

Modification of Development Consent

Section 4.55(2) 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.

Iwan Davies
A/Director
Energy Assessments

Sydney

2022

SCHEDULE 1

Development consent:	SSD-8777 granted by the Executive Director Energy and Resource Assessments on 4 December 2019.
For the following:	Maryvale Solar Farm
Applicant:	Maryvale Solar Farm Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Modification:	SSD-8777-Mod-1: Installation of Battery Energy Storage System (BESS)

SCHEDULE 2

1. In the TABLE OF CONTENTS in Schedule 1 after 'APPENDIX 6: ROAD UPGRADES AND SITE ACCESS', insert 'APPENDIX 7: INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS'.
2. In the definition of Ancillary Infrastructure in the table of DEFINITIONS, after 'site compounds,' insert 'battery storage,'.
3. In the definition of EIS in the table of DEFINITIONS, after 'November 2018' replace 'the response to submissions dated February 2019 and the additional information provided by the Applicant dated February, March, July, September and October 2019.' with the following "as amended by:
 - Maryvale Solar Farm Submissions Report dated February 2019;
 - additional information provided by the Applicant to the Department dated February, March, July, September and October 2019;
 - Maryvale Solar Farm Modification Report dated January 2022; and
 - Maryvale Solar Farm Modification Submissions Report dated March 2022.'
4. In the table of DEFINITIONS, delete the definitions for BCS, Department, Minister, RMS and Secretary, and insert the following in alphabetic order:

BCS	Biodiversity, Conservation and Science Directorate within the Department
Department	Department of Planning and Environment
Minister	Minister for Planning, or delegate
Planning Secretary	Secretary of the Department, or nominee
TfNSW	Transport for New South Wales
5. In Schedules 2 to 4 (inclusive), delete all references to 'Secretary' and replace with 'Planning Secretary'.
6. In Schedules 2-4 (inclusive), delete all references to 'RMS' and replace with 'TfNSW'
7. In condition 5 of Schedule 2, following 'Planning Secretary', insert 'via the Major Projects website'.
8. In condition 6 of Schedule 2, following 'SOLAR PANELS', insert ', BATTERY STORAGE'
9. In condition 7 of Schedule 2,
 - After 'solar panels', insert ', battery storage'
 - after 'executed plans of the development', insert ', showing comparison to the approved final layout plans,'
 - after 'to the department', insert 'via the Major Projects website.'
10. In condition 8 of Schedule 2, following 'notify the department in writing' insert 'via the Major Projects website'.
11. Delete condition 1 of Schedule 3, and replace with the following:
 - '1. The battery storage associated with the development must not exceed a total delivery capacity of 125 MW.

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

12. In condition 16 of Schedule 3, after 'its latest version', insert the following ' ; and (b) ensure that the noise generated by the operation of the development does not exceed 35 dB(A) LAeq, 15min to be determined in accordance with the procedures in the NSW Noise Policy for Industry (EPA, 2017) at any non-associated residence.'
13. Delete condition 26 of Schedule 3, and replace with the following:
'26. The Applicant must:
- a) store and handle all chemicals, fuels and oils used on-site in accordance with:
 - (i) the requirements of all relevant Australian Standards; and
 - (ii) the NSW EPA's Storing and Handling of Liquids: Environmental Protection – Participants Handbook
 - b) ensure the substation is suitably bunded; and
 - c) minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.

In the event of an inconsistency between the requirements (a) i) and (a) ii) above, the most stringent requirement must prevail to the extent of the inconsistency.'

14. Delete condition 27 of Schedule 3, and replace with the following:
'23. The Applicant must:
- a) minimise the fire risks of the development, including managing vegetation fuel loads on-site;
 - b) ensure that the development:
 - complies with the relevant asset protection requirements in the RFS's *Planning for Bush Fire Protection 2019* (or equivalent); and
 - is suitably equipped to respond to any fires on site, including provision of a water supply tank fitted with a 65mm Storz fitting and a Fire & Rescue NSW compatible suction connection;
 - includes a defendable space that permits unobstructed vehicle access of at least 15 metres around the perimeter of the solar array, 10 metres around battery storage area/s and 20 metres in the locations identified in Appendix 1;
 - is managed as an Asset Protection Zone (including the defendable space);
 - c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
 - d) notify the relevant Local Emergency Management Committee following construction of the battery storage, and prior to commencing operations of the battery storage.

Note: *Solar farm infrastructure can be located within the BESS APZ, provided it does not comprise a general fire safety risk.'*

15. Following condition 28 of Schedule 3, Insert:
28A. Prior to commencing operations of the battery storage, the Applicant must update the Emergency Plan and provide a copy to the local Fire Control Centre and Fire & Rescue NSW. The plan must:
- (a) be prepared in accordance with the findings of the Fire Safety Study required under Condition 28B of Schedule 3;
 - (b) be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'* and RFS's *Planning for Bushfire Protection 2019* (or equivalent);
 - (c) include details on how the battery storage and sub-systems can be safely isolated in an emergency;
 - (d) include bushfire emergency management planning, including:

- details of the location, management and maintenance of the Asset Protection Zone;
 - a list of works that must not be carried out during a total fire ban;
 - 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 any proposed activities to be carried out during a bushfire danger period; and
- (e) include an Emergency Services Information Package, prepared in accordance with *Emergency services information package and tactical fire plan* (Fire & Rescue NSW, 2019) and to the satisfaction of Fire & Rescue NSW and RFS.

