



9 March 2020

New England Solar Farm SSD 9255

1 INTRODUCTION

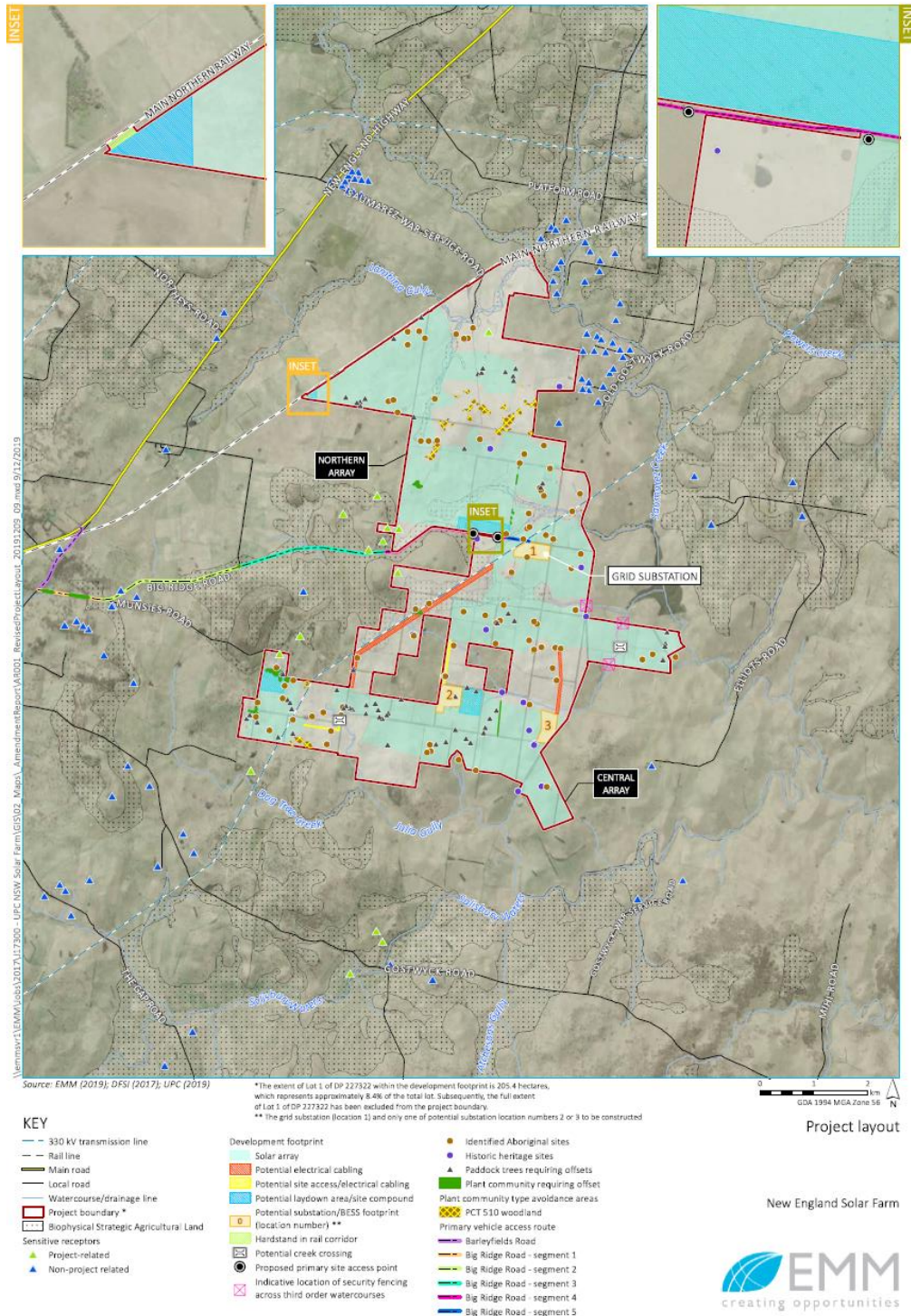
1. On 20 December 2019, the NSW Independent Planning Commission (**Commission**) received from the NSW Department of Planning, Industry and Environment (**Department**) a State significant development application (SSD 9255) (**Application**) from UPC Renewables Australia Pty Ltd (**Applicant**) for the approval of the New England Solar Farm (**Project**) under section 4.36 of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. On 4 June 2019 and 31 October 2019, the Applicant sought an amendment to the Application under clause 55 of the *Environmental Planning and Assessment Regulation 2000*. This amendment to the Application was agreed by the Department under delegation from the Commission. Accordingly, the Commission has now determined the Application as amended.
3. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* (**SEPP SRD**). This is because:
 - the Project constitutes State significant development under section 4.36 of the EP&A Act;
 - the Department received more than 25 submissions from the public objecting to the Application; and
 - the Applicant disclosed a reportable political donation.
4. Professor Mary O’Kane AC, Chair of the Commission, nominated Mr Andrew Hutton (Chair), Professor Zada Lipman and Professor Snow Barlow to constitute the Commission determining the Application.

