

# Decision Notice Approval Sustainable Planning Act 2009 s.335



**Burdekin Shire Council**

ABN: 66 393 843 289

Enquiries to: Shane Great  
Our Ref: Cons14/0028 SG:MP  
Your Ref: 42627398  
Letter No: 1401168

Telephone: (07)47839 800  
Postal Address: PO Box 974, Ayr. Q4807

18<sup>th</sup> May, 2015

FRV Services Australia Pty Ltd  
C/- URS Australia  
G P O Box 302  
BRISBANE QLD 4000

Attention: Alexandra Isgro

## Re: Development Application

IDAS Number	CONS14/0028
Proposal	Material Change of Use for Solar Farm
Property Location	82, 124 & 196 Shadforth Road, Clare QLD 4807
Property Description	Lot 241 on SP199878, Lot 242 on GS1028 and Lots 243 on GS1029, Parish of Mulgrave, County of Gladstone

Dear Sir/Madam,

I wish to advise that, on 12<sup>th</sup> May, 2015 the abovementioned development application was:

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

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

### Approval under s331

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

#### 1. Details of the Approval

The following type/s of approval is given:

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

2. **Preliminary approval affecting the planning scheme** - Not applicable
3. **Details of any compliance assessment required for documents or work in relation to the development** – Not applicable

4. **Submissions**

There were 5 properly made submissions about the application.

The name and address of the principal submitter for each properly made submission are as follows:

<b>Name of principal submitter</b>	<b>Address</b>
1. Wilmar Sugar	Level 1, 5-21 Denham Street, Townsville Qld
2. L and P Brotto	64 Kirknie Road, Home Hill Qld
3. D and R Booth	Shadforth Road, Clare Qld
4. Invicta Cane Growers Organisation Ltd	22 Queen Street, Ayr Qld
5. SunWater Limited	Level 10, 179 Turbot Street, Brisbane Qld

5. **Conflict with a relevant instrument and reasons for the decision despite the conflict** –The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

6. **Referral agencies**

The referral agencies for this application are:

<b>For an application involving</b>	<b>Name of referral agency</b>	<b>Advice agency or concurrence agency</b>	<b>Address</b>
Sustainable Planning Regulation 2009 Schedule 7, Table 3, Item 7 and 8	Ergon Energy	Advice agency	Town Planning Ergon Energy PO Box 264 Fortitude Valley Q 4006
Sustainable Planning Regulation 2009 Schedule 7, Table 3, Item 7 and 8	Powerlink	Advice agency	Powerlink Property services group PO Box 1193 Virginia Q 4014

7. **Approved Plans**

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

<b>Plan/Document Name</b>	<b>Plan Number</b>	<b>Dated</b>	<b>Received</b>
Clare Solar Farm Development – General Layout	114-0053-ING, GEN - 002	October, 2014	April 2015

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

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

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

**9. Appeal Rights**

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

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

Yours faithfully



Shane Great  
MANAGER – PLANNING & DEVELOPMENT

**Attachment 1—Conditions of the approval**

***Part 1—Conditions imposed by the assessment manager***

***Part 2—Advice agency response***

**Attachment 2—SPA extract on appeal rights**



**Burdekin Shire Council**

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## Attachment 1 – Part 1 Assessment Manager Conditions Burdekin Shire Council

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*SUSTAINABLE PLANNING ACT 2009, IDAS DEVELOPMENT  
APPLICATION*

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### Approved Plans

- 1.(a) The proposed development must be completed and maintained generally in accordance with the drawing/documents identified in the Table below, except as otherwise specified by any condition of this approval.

DOCUMENT	REFERENCE	DATE
Clare Solar Farm Development – General Layout	114-0053-ING	October, 2014

- (b) Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- (c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.

### Compliance with conditions

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

### Outstanding charges

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

### Notice of Intention to commence the use

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

### Damage

5. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to the satisfaction of the Chief Executive Officer.

