

# Development Consent

## Section 89E of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I approve the development application referred to in Schedule 1, subject to the conditions in Schedules 2 to 4.

These conditions are required to:

- prevent and/or minimise any adverse environmental impacts of the development;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the development.

**Clay Preshaw**  
**Director**  
**Resource and Energy Assessments**

Sydney

2017

### SCHEDULE 1

**Application Number:** SSD 8072  
**Applicant:** Nevertire Solar Pty Ltd  
**Consent Authority:** Minister for Planning  
**Land:** See Appendix 1  
**Development:** Nevertire Solar

**Red type represents Modification 1 – 13 October 2017**

**Blue type represents Modification 2 – 7 May 2018**

## TABLE OF CONTENTS

<b>DEFINITIONS</b>	<b>3</b>
<b>ADMINISTRATIVE CONDITIONS</b>	<b>5</b>
Obligation to Minimise Harm to the Environment	5
Terms of Consent	5
Final Layout Plans	5
Upgrading of Solar Panels and Ancillary Infrastructure	5
Work as Executed Plans	5
Notification of Department	5
Structural Adequacy	6
Demolition	6
Protection of Public Infrastructure	6
Operation of Plant and Equipment	6
<b>ENVIRONMENTAL CONDITIONS – GENERAL</b>	<b>7</b>
Transport	7
Landscaping	8
Land Management	8
Amenity	8
Heritage	9
Soil & Water	9
Hazards	10
Waste	10
Decommissioning and Rehabilitation	10
<b>ENVIRONMENTAL MANAGEMENT AND REPORTING</b>	<b>11</b>
Environmental Management	11
Incident Reporting	11
Access to Information	11
<b>APPENDIX 1: GENERAL LAYOUT OF DEVELOPMENT &amp; SCHEDULE OF LANDS</b>	<b>12</b>

## DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Applicant	Nevertire Solar Pty Ltd, or any person who seeks to carry out the development approved under this consent
Cessation of operations	Operation of the development has ceased for a continuous period of 6 months
Conditions of this approval	Conditions contained in schedules 1 to 4 inclusive
Construction	The construction of the development, including but not limited to the carrying out of any earthworks on site and the construction of solar panels and any ancillary infrastructure (but excludes any upgrades to the public road network required under this consent, geotechnical drilling and/or surveying)
Council	Warren Shire Council
Decommissioning	The removal of solar panels and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning and Environment
Development	The development as described in the EIS
Development footprint	The area described as the Development footprint and shaded in the figure in Appendix 1
EIS	<p><i>Nevertire Solar Farm Environmental Impact Statement</i> (NGH Environmental Pty Ltd, February 2017) as amended by:</p> <ul style="list-style-type: none"> <li>• <i>Nevertire Solar Farm Submissions Report</i> (NGH Environmental Pty Ltd, May 2016);</li> <li>• The Applicant's letters of 9 June 2017 and 27 June 2017;</li> <li>• <i>Nevertire Solar Farm Modification Application</i> (NGH Environmental Pty Ltd, September 2017); and</li> <li>• <i>Nevertire Solar Farm Second Modification Application</i> (NGH Environmental Pty Ltd, March 2018);</li> </ul>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
Heavy vehicle	A vehicle that has a combined Gross Vehicle Mass or Aggregate Trailer Mass of more than 4.5 tonnes
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	<p>A set of circumstances that:</p> <ul style="list-style-type: none"> <li>• causes or threatens to cause material harm to the environment; and/or</li> <li>• breaches or exceeds the limits or performance measures/criteria in this consent</li> </ul>
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
OEH	Office of Environment and Heritage
Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Project site	As shown in the table and figure in Appendix 1
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RMS	Roads and Maritime Services
RFS	Rural Fire Service
Secretary	Secretary of the Department, or nominee

Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, materials storage compounds, maintenance workshops, or material stockpiles
Upgrading	The augmentation and/or replacement of solar panels and ancillary infrastructure on site
Vehicle Movement	One vehicle entering and leaving the site

## **SCHEDULE 2 ADMINISTRATIVE CONDITIONS**

### **OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT**

1. In addition to meeting the specific environmental performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, upgrading or decommissioning of the development.