2 THE APPLICATION

5. The Department’s Assessment Report (**Department’s AR**), dated 19 December 2019, describes the site (the **Site**) and locality of the Project at Assessment Report paragraphs (**ARP**) 7-13 and other proposed and approved solar farms in the region at ARP 14-21.
6. The main components of the Project are set out at Table 1 of the Department’s AR. The amendment to the Application on 4 June 2019 is set out at ARP 35-36 and 50-54, Table 3, Figure 4 and Appendix F. Paragraph 16 below summarises the key components of the Project.
7. The Department’s AR stated that the Applicant “*proposes to develop a new State significant solar farm development approximately 6 kilometres (km) east of Uralla and 8 km south of Armidale, in the Uralla Shire local government area (LGA)*”. See Figure 1 below.
8. The Department’s AR stated that “*the project involves the construction of a new solar farm with a generating capacity of approximately 720 megawatts (MW) and 200 MW/400 MW-hour (MWh) of battery storage*”.
9. Paragraph 3 of the Department’s AR stated that:

“The solar farm would consist of two solar array areas, being the northern and central array areas, connected by above and/or below ground cabling and an internal access road. The northern and central array areas would have generating capacities of about 500 MW and 220 MW, respectively. The solar farm would connect to TransGrid’s existing 330 kilovolt (kV) transmission line that transects the development site.”

Figure 1 – Project Layout (Source: Department’s AR)



2.1 The Amended Application

10. The Department's AR stated: *"Following consideration of submissions on the project, UPC removed the southern array area from the project and amended its application through an Amendment Report" (ARP 50).*
11. Paragraph 51 of the Department's AR stated that:

"In addition to removing the southern array area, the amended application also includes:

 - *reducing the extent of the northern array area to increase the distance between the development footprint and neighbouring residences to the northeast;*
 - *removing one of the internal substation location options;*
 - *adding the option for underground transmission lines (in addition to overhead) between the northern and central array areas; and*
 - *potential use of the Main Northern Railway line to deliver construction materials and project infrastructure."*
12. Paragraph 53 of the Department's AR also stated:

"The Department provided the Amendment Report to government agencies for review and comment and made it available on the Department's website. As the project amendments would reduce the impacts of the project as a whole the Department did not exhibit the Amendment Report. Following advice received from the Department and government agencies on the amended application, UPC further refined the project, including removing the construction accommodation village and revising the site access route."
13. The Applicant, in its Memorandum (**Memorandum**) to the Department, dated 31 October 2019, stated: *"Following feedback from a number of local residents, UPC has removed the construction accommodation village (CAV) from the development application for the project".*
14. Paragraph 162 of the Department's AR states: *"UPC revised its proposed road upgrades following advice from the Council, and this has led to better road safety outcomes and a reduction in the number local roads used to access the site, including Barleyfields Road (south of Big Ridge Road) and Munsies Road".*
15. The Applicant's Memorandum states: *"Following lodgement of the AR, a number of significant pro-active changes were made by UPC to improve the proposed access route to site, including no utilisation of Munsies Road, and no utilisation of Barleyfields Road (south) for site access during construction".*
16. The Application now before the Commission consists of the following, as set out in Table 1 of the Department's AR:
 - *"approximately 2.4 million single-axis tracking solar panels (up to 4.3 m high) and 150 power conversion units (PCU) (up to 2.7 m high);*
 - *a grid substation in the northern array area and connection to TransGrid's 330 kV transmission line;*
 - *an internal substation in the central array area at one of two locations;*
 - *a lithium-ion battery storage facility (200 MW/400 MWh) located adjacent to one or both of the substations and within a number of small enclosures (up to 2.9 m high) or larger battery buildings (up to 5.5 m high);*
 - *a train unloading area, internal access tracks, staff amenities, maintenance buildings (up to 8 m high), offices, laydown areas, car parking and security fencing; and*
 - *subdivision of land within the site for the grid substation."*

2.2 Need and Strategic Context

17. The Applicant's Environmental Impact Statement (**EIS**), dated 1 February 2019, sets out the Applicant's position on the need for the Project at section ES2.
18. The Department's AR summarises the strategic context of renewable and solar energy sources at ARP 22-32, and the strategic consistency of the Project with State and Commonwealth policies at ARP 28 & 32.

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

19. The Department received the Application in February 2019.
20. Under section 4.6(e) of the EP&A Act, the Department (through the Planning Secretary) is responsible for the Commission's functions in respect of community participation. This includes responsibility for public exhibition (and if necessary, re-exhibition) of applications, The Department's AR sets out the Department's engagement and exhibition process at ARP 44-49 & 55-76.
21. An overview of the submissions received by the Department is provided in Table 1 below:

Table 1 - Summary of Submissions (source: Department's AR)

Submitter	Number	Position
Government Agencies & Council	13	
<ul style="list-style-type: none"> • Uralla Shire Council • Department of Industry – Lands and Water Division • Transport for NSW • DPE – Resources and Geoscience Division • Transgrid • Environment Protection Authority • SafeWork NSW • Roads and Maritime Services • Fire & Rescue NSW • Rural Fire Service • Office of Environment and Heritage • Office of Environment and Heritage – Heritage Council • NSW Health – Hunter New England District 		Comment
Special Interest Groups	2	
<ul style="list-style-type: none"> • Uralla-Walcha Community Wind and Solar Group • Uralla Shire Business Chamber 		Comment
Community	101	
	67	Object
	14	Comment
	20	Support
TOTAL	116	

22. The Department's AR summarises the Applicant's Response to Submissions (**RtS**) at ARP 49 and in Appendix D.
23. In responding to the submissions, the Applicant amended its Application through an amendment report (**Amendment Report**), dated 4 June 2019, and a Memorandum to the Department, dated 31 October 2019. The Department's AR summarises the amendment at ARP 35-36 and 50-54, Table 3, Figure 4 & Appendix F.