### Access

6. The construction of any crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.

### Stormwater

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

### Operational Works

8. Where operational works are required to be carried out for the proposed solar farm, the developer must, within the timeframe required by the Sustainable Planning Act 2009 and prior to the

commencement of any work, lodge with Council an application for a development permit for operational works. As part of such application, the developer must submit:-

- (a) detailed and complete engineering drawings and specifications of the proposed works prepared by a civil engineer, who is both registered under the Professional Engineer's Act 2002 and is current Registered Professional Engineer of Queensland; and
- (b) a certificate from the engineer who prepared the drawings stating that the design and specifications have been prepared in accordance with these conditions, relevant Council Codes and Planning Scheme Policies and the relevant Australian Standard Codes of Practice;

### **Management Plans**

9. Prior to the commencement of construction, the applicant must submit a Construction Environmental Management Plan (CEMP) which has been prepared and certified by a suitably qualified expert for approval by the Chief Executive Officer.
10. Prior to the commencement of construction, the applicant must submit a Traffic Management Plan which has been prepared and certified by a suitably qualified expert for approval by the Chief Executive Officer.

The Traffic management Plan must include, but is not limited to:

- Details of how construction of the project will be managed in proximity to local and regional roads;
  - Details of traffic routed for heavy vehicles, including any necessary route or timing restriction for oversized loads;
  - Details of how any potential safety hazards resulting from the increased vehicle movements in the first section of Shadforth Road will be mitigated during the construction phase;
  - Demonstration that all statutory responsibilities with regard to road traffic impacts have been complied with;
  - Procedures for informing the public where any road access will be restricted as a result of the project;
11. No later than one month prior to the decommissioning of the project, or otherwise agreed to by the Chief Executive Officer, the applicant is to prepare a Decommissioning Management Plan for the approval of the Chief Executive Officer. The plan must include but is not limited to:
    - Identification of structures to be removed and how they will be removed;
    - Measures to reduce impacts on the environment and surrounding land uses;
    - Details of rehabilitation and revegetation.

### **Decommissioning/Post Operations**

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

### **ADVICE (Note: These are not conditions)**

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



825 Ann Street Fortitude Valley 4006  
PO Box 264 Fortitude Valley 4006  
[ergon.com.au](http://ergon.com.au)

## ***Part 2—Advice agency response***

30 January 2015

Chief Executive Officer  
Planning and Development  
Burdekin Shire Council  
(sent via email: [burdekinsc@burdekin.qld.gov.au](mailto:burdekinsc@burdekin.qld.gov.au))

Attention: Shane Great, Manager Planning and Development

cc FRV Services  
C/- URS  
(sent via email – [alexandra.isgro@urs.com](mailto:alexandra.isgro@urs.com))

Attention: Alexandra Isgro

Dear Shane,

### **ADVICE AGENCY RESPONSE**

**MATERIAL CHANGE OF USE FOR SOLAR FARM  
82, 124 & 196 SHADFORTH ROAD CLARE**

**241SP199878, 242GS1028, 243GS1029**

**COUNCIL REFERENCE:                   CONS 12/0028 SG.MB**  
**ERGON ENERGY REFERENCE:       EE15/004981**

This response is made on behalf of Ergon Energy Corporation Limited ACN 087 646 062 (*Ergon Energy*) pursuant to section 292 (advice agency response) of the *Sustainable Planning Act 2009* (Act).

In accordance with table 3 of Schedule 7 of the *Sustainable Planning Regulation 2009*, referral is triggered due to the proximity of a substation and the presence of easements.

Connection of the proposed infrastructure to either Ergon Energy's network or Powerlink's network is yet to be determined. Notwithstanding, these negotiations are commercial and technical in nature and are not considered to be influential or relevant for Council's assessment or decision regarding the proposed material change of use.

I wish to advise that Ergon Energy has no objection to the proposed development, subject to the following conditions being applied to any approval:

1. Development is carried out generally in accordance with the plans and reports provided as part of the application.
2. All easement conditions must be maintained.
3. Access to our infrastructure must be available at all times.
4. Any proposed earthworks do not result in an increase in ponding or runoff of stormwater onto existing electricity infrastructure;
5. Should changes to Ergon Energy infrastructure be proposed or required as part of the development, those changes are made with Ergon Energy's consent and at the developer/owner's expense (unless otherwise agreed to by Ergon Energy).