### **TERMS OF CONSENT**

2. The Applicant must carry out the development:
  - (a) generally in accordance with the EIS; and
  - (b) in accordance with the conditions of this consent.

*Note: The general layout of the development is shown in Appendix 1.*

3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.
4. The Applicant must comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
  - (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
  - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
  - (c) the implementation of any actions or measures contained in these documents.

### **FINAL LAYOUT PLANS**

5. Prior to the commencement of construction, the Applicant must submit detailed plans of the final layout of the development to the Secretary, including details on the siting of solar panels and ancillary infrastructure.

*Note: If the construction of the development is to be staged, then the provision of these plans may be staged.*

### **UPGRADING OF SOLAR PANELS AND ANCILLARY INFRASTRUCTURE**

6. Over time, the Applicant may upgrade the solar panels and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans of the development to the Secretary incorporating the proposed upgrades.

### **WORK AS EXECUTED PLANS**

7. Prior to the commencement of operations, or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to the Department.

### **NOTIFICATION OF DEPARTMENT**

8. Prior to the commencement of construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing of the date of commencement, or cessation, of the relevant phase.

If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to the commencement of the relevant stage, and clearly identify the development that would be carried out during the relevant stage.

## STRUCTURAL ADEQUACY

9. The Applicant must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the *Building Code of Australia*.

*Notes:*

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

## DEMOLITION

10. The Applicant must ensure that all demolition work on site is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

## PROTECTION OF PUBLIC INFRASTRUCTURE

11. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

## OPERATION OF PLANT AND EQUIPMENT

12. The Applicant must ensure that all plant and equipment used on site, or in connection with the development, is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## SUBDIVISION

13. The Applicant may subdivide Lot 26 DP755292 to create two new allotments, in accordance with the EIS and the requirements of the EP&A Act and EP&A Regulation.

*Notes:*

- Under Part 6 of the EP&A Act, the Applicant is required to obtain a subdivision certificate for a plan of subdivision.
- Part 8 of the EP&A Regulation sets out the application requirements for subdivision certificates.

## **SCHEDULE 3 ENVIRONMENTAL CONDITIONS – GENERAL**

### **TRANSPORT**

#### **Heavy Vehicle Restrictions**

1. The Applicant must ensure that the:
  - (a) development does not generate more than:
    - 45 heavy vehicle movements a day during construction, upgrading or decommissioning; or
    - 20 heavy vehicle movements a day during operations;on the public road network; and
  - (b) length of any vehicles used for the development does not exceed 36.5 metres, unless the Secretary agrees otherwise.
2. The Applicant must keep accurate records of the number of heavy vehicles entering or leaving the site each day.

#### **Access Route**

3. All vehicular traffic associated with the development must travel to and from the project site via the Mitchell Highway and the approved site entry point (shown in Appendix 1).

#### **Road Upgrades**

4. Prior to the commencement of construction, the Applicant must upgrade the intersection with the Mitchell Highway to provide a new Channelised Right turn lane and an Auxiliary Left turn lane treatment to be able to accommodate the largest vehicle accessing the intersection, to the satisfaction of RMS, and in accordance with the Austroads Guide to Road Design (as amended by RMS supplements), unless the RMS agrees otherwise.

#### **Site Access**

5. Prior to the commencement of construction, the Applicant must construct the site entry point to be sealed for a minimum of 40 metres from the edge of the Mitchell Highway east bound travel lane to cater for the largest vehicle accessing the site, to the satisfaction of RMS and in accordance with the Austroads Guide to Road Design (as amended by RMS supplements), unless the RMS agrees otherwise.

#### **Operating Conditions**

6. The Applicant must ensure:
  - (a) the internal project site roadways are constructed as all-weather roadways;
  - (b) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
  - (c) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
  - (d) vehicles leaving the site are in a clean condition and do not result in dirt being tracked onto the public road network.