24. Sections 5.1, 5.2 and 5.3 of the Department's AR identified compatibility of proposed land use, visual impacts and transport as the key impacts associated with the Project.
25. Paragraph 155 of the Department's AR states: "*The Department has assessed the development application, EIS, submissions, Submissions Report, amended development application and additional information provided by UPC and advice received from relevant government agencies*".
26. The Department concludes in paragraph 168 of its Assessment Report that "*the project achieves an appropriate balance between maximising the efficiency of the solar resource development and minimising the potential impacts on surrounding land users and the environment. The project would also stimulate economic investment in renewable energy and provide flow-on benefits to the local community, through job creation and capital investment.*"

4 THE COMMISSION'S CONSIDERATION

4.1 The Commission's Meetings and Site Inspection

27. As part of its determination, the Commission met with various persons, as set out in Table 2 below. All meeting and site inspection notes were made available on the Commission's website.

Table 2 – Commission's Meetings

Meeting	Date of Meeting	Transcript/Notes available on
Department	24 January 2020	29 January 2020
Applicant	24 January 2020	29 January 2020
Uralla Shire Council (Council)	11 February 2020	13 February 2020
Public Meeting	11 February 2020	17 February 2020
Site Inspection	12 February 2020	18 February 2020

4.2 Public Comments

28. All persons were offered the opportunity to provide written submissions to the Commission within seven (7) days after the public meeting.
29. The Commission received a total of 12 written submissions on the Application.

4.3 Material considered by the Commission

30. In this determination, the Commission has carefully considered the following material (**material**):
 - the Environmental Impact Statement dated 1 February 2019 and prepared by EMM Consulting Pty Limited (**EMM**) and its accompanying appendices;
 - all submissions made to the Department in respect of the proposed Application during public exhibition, 20 February 2019 – 20 March 2019;
 - the Applicant's RtS and associated documentation, dated 4 June 2019;
 - the Applicant's Amendment Report, dated 4 June 2019;
 - the Applicant's Memorandum, dated 21 October 2019;
 - the Applicant's Additional Information, dated 20 December 2019;
 - the Department's AR, dated 19 December 2019;

- the Department's draft Development Consent, dated 19 December 2019;
- the Applicant's presentation material, dated 23 January 2020;
- the Applicant's response to questions on notice, dated 7 February 2020;
- all speaker comments made to the Commission at the public meeting held on 11 February 2020, as well as presentation material at that meeting;
- the Applicant's response to the site inspection questions on notice, dated 18 February 2020;
- all written comments received by the Commission up until 18 February 2020;
- the Council's comments to the Commission, dated 18 February 2020; and
- the Department's response to the Commission, dated 2 March 2020.

4.4 Mandatory considerations

31. In determining this application, the Commission has taken into consideration the following mandatory considerations, as provided in s 4.15(1) of the EP&A Act (**mandatory considerations**), as are relevant to the Application:
- the provisions of all:
 - relevant environmental planning instruments (**EPIs**) including:
 - *Uralla Shire Council Local Environment Plan 2012; (ULEP2012);*
 - *State Environment Planning Policy Infrastructure 2007 (Infrastructure SEPP);*
 - *State Environment Planning Policy No. 33 – Hazardous and Offensive Development (H&OD SEPP);*
 - *State Environmental Planning Policy Primary Production and Rural Development 2019 (PP&RD SEPP);*
 - *State Environmental Planning Policy No. 55 – Remediation of Land (RoL SEPP);*
 - *State Environmental Planning Policy No. 44 – Koala Habitat Protection (Koala SEPP);* and
 - proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved); and
 - development control plans; and
 - planning agreements that have been entered into under s 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under s 7.4;
 - the *Environmental Planning and Assessment Regulations 2000 (Regulations)* to the extent that they prescribe matters for the purposes of s 4.15(1) of the EP&A Act;
- that apply to the land to which the Application relates;
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for development;
 - submissions made in accordance with the EP&A Act and Regulations; and
 - the public interest.
32. At ARP 43, the Department confirms it has considered all the matters set out in paragraph 31 above.

