delete condition 5 of Schedule 4, and replace with:
 5. The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.
 - 5A. A non-compliance notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
 - 5B. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.
 17. In condition 6 of Schedule 4, after “development” insert “, excluding the battery storage facility,”
 18. Delete condition 7 of Schedule 4 and replace with:
 7. Independent Audits of the development of the battery storage facility must be conducted and carried out in accordance with the *Independent Audit Post Approval Requirements (2020)* to the following frequency:
 - (a) within 3 months of commencing construction; and
 - (b) within 3 months of commencement of operations.
 - 7A. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
 - 7B. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified in condition 7 of Schedule 4 upon giving at least 4 weeks’ notice to the Applicant of the date upon which the audit must be commenced.
 - 7C. In accordance with the specific requirements in the *Independent Audit Post Approval Requirements (2020)*, the Applicant must:
 - (a) review and respond to each Independent Audit Report prepared under condition 7 of Schedule 4 of this consent, or condition 7B of Schedule 4 where notice is given by the Planning Secretary
 - (b) submit the response to the Planning Secretary; and
 - (c) make each Independent Audit Report, and response to it, publicly available within 60 days of submission to the Planning Secretary. unless otherwise agreed by the Planning Secretary.
 - 7D. Independent Audit Reports and the Applicant’s response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the *Independent Audit Post Approvals Requirements (2020)* unless otherwise agreed by the Planning Secretary.
 - 7E. Notwithstanding the requirements of the *Independent Audit Post Approvals Requirements (2020)*, the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary’s satisfaction that independent operational audits have demonstrated operational compliance.

19. Delete the figure in APPENDIX 1, and replace with the following:



20. Deleted the table in APPENDIX 2, and replace with:

<i>Lot Number</i>	<i>Deposit Plan (DP)</i>
1	1249830
2	1249830
3	1249830
4	1249830
5	1249830
85	750903
2	628785

21. After APPENDIX 2, insert the following:

**APPENDIX 3:
INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition 4 of Schedule 4 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.

**End of modification
(SSD 8392 MOD 1)**