#### **Traffic Management Plan**

7. Prior to the commencement of any road upgrades required under this consent, the Applicant must prepare a Traffic Management Plan for the development to the satisfaction of the Secretary. This plan must be prepared in consultation with the RMS and Council, and include:
  - (a) details of the entire transport route to be used for development-related traffic;
  - (b) the origin, destination, number, loads, weights and lengths, frequency, including peak and daily traffic volumes and destination of vehicles accessing/exiting the site;
  - (c) details of the measures that would be implemented to minimise traffic safety issues and disruption to local users of the transport route/s during construction, upgrading or decommissioning works, including:
    - temporary traffic controls, including detours and signage;
    - notifying the local community about project-related traffic impacts;
    - minimising potential for conflict with school buses, rail services and other motorists as far as practicable;
    - scheduling of haulage vehicle movements to minimise convoy length or platoons;

- responding to local climate conditions that may affect road safety such as fog, dust, wet weather; and
  - responding to any emergency repair or maintenance requirements;
- (d) a driver's code of conduct that addresses:
- travelling speeds;
  - procedures to ensure that drivers adhere to the designated transport routes; and
  - procedures to ensure that drivers implement safe driving practices and manage driver fatigue, particularly if using roads through Nevertire.

Following approval, the Applicant must implement the plan.

## LANDSCAPING

### Vegetated Buffer

8. The Applicant must establish and maintain a mature vegetation buffer around the site at the locations outlined in the figure in Appendix 1, to the satisfaction of the Secretary. This buffer must:
- (a) be planted prior to the commencement of operations;
  - (b) be effective at screening views of the solar panels and ancillary infrastructure on site from surrounding residences within 3 years of the commencement of construction;
  - (c) minimise the glare from the solar panels on road users; and
  - (d) be properly maintained and kept free of weeds.

### Landscaping Plan

9. Prior to the commencement of construction, the Applicant must prepare a detailed Landscaping Plan for the site in consultation with RMS, OEH and Council, to the satisfaction of the Secretary. The plan must:
- (a) include a description of measures that would be implemented to ensure that the vegetated buffer achieves the objectives of condition 8(b)-(d) of this consent;
  - (b) include a program to monitor and report on the effectiveness of these measures; and
  - (c) include details of who would be responsible for monitoring, reviewing and implementing the plan, and timeframes for completion of actions.

Following approval, the Applicant must implement the plan.

## LAND MANAGEMENT

10. The Applicant must protect vegetation and fauna habitat outside the approved disturbance areas.
11. Following any construction or upgrading on site, the Applicant must:
- (a) restore the ground cover of the site as soon as practicable, using suitable species;
  - (b) maintain ground cover; and
  - (c) keep this ground cover free of weeds.

## AMENITY

### Construction, Upgrading and Decommissioning Hours

12. Unless the Secretary agrees otherwise, the Applicant may only undertake construction, upgrading or decommissioning activities on site between:
- (a) 7 am to 6 pm Monday to Friday;
  - (b) 8 am to 1 pm Saturdays; and
  - (c) at no time on Sundays and NSW public holidays.

The following construction, upgrading or decommissioning activities may be undertaken outside these hours without the approval of the Secretary:

- the delivery of materials as requested by the NSW Police Force or other authorities for safety reasons; or
- emergency work to avoid the loss of life, property and/or material harm to the environment.

### Noise

13. The Applicant must minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with the best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009), or its latest version.



## **Dust**

14. The Applicant must minimise the dust generated by the development.

## **Visual**

15. The Applicant must:
- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection from the solar panels;
  - (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
  - (c) not mount any advertising signs or logos on site, except where this is required for safety purposes.

## **Lighting**

16. The Applicant must:
- (a) minimise the off-site lighting impacts of the development; and
  - (b) ensure that all external lighting associated with the development:
    - is installed as low intensity lighting (except where required for safety or emergency purposes);
    - does not shine above the horizontal; and
    - complies with *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version.

## **HERITAGE**

### **Discovery of Human Remains**

17. If human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must notify OEH as soon as possible following the discovery, and work must not recommence in the area until this is authorised by OEH.

### **Chance Finds Protocol**

18. Prior to the commencement of construction, the Applicant must prepare a Chance Finds Protocol for the development in consultation with the Aboriginal Stakeholders, and to the satisfaction of OEH. Following approval, the Applicant must implement the Chance Finds Protocol.