4.5 Additional considerations

33. In determining this application, the Commission has also considered:
- Interim Construction Noise Guideline 2009 (**ICNG**)
 - Large Scale Solar Energy Guideline (**Solar Energy Guideline**)
 - NSW Noise Policy for Industry 2017 (**Noise Policy**)
 - NSW Renewable Energy Action Plan 2013 (**Renewable Energy Action Plan**)

4.6 Compatibility of Proposed Land Use

Applicant's Consideration

34. The Applicant states that it considered alternative locations and configurations before settling on the proposed Uralla Site, as set out in section 1.5.3 at pages 17-18 of the EIS. The Applicant states in its EIS at page 266 that the Project is justified and in the public interest because it is suitably located. The EIS states that:

"It is suitably located:

- *in a region with ideal climatic and physical conditions for large-scale solar energy generation;*
- *within close proximity of existing infrastructure with adequate capacity to receive the energy proposed to be generated; and*
- *adjacent to agricultural land uses that are compatible with large-scale solar energy generation."*

Department's Assessment

35. Paragraph 69 of the Department's AR stated that *"land use compatibility, specifically regarding the use of prime agricultural land, with some submissions also raising concerns about potential impacts on surrounding agricultural activities (54% of objections and comments)"*.
36. The Department's AR noted the Project is permissible with consent under the Uralla LEP and Infrastructure SEPP as the Site is situated entirely within land zoned RU1 – Primary Production (see ARP 37 and 38).
37. The Department's AR assessed the compatibility of the proposed land use against the potential impacts on agricultural land, agricultural activities, tourism and other land uses (see ARP 79-107).
38. The Department concluded that the *"development would not fragment or alienate resource lands in the LGA as the land could be easily returned to agricultural land following decommissioning, and the inherent agricultural capability of the land would not be affected"*. The Department also stated it had recommended conditions of consent to ensure that the Project is consistent with Council's Community Strategic Plan.

Commission's Findings

39. The Commission agrees with the Department's assessment, as set out in paragraph 37 above. The Commission agrees with the Department's conclusion and imposes the Department's recommended conditions of consent, as stated in paragraph 38.

4.7 Visual Amenity

Council's Comments

40. The Council, in its submission to the Department on 10 March 2019, stated that the Application should be considered in the context of Council's Community Strategic Plan. Council also stated that "*Protection of the amenity of residents surrounding the solar farm and along transport routes should be the paramount consideration in the decision-making process*". Council's comments are set out at pages 1-2 of its submission.

Applicant's Consideration

41. The Applicant's EIS included a Visual Impact Assessment (**VIA**) dated 11 January 2019, prepared by EMM. The Applicant's EIS included an assessment of visual impacts based on the findings set out in the VIA. In relation to the potential construction impacts of the Project, the EIS states on page 152 that:

"The most significant impact will be experienced by residents of nearby dwellings who have an uninterrupted view of the project development footprint. Motorists travelling along the local and regional road network will also experience views of the array areas during construction. It is assumed the focus of these motorists will be in line with their direction of travel along the affected road corridors.

Due to their temporary nature (i.e. 36-month construction period), the site establishment work and construction activities are considered unlikely to have any significant visual impacts on passing motorists or nearby receptors greater than those during operation. Subsequently, temporary landscaping is not proposed to mitigate visual impacts during construction."

42. In relation to the potential operational impacts of the Project, the EIS states at page 154 that:

"Based on field investigations and a review of aerial imagery, in the majority of cases, it is anticipated that views of the proposed BESSs [battery energy storage system] will be at least partially screened from all of the selected viewpoints (particularly if the small enclosure or cabinet facilities are utilised). This is primarily due to undulation and remnant vegetation in the landscape combined with distance to the potential BESS footprints. Regardless of the housing selected during the detailed design stage of the project, the BESSs will be designed to integrate with existing elements in the landscape wherever possible, having regard to form, height and colour. Should they be required, the large building type of enclosures will be similar in appearance to large agricultural sheds that currently exist in the landscape within the three array areas and their surrounds."

43. The Applicant's Amendment Report summarises changes made to the Application that relate to visual impact on pages 57-68.
44. In relation to the changes to the potential construction impacts of the Project the Amendment Report states at page 59 that:

“As a result of the amendments to the project, the number of non-project related residences within 2 km of the development footprint has been significantly reduced from 41 to 28, with 3 residences within 1 km of the development footprint. Of these three residences, uninterrupted views of the amended development footprint are unlikely. Motorists travelling along the local and regional road network will also experience distant views of the array areas during construction. It is assumed the focus of these motorists will be in line with their direction of travel along the affected road corridors.”

45. In relation to changes to the potential operational impacts of the Project, the Amendment Report states at page 60 that:

“By accounting for potential shielding features within the landscape within the development footprint and surrounding area, the number of viewpoints anticipated to experience views of project infrastructure reduces from 13 to 9. However, there are limitations to relying on the results of a viewshed analysis that includes consideration of a DSM as vegetation may only provide partial shielding. The viewshed analysis indicates the potential for shielding features in the landscape to reduce the visibility of project infrastructure from a number of the selected viewpoints. This is largely due to scattered remnant vegetation, planted wind breaks and extensive vegetation screens around the boundaries of rural residential dwellings.

As a result of the amendments to the development footprint, it is unlikely that project infrastructure will be visible from Gostwyck Memorial Chapel and Precinct (Viewpoint 7), Deeargee Woolshed (Viewpoint 8) or Salisbury Court (Viewpoint 13). At its closest point, the central array area is approximately 4 km north of Gostwyck Memorial Chapel and Precinct and Deeargee Woolshed, and 11 km north of Salisbury Court.”