The Applicant must:

- (a) implement the Emergency Response Plan for the duration of the development; and
 - (b) following commencement of operations of the battery storage, keep a copy of the Emergency Services Information Package on-site in a prominent position adjacent to the site entry points at all times.
- 28B. Prior to commencing construction of the battery storage, the Applicant must prepare a Fire Safety Study for the battery storage, to the satisfaction of the Planning Secretary, in consultation with Fire and Rescue NSW. The study must:
- (a) be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study'* guideline;
 - (b) describe the final design of the battery storage;
 - (c) include reasonable worst-case bush fire scenario to and from the battery storage and the associated bush fire management;
 - (d) identify measures to eliminate the expansion of any fire incident including:
 - adequate fire safety systems and water supply;
 - separation and / or compartmentalisation of battery units; and
 - strategies and incident control measures specific to the battery storage design.

Following approval by the Planning Secretary, the Applicant must implement the measures described in the Fire Safety Study.

Note: to satisfy 'in consultation with Fire & Rescue NSW' above, the Applicant should provide confirmation in writing from Fire & Rescue NSW that the Study meets the requirements of Fire & Rescue NSW as required by the Department's Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline.'

16. Delete condition 4 of Schedule 4, and replace with the following:

'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 7.'

17. Delete condition 5 of Schedule 4, and replace with the following:

- '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 noncompliance.

Compliance Reporting

- 5C. The Applicant must provide regular compliance reporting to the Department on the development, excluding the battery storage, in accordance with the relevant *Compliance Reporting* requirements (DPE 2018). '
18. Delete condition 6 of Schedule 4, and replace with the following:
6. Independent Audits of the development must be conducted and carried out at the frequency and in accordance with the *Independent Audit Post Approval Requirements* (2020) to the following frequency:
- within 3 months of commencing construction; and
 - within 3 months of commencement of operations.
- 6A. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
- 6B. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified in condition 6 of Schedule 4 upon giving at least 4 weeks' notice to the Applicant of the date upon which the audit must be commenced.
- 6C. In accordance with the specific requirements in the *Independent Audit Post Approval Requirements* (2020), the Applicant must:
- review and respond to each Independent Audit Report prepared under condition 6 of Schedule 4 of this consent, or condition 6B of Schedule 4 where notice is given by the Planning Secretary;
 - submit the response to the Planning Secretary; and
 - 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.
- 6D. 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.
- 6E. 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. In the APPENDICES:
- replace the figure in Appendix 1 with the following figures:

APPENDIX 1 GENERAL LAYOUT OF THE DEVELOPMENT – CENTRALISED BESS OPTION



- Legend**
- | | |
|--|---|
| <ul style="list-style-type: none"> Site Boundary (630ha) Development Footprint (375ha) [inside 15m APZ buffer] Construction laydown area (1.6ha) Construction parking and storage facilities (0.4ha) Proposed 132kV Substation [inside 20m APZ buffer] Photovoltaic solar arrays * Access point Transmission line & easement (45m width) Haulage route Access Road 20m APZ Continuous Vegetation Screening Supplementary Vegetation Screening Intermittent vegetation screening Centralised BESS [inside 10m APZ buffer] | <ul style="list-style-type: none"> ● Paddock trees - no hollows ● Paddock trees - with hollows ● Stag- with hollows Existing plantings Archaeological Site Waterway Buffer (40 m) Sandy Hollow to Maryvale Railway line Retained vegetation Archaeological Area ● Associated receivers ● Non-associated receivers — Waterways Railway Corridor |
|--|---|

APPENDIX 1A GENERAL LAYOUT OF THE DEVELOPMENT – DISTRIBUTED BESS OPTION



Legend

- | | | |
|---|---|--|
| Site Boundary (630ha) | Development Footprint (375ha) [inside 15m APZ buffer] | Paddock trees - no hollows |
| Construction laydown area (1.6ha) | Construction parking and storage facilities (0.4ha) | Paddock trees - with hollows |
| Proposed 132kV Substation [inside 20m APZ buffer] | Photovoltaic solar arrays | Stag- with hollows |
| Access point | Transmission line & easement (45m width) | Existing plantings |
| Haulage route | Access Road | Archaeological Site |
| 20m APZ | Continuous Vegetation Screening | Waterway Buffer (40 m) |
| Supplementary Vegetation Screening | Intermittent vegetation screening | Sandy Hollow to Maryvale Railway line |
| | | Retained vegetation |
| | | Archaeological Area |
| | | Associated receivers |
| | | Non-associated receivers |
| | | Waterways |
| | | Railway Corridor |
| | | Distributed BESS/solar panels [inside 10m APZ buffer] |

- insert after Appendix 6, the following:

**APPENDIX 7:
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 5 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 8777 MOD 1)**