### **Management of Aboriginal Heritage Items**

19. The Applicant must carry out the following in consultation with OEH and the Aboriginal stakeholders:
- (a) record the identified heritage items on site and submit the standard documentation to the Aboriginal Heritage Information Management System prior to construction;
  - (b) relocate any heritage items that would be disturbed by the development to suitable alternative locations on the site prior to construction; and
  - (c) protect all heritage items on site, including those that would remain in situ as well as those that are relocated, from any impact.

## **SOIL & WATER**

### **Water Pollution**

20. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the POEO Act.

### **Soil Erosion**

21. The Applicant must:
- (a) minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version; and
  - (b) ensure the solar panels and associated infrastructure are designed, constructed and maintained to avoid causing any tunnel erosion on site.

## HAZARDS

### Storage and Handling of Dangerous Goods

22. The Applicant must:
- (a) store and handle all dangerous or hazardous materials on site in accordance with AS1940-2004: *The storage and handling of flammable and combustible liquids*, or its latest version;
  - (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.

### Operating Conditions

23. The Applicant must:
- (a) minimise the fire risks of the development;
  - (b) ensure that the development:
    - complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection 2006* (or equivalent);
    - is suitably equipped to respond to any fires on site; and
  - (c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site.

### Emergency Response Plan

24. Prior to the commencement of operations, the Applicant must prepare an Emergency Response Plan for the development in consultation with the RFS and Fire & Rescue NSW. This plan must identify the fire risks and controls of the development, and the procedures that would be implemented if there is a fire on site or in the vicinity of the site. A copy of the plan must be kept on site in a prominent position adjacent to both site entry points at all times.

## WASTE

25. The Applicant must:
- (a) minimise the waste generated by the development;
  - (b) classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
  - (c) store and handle all waste on site in accordance with its classification;
  - (d) not receive or dispose of any waste on site; and
  - (e) remove all waste from the site as soon as practicable, and ensure it is sent to an appropriately licensed waste facility for disposal.

## DECOMMISSIONING AND REHABILITATION

26. Within 18 months of the cessation of operations, unless the Secretary agrees otherwise, the Applicant shall rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must comply with the objectives in Table 1.

Table 1: Rehabilitation Objectives

Feature	Objective
Development site (as a whole)	<ul style="list-style-type: none"><li>• Safe, stable and non-polluting</li><li>• Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use</li></ul>
Solar farm infrastructure	<ul style="list-style-type: none"><li>• To be decommissioned and removed, unless the Secretary agrees otherwise</li></ul>
Land use	<ul style="list-style-type: none"><li>• Restore land capability to pre-existing agricultural use</li></ul>
Community	<ul style="list-style-type: none"><li>• Ensure public safety</li></ul>

## **SCHEDULE 4 ENVIRONMENTAL MANAGEMENT AND REPORTING**

### **ENVIRONMENTAL MANAGEMENT**

#### **Environmental Management Strategy**

1. Prior to the commencement of construction, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
  - (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (d) describe the procedures that would be implemented to:
    - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - receive, handle, respond to, and record complaints;
    - resolve any disputes that may arise;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (e) include:
    - copies of any plans approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring to be carried out in relation to the development.

Following the Secretary's approval, the Applicant must implement the Environmental Management Strategy.

#### **Revision of Strategies and Plans**

2. The Applicant must:
  - (a) update the strategies and plans required under this consent to the satisfaction of the Secretary prior to carrying out any upgrading or decommissioning activities on site; and
  - (b) review and, if necessary, revise the strategies and plans required under this consent to the satisfaction of the Secretary within 1 month of the:
    - submission of an incident report under condition 3 below; or
    - any modification to the conditions of consent.