Department’s Assessment

46. The Department’s AR summarises the issues raised in community submissions relating to visual impacts, the visual context and landscape of the site (see ARP 108-119 and Table 5). The Department’s AR assesses the potential impacts of the Project on residences (see ARP 120-128).
47. In relation to the visual impacts of the northern and central array, paragraph 13 of the Department’s AR states: *“The closest non-associated residence (N1) is located about 450 m north of the development footprint (at its closest point) and would have limited views of the site that are partially screened by existing vegetation and topography. All other residences are located around 1 km or more from the development footprint.”*
48. The Department’s AR concluded: *“Subject to the proposed exclusion zones and the implementation of the recommended conditions, the Department considers that there would be no significant visual impacts on surrounding residences, and the rural character and visual quality of the area would be preserved as far as practicable”.*

Commission’s Findings

49. The Commission agrees with the Department’s assessment and conclusion, as set out in paragraphs 46 and 47 above. The Commission has therefore imposed the Department’s recommended conditions with the addition of a condition regarding vegetation screening upon request, as set out in paragraph 50 below.
50. The Commission is of the view that the entitlement to vegetation screening should be open

to N1 in order to further mitigate any visual impacts associated with the Project, should the landowner elect to have the screening installed within three years of the commencement of operations. It was noted that whilst the development footprint was 450m from the N1 residence, and there was topographical relief that assisted mitigating the visual impact, the proposed northern array was only 130m from the adjoining boundary between N1's property and the Project. The Commission imposes Schedule 3 – Condition 7 to give effect to this entitlement.

4.8 Transport and Traffic Management

Public Comments

51. The Commission received comments following the public meeting raising concerns in relation to the impacts associated with the sole use of Big Ridge Road as access to the Project Site. Concerns were raised in relation to the safety of users of Big Ridge Road and also the potential impacts of noise and risk to wildlife as a result of higher traffic volumes.

Council's Comments

52. In page 2 of its submission to the Department, Council recommended conditions of consent in relation to roads and traffic management. Council's primary concern was in relation to the standards being applied to the upgrade works as well as the proposed works outlined for the relevant segments of Big Ridge Road.
53. Council, in its comments to the Commission dated 18 February 2020, noted that the Department assessed the proposal to upgrade sections 4 and 5 of Big Ridge Road to an unsealed width of 8.7 metres as reasonable. Council also noted that *"a safe and efficient network of arterial roads is a stated goal in Uralla's Community Strategic Plan..."*. Council also submitted that *"to condition gravelling of Sections 4 and 5 of Big Ridge Road rather than sealing presents as an unacceptable safety risk"*.

Applicant's Consideration

54. The Applicant's EIS included a Traffic Impact Assessment (TIA), dated 16 November 2018, prepared by EMM. The Applicant's EIS includes an assessment of traffic Impacts at section 5.8.4 based on the TIA.
55. In relation to construction traffic the Applicant's EIS states at page 191:

"While the forecast traffic increases in Table 5.29 are proportionally quite significant, they would only be temporary and apply for the peak construction periods (which are anticipated to be during months 13-16 and 22-25).

Generally, with the exception of the New England Highway and certain sections of Thunderbolts Way, the average and peak construction stage traffic capacity standards for the assessed routes in Table 5.28 will not be within the Austroads (2015) rural road design and capacity standards. However, the forecast traffic increases should not have a significant long-term effect on the future traffic capacity, level of service or traffic safety for these roads."

56. In relation to operational traffic, the Applicant's EIS states at page 191:

“During operations, there will be much lower daily traffic movements, which are estimated to be an average of 30 daily vehicle movements, conservatively assuming 15 FTEs on-site every day, which would generally be light vehicle traffic movements. Heavy vehicles may be required for infrequent repairs and maintenance, for example to deliver inverters when replacement is required. However, the frequency of heavy vehicles is predicted to be very low compared to numbers of light vehicles during operations.”

“The operation traffic will not cause any roads to move into a higher band in the Austroads rural daily traffic volume capacity standards”.

57. In relation to road and intersection improvements, the Applicant’s TIA states at page 60:

“The New England Highway/Barleyfields Road (north) intersection and New England Highway/Barleyfields Road (south) including Wood Street intersection both require left and right turn traffic lanes (CHR/CHL), currently as the combination of major road and minor road peak hourly volume is within the range for this type of intersection. These intersection upgrade works are required at these intersections currently and the need will become more apparent when the proposed project construction traffic is operating.”

“Additionally, the TMP will consider the temporary conversion of the New England Highway/Barleyfields Road (north) intersection to seagull type operation during the peak construction period to ease right turning movements by large trucks entering and departing from Barleyfields Road (north).”

58. The Applicant’s Amendment Report details the changes made in the amended Application. Included in this amendment is the removal of the southern array area from the Project. The Applicant’s Amendment Report provides an overview of the reduced impact to local roads as a result of the amended Application. This is summarised in section ES3.8 at pages ES.5 – ES.6.

59. Page 85 of the Applicant’s Amendment Report states:

“As a result of the amendments to the project, a number of the traffic routes identified in the TIA will no longer be utilised for project-related vehicle movements. This includes Gostwyck Road, Salisbury Plains Road, Hillview Road, and The Gap Road.”