We respectfully request that a copy of the decision be provided in accordance with section 334 (1) (b) of the *Act*. Please contact me on 3851 6530 or via email address: [ian.turton@ergon.com.au](mailto:ian.turton@ergon.com.au) for any further information.

Yours sincerely,



Ian Turton  
Principal Town Planner  
Ergon Energy

MSLink334489  
MSLink014185  
MSLink14186  
20 January 2015



Our ref: DA1609

<del>URS for FRV Services</del> GPO Box 302 BRISBANE QLD 4001	BURDEKIN SHIRE COUNCIL	cc. Burdekin Shire Council PO Box 974 AYR QLD 4807
	File ID No. 226	
	27 JAN 2015	
Attn:- Alexandra Isgro	Document No.	Attn:- Shane Great
Your Ref:- Project No 42627398	Retention Period	Your Ref:- Cons 14/0028 SG.MB

Dear Sir/Madam

**Development Application –  
Development Permit Material Change of Use (MCU) for Solar Farm –  
82, 124, 196 Shadforth Road, Clare  
L241 on SP199878, L242 on GS1028, L243 on GS1029 – Easement D&E on GS1027,  
Easement A on GS512, Easement C on GS1028 and Easement A on GS1029**

Thank you for your application received 12 January 2015 regarding the above matter.

Pursuant to the following item or items of Schedule 7 of the *Sustainable Planning Regulation 2009*, Powerlink Queensland is an advice agency for the above development application:

- Item 7, Table 3 of Schedule 7 of the *Sustainable Planning Regulation 2009* (a material change of use in certain circumstances);

Powerlink Queensland acting as an advice agency under the *Sustainable Planning Act 2009* provides its response to the above application as **attached**.

The assessment manager is to treat the response as a properly made submission.

Yours sincerely

  
Brandon Kingwill  
PROPERTY SERVICES MANAGER

VIEW	PLAN/DEV	AGENDA	
		DATE	
NOTED		APPLIC #	CONS14/0028
TENDER		PROP #	
ACTION		LAND #	13050
DEADLINE		7930	7993

Enquiries: Cecily Weld

Telephone: (07) 3866 1307

33 Harold Street, Virginia  
PO Box 1193, Virginia, Queensland 4014, Australia  
Telephone: (07) 3860 2111 Facsimile: (07) 3860 2100  
Website: www.powerlink.com.au



**ADVICE AGENCY'S RESPONSE**  
**Sections 291 and 292**  
**of the Sustainable *Planning Act 2009***

**RESPONSE TO DEVELOPMENT APPLICATION**

Powerlink Queensland, acting as an advice agency under the *Sustainable Planning Act 2009* provides its response to the above application.

The advice agency's response is that:

this application should be approved **subject to the following conditions:**

1. Compliance with the terms and conditions of easement dealing nos. 700599560, 700599560, 700597656, 700597647.
2. Compliance with the generic requirements in respect to proposed works in the vicinity of Powerlink Queensland infrastructure as detailed in the enclosed Annexure "A".
3. Any variation to the works as detailed in the enclosed copies of the submitted Drawing Figure 6 General Layout Dwg No 14001 Issue A.
4. This advice is valid for a period of 2 years from the date of this response, should the development not be initiated within that period, the applicant should resubmit the application for re-consideration.
5. This response **does not constitute an approval to commence any works within the transmission line corridor**. While Powerlink Queensland has no 'in principle' objection to the works, and the works are largely off easement, any works on easement, in particular the access road which traverses Powerlink's easement, will require detailed final design submissions, assessments and approvals (or otherwise) by Powerlink Queensland. We would prefer this information to be submitted in electronic format 3D DXF of final design RL's AHD and MGA GDA94 in applicable zone. The design of the access road can be submitted as a co-use application. This application can be made online, or via a submission to [propsearch@powerlink.com.au](mailto:propsearch@powerlink.com.au). Please refer to Powerlink's website for further information.
6. Compliance with the *Electrical Safety Act 2002* ("the Act") including any Code of Practice under the Act and the *Electrical Safety Regulation 2013* ("the Regulation") including any safety exclusion zones defined in the Regulation.