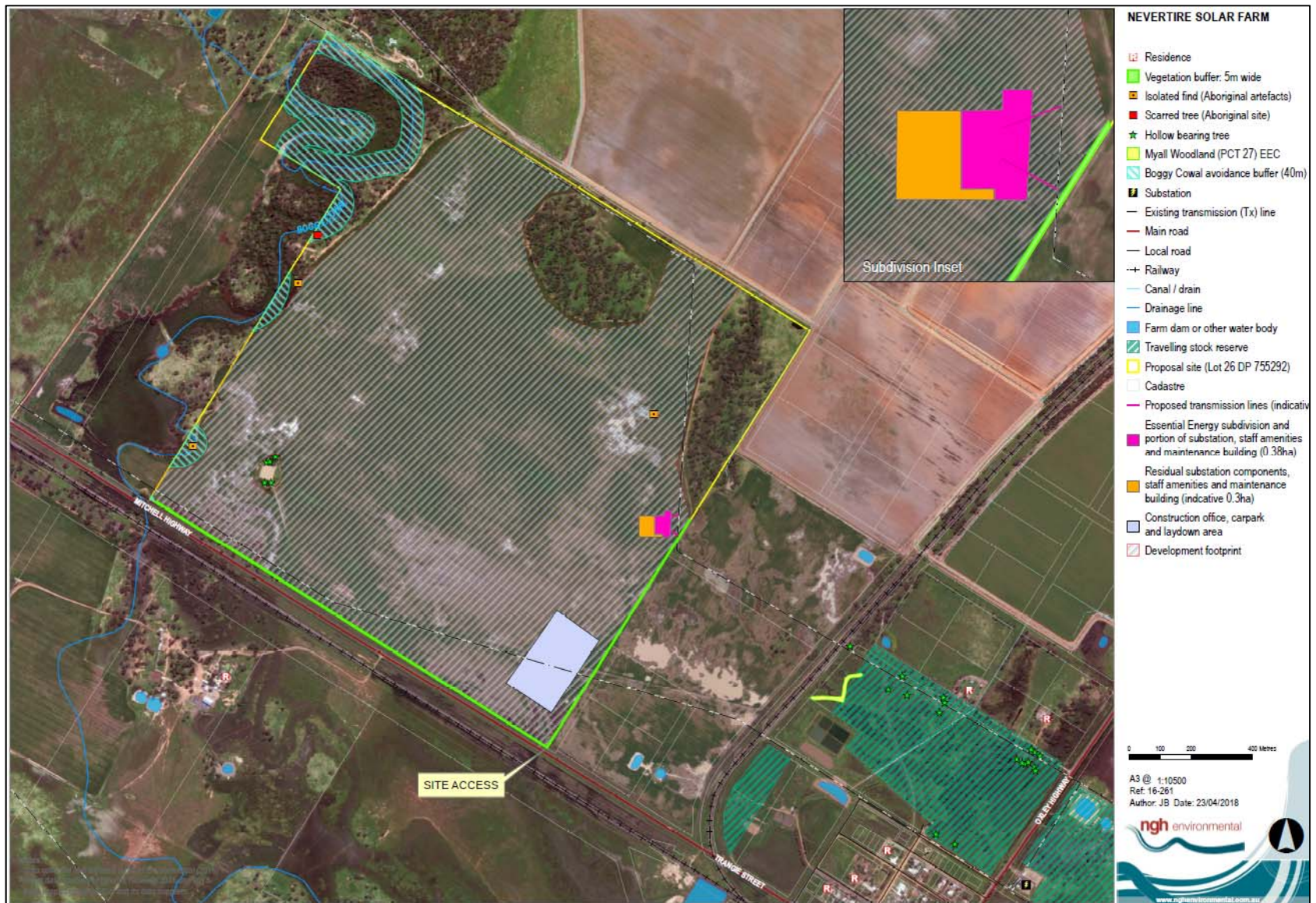
### **INCIDENT REPORTING**

3. The Applicant must immediately notify the Secretary and any other relevant agencies of any incident on site. Within 7 days of the date of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

### **ACCESS TO INFORMATION**

4. The Applicant must:
  - (a) make the following information publicly available on its website as relevant to the stage of the development:
    - the EIS;
    - the final layout plans for the development;
    - current statutory approvals for the development;
    - the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
    - how complaints about the development can be made;
    - a complaints register;
    - any other matter required by the Secretary; and
  - (b) keep this information up to date, to the satisfaction of the Secretary.

## APPENDIX 1: GENERAL LAYOUT OF DEVELOPMENT & SCHEDULE OF LANDS



### Schedule of Lands – Project Site

Lot Number	Deposit Plan (DP)
26	755292