“In addition, Thunderbolts Way may be utilised only by a proportion of the project’s locally/regionally-based workforce during construction and operations, with no construction heavy vehicles anticipated to travel along this road corridor.”

60. The Applicants Amendment Report concludes:

“To reduce the volume of project-related traffic on Munzies Road, where practicable, vehicles will travel from the Big Ridge Road site access points for the northern array to access the central array via an internal site access road between the northern and central array areas”.

“The peak daily project related vehicle movements should be considered as a limited duration construction traffic impact as they are anticipated to occur across two four-month periods within the overall 36-month construction period. Further, utilising the Main Northern Railway line for deliveries has potential to reduce the number of project-related heavy vehicles on the local and regional road network.”

“Project-related peak and average construction vehicle movements will have a short-term impact on traffic conditions and usability, which is proposed to be managed by road conditions”.

61. As stated in paragraph 15, the Applicant’s Memorandum to the Department states a significant number of proactive changes to improve the proposed access routes to the site have been proposed.

Department’s Assessment

62. The Department’s AR summarises the Applicant’s transport proposal including projected road traffic volumes, transport routes and site access and rail transport (see ARP 129-144). The Department’s AR assesses the potential impacts of the Project on traffic (ARP 140-141 & 146).
63. The Department, in its AR, recommended a number of conditions of consent in relation to roads and traffic management. The Department’s AR concludes: *“Subject to the recommended conditions, the Department and RMS are satisfied that the project would not result in significant impacts on road network capacity, efficiency or safety. The Department considers that UPC’s position for segments 4 and 5 achieves a balance between upgrades for construction and ongoing maintenance, and with the implementation of a Traffic Management Plan, addresses Council’s safety concerns.”*

Commission’s Findings

64. The Commission acknowledges the concerns of Council regarding the proposal to retain gravel along sections 4 and 5 of Big Ridge Road, however agrees with the Department’s AR in that these sections are unlikely to play a meaningful role in the local road network and that the proposal to upgrade the unsealed road with a width of 8.7m is sufficient. The Commission notes that one of the conditions of consent requires the Applicant to prepare a Traffic Management Plan for the Project in consultation with RMS and Council which will ensure where upgrades are proposed, they will be completed to the standard expected by the RMS and Council.
65. The Commission acknowledges the concerns raised by the public in paragraph 51. However, the Commission agrees with the Department’s assessment and conclusion, as set out in paragraphs 62 and 63. The Commission finds that the impacts associated with the project can be appropriately mitigated and managed through conditions of consent. The Commission is of the view that the Department’s recommended conditions are appropriate and has therefore imposed these conditions.

4.9 Decommissioning and Rehabilitation

Council’s Comments

66. In its submission to the Department, Council made the request that *“All infrastructure and equipment, including underground cabling above 500mm depth, is to be removed from the site during decommissioning.”*
67. In its comments to the Commission, Council stated that they were concerned about the enforceability of conditions related to remediation in the absence of a bonding arrangement. They then reasoned that *“it is appropriate that the conditions provide for financially bonding the remediation.”*

Applicant's Consideration

68. The Applicant's EIS states at page 60:

"A project decommissioning and rehabilitation plan will be prepared prior to the end of the project's operational life and will feature rehabilitation objectives and strategies for returning the development footprint to agricultural production, as has been agreed with the project landholders."

69. The Applicants EIS states at page 140:

"to reduce potential impacts on the future agricultural productivity of the land within the development footprint, rehabilitation objectives and strategies (including performance measures) will be established in the decommissioning and rehabilitation plan".

70. The Applicant's Amendment Report states at page 56:

"no changes to the description of project decommissioning, as presented in section 2.7 of the EIS , are required as part of the amendments to the project. Once the project reaches the end of its investment and operational life, the project infrastructure will be decommissioned and the development footprint returned to its pre-existing land use, namely suitable for grazing sheep and cattle, or another land use as agreed by the project owner and the landholder at the time."

71. The Applicant, in its response to the Commission dated 7 February 2020, provided an estimate of the likely cost to remove all infrastructure as described in the EIS:

"It is difficult to estimate the net decommissioning and rehabilitation costs that may occur in thirty years, given that scrap value costs vary over time, and there is some uncertainty in labour and logistics costs.

Notwithstanding this, UPC expects that the net cost of decommissioning and rehabilitation of the New England Solar Farm site will be to no more than 10% of the capital value of the plant.

For illustrative purposes, when considering the value derived from scrap materials against the cost of labour, machinery and disposal, the project could be decommissioned and rehabilitated for a net cost of approximately \$39 million."