In respect to this application the exclusion zone for untrained persons and for operating plant operated by untrained persons is **three (3) metres** from the **132,000-volt** wires and exposed electrical parts.

Should any doubt exist in maintaining the prescribed clearance to the conductors and electrical infrastructure, then the applicant is obliged under the Act to seek advice from Powerlink Queensland.

7. In order for Powerlink Queensland to maintain and operate a safe and reliable supply of electricity, we require unrestricted 24-hour access to our infrastructure.

Typically such access must be suitable for a 4WD vehicle but to a standard no less than existing.

If it is envisaged that there will be any interference to our current access arrangements; we require that the applicant contacts our Maintenance Service Provider: Peter Gorrie ph (07) 4789 5037 to formalise unrestricted 24-hour access arrangements for Powerlink Queensland.

Enclosures:-

- \* Annexure "A"
- \* Drawing Figure 6 General Layout Dwg No 14001 Issue A

**ANNEXURE A – GENERIC REQUIREMENTS**

The conditions contained in this Annexure have been compiled to assist persons (the applicant) intending to undertake work within the vicinity of high-voltage electrical installations and infrastructure owned or operated by Powerlink. The conditions are supplementary to the provisions of the Electrical Safety Act 2013, Electrical Safety Regulations 2013 and the Terms and Conditions of Registered Easements and other forms of Occupational Agreements hereinafter collectively referred to as the "Easement". Where any inconsistency exists between this Annexure and the Easement, the Easement shall take precedence.

**1. POWERLINK INFRASTRUCTURE**

You may not do any act or thing which jeopardises the foundations, ground anchorages, supports, towers or poles, including (without limitation) inundate or place, excavate or remove any soil, sand or gravel within a distance of twenty (20) metres surrounding the base of any tower, pole, foundation, ground anchorage or support.

**2. STRUCTURES**

No structures should be placed within twenty (20) metres of any part of a tower or structure foundation or within 5m of the conductor shadow area. Any structures on the easement require prior written consent from Powerlink.

**3. EXCLUSION ZONES**

Exclusion zones for operating plant are defined in Schedule 2 of the Electrical Safety Regulation 2013 for Untrained Persons. All Powerlink infrastructure should be regarded as "electrically live" and therefore potentially dangerous at all times.

In particular your attention is drawn to Schedule 2 of the Electrical Safety Regulation 2013 which defines exclusion zones for untrained persons in charge of operating plant or equipment in the vicinity of electrical facilities. If any doubt exists in meeting the prescribed clearance distances from the conductors, the applicant is obliged under this Act to seek advice from Powerlink.

**4. ACCESS AND EGRESS**

Powerlink shall at all times retain the right to unobstructed access to and egress from its infrastructure. Typically, access shall be by 4WD vehicle.

**5. APPROVALS (ADDITIONAL)**

Powerlink's consent to the proposal does not relieve the applicant from obtaining statutory, landowner or shire/local authority approvals.

**6. MACHINERY**

All mechanical equipment proposed for use within the easement must not infringe the exclusion zones prescribed in Schedule 2 of the Electrical Safety Regulation 2013. All operators of machinery, plant or equipment within the easement must be made aware of the presence of live high-voltage overhead wires. It is recommended that all persons entering the Easement be advised of the presence of the conductors as part of on site workplace safety inductions. The use of warning signs is also recommended.

**7. EASEMENTS**

All terms and conditions of the easement are to be observed. Note that the easement takes precedence over all subsequent registered easement documents. Copies of the easement together with the plan of the Easement can be purchased from the Department of Environment & Resource Management.

**8. EXPENDITURE AND COST RECOVERY**

Should Powerlink incur costs as a result of the applicant's proposal, all costs shall be recovered from the applicant.