Department's Assessment

72. The Department's AR states in Table 6 that the Department has developed *"standard conditions for solar farms to cover this stage of the project life cycle, including clear decommissioning triggers and rehabilitation objections such as removing all above and below ground infrastructure and restoring land capability to its pre-existing agricultural use"*
73. The Department's AR concludes that subject to its recommended conditions, *"the solar farm would be suitably decommissioned at the end of the project life, or within 18 months if operations cease unexpectedly, and that the site would be appropriately rehabilitated."*

Commission's Findings

74. The Commission notes that the Applicant has acknowledged the Project is likely to have an "...investment and operational life.." and that planning for Project decommissioning is a key phase in the project lifecycle (see paragraph 70). Following a request made by the Commission during the Applicant meeting on 24 January 2020, the Applicant, in its letter dated 7 February 2020, provided an estimate of decommissioning and closure to be in the order of \$39 million, which included an assumption of a return from scrap materials and the retention of all infrastructure below 500mm to remain in-situ (see paragraph 71).
75. The Commission also notes that the Applicant in its meeting with the Commission on 24 January 2020 acknowledged that any requirement for decommissioning and rehabilitation contained within a consent are attached to the land, and to address this, they stated that they had included a clause within the lease agreement which outlines the obligation for the Applicant to return the land to a suitable agricultural use.
76. The Commission is of the view that the decommission and rehabilitation of operations should be planned appropriately ahead of the cessation of operations and brought together into a consolidated Decommissioning and Rehabilitation Plan. For this reason, the Commission has imposed a requirement for the Applicant to prepare such a plan prior to the cessation of operations, all of which must be to the satisfaction of the Secretary. The Commission imposes Schedule 3 – Condition 30 to give effect to this requirement.
77. The Commission acknowledges the concern of Council regarding the enforceability of conditions related to rehabilitation however finds that with the addition of Schedule 3 – Condition 30 along with the Department's recommended conditions relating to the decommissioning and rehabilitation of solar farms that this would appropriately mitigate the possibility that the Site would not be suitably decommissioned and rehabilitated at the end of its investment or operational life.

4.10 Other Issues

Biodiversity

78. The Commission noted submissions received during exhibition and also heard from speakers at the public meeting who highlighted the importance of maintaining a functional habitat for threatened fauna in the New England area. The speakers noted that the Northern Tablelands have been recognised "*as a biodiversity hotspot and a renewable energy hotspot*". The speakers stated that dialogue between applicants, Government and land care groups is needed to co-create mitigation strategies and produce real results.
79. The Department's AR assessed the potential biodiversity impacts of the Project (see Table 6). The Department's recommended Condition 11 of Schedule 3 require the Applicant to prepare and implement a Biodiversity Management Plan in consultation with the BCD and to retire the applicable biodiversity offset credits in accordance with the *Biodiversity Offsets Scheme*. In Table 6 of the Department's AR, the Department concluded that "*with these measures, both BCD and the Department consider that the project is unlikely to result in a significant impact on the biodiversity values of the locality*".

80. The Commission acknowledges the concerns raised by the community in paragraph 78. The Commission agrees with the public comments that maintaining a habitat for threatened fauna in the New England area is an important function and that the region would benefit from a strategic plan on this issue given it has been identified as area with renewable energy resource potential as set out in the Renewable Energy Action Plan and that there may be ongoing conflicts between future development and the biodiversity within the New England. The Commission also agrees with the conclusions of the Department and imposes the Department's recommended conditions as set out in paragraph 79 as they will assist in managing impacts of the Project on the biodiversity values of the Site and area.

Historic Heritage & Aboriginal Heritage

81. The Department's AR assessed the potential impacts of the Project on Aboriginal heritage (see Table 6). The Department recommended conditions requiring the Applicant to salvage and relocate Aboriginal items, to undertake consultation with Aboriginal stakeholders prior to construction and to prepare and implement a Heritage Management Plan. The Department concluded that given the recommended conditions, the project would not significantly impact the Aboriginal heritage values of the locality.
82. The Department assesses the potential impacts of the Project on the historical heritage of the project site at Table 6 of the Department's AR and included recommended conditions. The Department concludes that with these conditions, the Project would not significantly impact the historic heritage values of the locality.
83. The Commission agrees with the conclusions of the Department in relation to both Aboriginal heritage and historic heritage, as set out in paragraphs 81 and 82 above, and imposes the Department's recommended conditions.

Water

84. The Department's AR assessed the potential impacts of the Project on naturally occurring watercourses and water usage for construction and operation of the Project (see Table 6). The Department has recommended conditions requiring the Applicant to minimise the siting of Project infrastructure within watercourses and to design, construct and maintain the Project to reduce impacts on surface water and flooding. A Water Management Plan will also be required to be prepared in consultation with DPIE Water. The Department concludes that subject to the recommended conditions, the Project would not result in significant impacts on water resources.
85. The Commission agrees with the Department regarding impacts on water resources, as set out in paragraph 84. The Commission has therefore imposed the Department's recommended condition Schedule 3 – Condition 20 with an amendment to ensure that prior to the commencement of construction, the Applicant demonstrates to the satisfaction of the Secretary that the Applicant has secured sufficient water for all stages of the Project, and if necessary, adjust the scale of the Project to match its available water supply.

Subdivision

86. The Department's AR states at Table 6 that the Applicant's proposal to subdivide lots on which the grid substation would be located would be below the minimum lot size of 200 ha and therefore prohibited under the Uralla LEP. However, under 4.38(3) of the EP&A Act, development consent for the project as a whole can be granted despite the subdivision component. The Department's AR concludes that given its recommended conditions, it is satisfied that the subdivision should be approved.
87. The Commission agrees with the Department's assessment, as set out in paragraph 86, and

imposes its recommended conditions including the requirement for the Applicant to prepare and submit detailed subdivision plans to be submitted for the Secretary for approval.

Noise

88. Concern was raised in one public comment made to the Commission regarding the effects of construction and operational noise on livestock in relation to weight gain and fertility impacts. Economic impacts as a result of the Project's impact on livestock were also raised as a key concern.
89. The Department's AR assessed the potential impacts of the Project in relation to noise generation during construction, upgrading and decommissioning (see Table 6). The Department concluded: "*Noise generated by the proposed construction, upgrading and decommissioning activities would comply with the relevant criterion of 45 dB(A) in the EPA's Interim Construction Noise Guideline (ICNG) for standard daytime construction hours at all residences*". The Department also concluded that "*there would be negligible noise during operation*". The Department recommended conditions to restrict construction hours and to ensure activities on site in accordance with best practice requirements outlined in the ICNG.
90. The Commission acknowledges the concern raised by the member of the public in paragraph 88; however, the Commission agrees with the Department's assessment, as set out in paragraph 89. The Commission is of the view that all construction activities should be assessed in accordance with the best practice methods set out in the ICNG and that all operational activities should be assessed and undertaken in accordance with the Noise Policy.
91. The Commission agrees with the Department's assessment of potential noise impacts, as well as the recommendation to impose conditions limiting construction to the standard hours in accordance with the ICNG.
92. The Commission notes that the construction hours proposed by the Applicant extend outside the ICNG recommended standard construction hours of 7:00 am and 6:00 pm Monday to Friday and 8:00 am and 1:00 pm Saturday. The Commission also had concerns about the identification of the activities that would be considered as being inaudible under the Department's proposed conditions. Therefore, the Commission imposes the Department's recommended conditions with an amendment to Schedule 3 – Condition 12 that will not permit the Applicant to undertake any construction, upgrading or decommissioning activities outside of the work hours set out in that Condition regardless of whether they are inaudible or not. The Commission is of the view that imposing this condition in the manner described above is appropriate and that the standard hours in accordance with the ICNG should apply.

Workforce Accommodation

93. Table 6 of the Department's AR states that there were some community submissions raising concerns about the potential social impacts of the accommodation village proposed as part of the original Application.
94. The Department's AR states that in response to the concerns raised by the community, the Applicant subsequently removed the accommodation village from the Project. The Department noted that Council confirmed that it had no concerns with the removal of the accommodation village from the Project. The Department included recommended conditions requiring the Applicant to prepare an Accommodation and Employment Strategy for the Project in consultation with Council.

95. The Commission agrees with the Department's assessment and imposes the Department's recommended conditions requiring the Applicant to prepare an Accommodation and Employment Strategy for the Project in consultation with Council.

4.11 Objects of the EP&A Act & Public Interest

Applicant's Consideration

96. The Applicant's EIS concludes that the *"project is considered to be justified and in the public interest"*. The Applicant also states that the project is in line with the objects of the EP&A Act and is consistent with the principle of inter-generational equity. The Applicant's reasons are summarised on page ES.13.
97. Page 87 of the Applicant's EIS states its community benefit sharing initiative intends to *"establish a positive, long-term connection with the local community"* and will commit to a contribution of \$250 per year for every MW (AC) of solar power installed over a period of 25 years. The Applicant's letter to the Commission, dated 18 February 2020, states that the Applicant will make \$100,000 available from the first year of the initiative. The Applicant also states that *"Assuming that by the end of construction the full targeted capacity of 720MW AC is installed, there will be \$180,000 per annum available to fund community projects and programmes during operations."*

Department's Assessment

98. The Department's AR has undertaken an assessment of the Application against the objects of the EP&A Act. These are set out in the Department's AR - Appendix H at pages 59 and 60.
99. Paragraph 169 of the Department's AR states: *"On balance, the Department considers that the project is in the public interest and is approvable, subject to the recommended conditions of consent."*

Commission's Findings

100. The Commission acknowledges the Applicant's view in paragraph 96. The Commission notes that the Applicant has proposed a community benefit sharing initiative as part of the Application as set out in paragraph 97. The Commission also notes that the Applicant has made amendments to the Application in order to reduce and mitigate impacts as set out in section 2.1, in response to concerns raised by the community.
101. The Commission agrees with the Department's Assessment in paragraphs 98 and 99 and is of the view that the Project is in accordance with the EP&A Act and is in the public interest.

5 CONCLUSION: THE COMMISSION'S FINDINGS AND DETERMINATION

102. The views of the community were expressed through public submissions and written comments (received as part of exhibition and as part of the Commission's determination process), as well as in oral presentations to the Commission at the public meeting, as outlined in paragraphs 35, 46, 51, 78, 88 and 93. The Commission carefully considered all of these views as part of making its decision. The way in which these concerns were taken into account by the Commission is set out in **section 4** above.
103. The Commission has carefully considered the Material before it.
104. For the reasons set out in this Statement of Reasons, the Commission has determined that the Application should be granted consent subject to conditions which have been designed to:
- prevent, minimise and/or offset adverse environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the on-going environmental management of the development.
105. The reason for the Decision are given in this Statement of Reasons for Decision dated 9 March 2020.



Andrew Hutton (Chair)
Member of the Commission



Prof Zada Lipman
Member of the Commission



Prof Snow Barlow
Member of the Commission