Where Powerlink expects such costs to be in excess of \$10 000.00, advanced payments may be requested.

**9. EXPLOSIVES**

Blasting within the vicinity (500 metres) of Powerlink infrastructure must comply with AS 2187. Proposed blasting within 100 metres of Powerlink infrastructure must be referred to Powerlink for a detailed assessment.

**10. BURNING OFF OR THE LIGHTING OF FIRES**

We strongly recommend that fires not be lit or permitted to burn within the transmission line corridor and in the vicinity of any electrical infrastructure placed on the land. Due to safety risks Powerlink's written approval should be sought.

**11. GROUND LEVEL VARIATIONS****Overhead Conductors**

Changes in ground level must not reduce statutory ground to conductor clearance distances as prescribed by the Electrical Safety Act 2013 and the Electrical Safety Regulations 2013.

**Underground Cables**

Any change to the ground level above installed underground cable is not permitted without express written agreement of Powerlink.

**12. VEGETATION**

Vegetation planted within an easement must not exceed 3.5 metres in height when fully matured. Powerlink reserves the right to remove vegetation to ensure the safe operation of the transmission line and, where necessary, to maintain access to infrastructure.

**13. INDEMNITY**

Any use of the Easement by the applicant in a way which is not permitted under the easement and which is not strictly in accordance with Powerlink's prior written approval is an unauthorised use. Powerlink is not liable for personal injury or death or for property loss or damage resulting from unauthorised use. If other parties make damage claims against Powerlink as a result of unauthorised use then Powerlink reserves the right to recover those damages from the applicant.

**14. INTERFERENCE**

The applicant's attention is drawn to s.230 of the Electricity Act 1994 (the "Act"), which provides that a person must not wilfully, and unlawfully interfere with an electricity entity's works. "Works" are defined in s.12 (1) of the Act. The maximum penalty for breach of s.230 of the Act is a fine equal to 40 penalty units or up to 6 months imprisonment.

**15. REMEDIAL ACTION**

Should remedial action be necessary by Powerlink as a result of the proposal, the applicant will be liable for all costs incurred.

**16. OWNERS USE OF LAND**

The owner may use the easement land for any lawful purpose consistent with the terms of the registered easement; the conditions contained herein, the Electrical Safety Act 2013 and the Electrical Safety Regulations 2013.

**17. ELECTRIC AND MAGNETIC FIELDS**

Electric and Magnetic Fields (EMF) occur everywhere electricity is used (e.g. in homes and offices) as well as where electricity is transported (electricity networks).

Powerlink recognises that there is community interest about Electric and Magnetic Fields. We rely on expert advice on this matter from recognised health authorities in Australia and around the world. In Australia, the Federal Government agency charged with responsibility for regulation of EMFs is the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). ARPANSA's *Fact Sheet – Magnetic and Electric Fields from Power Lines*, concludes:

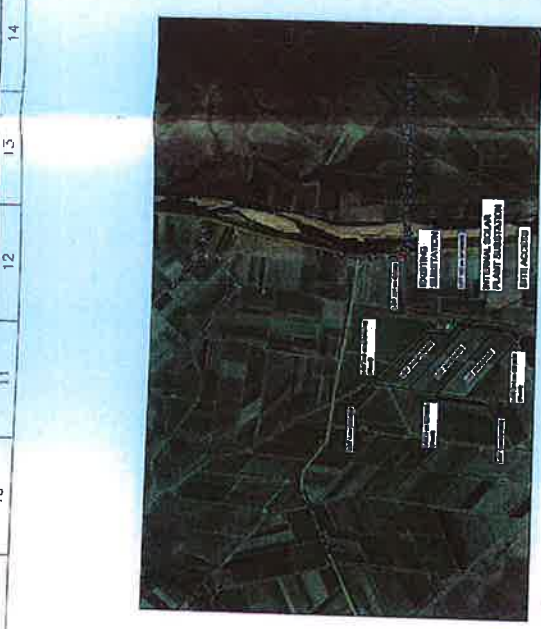
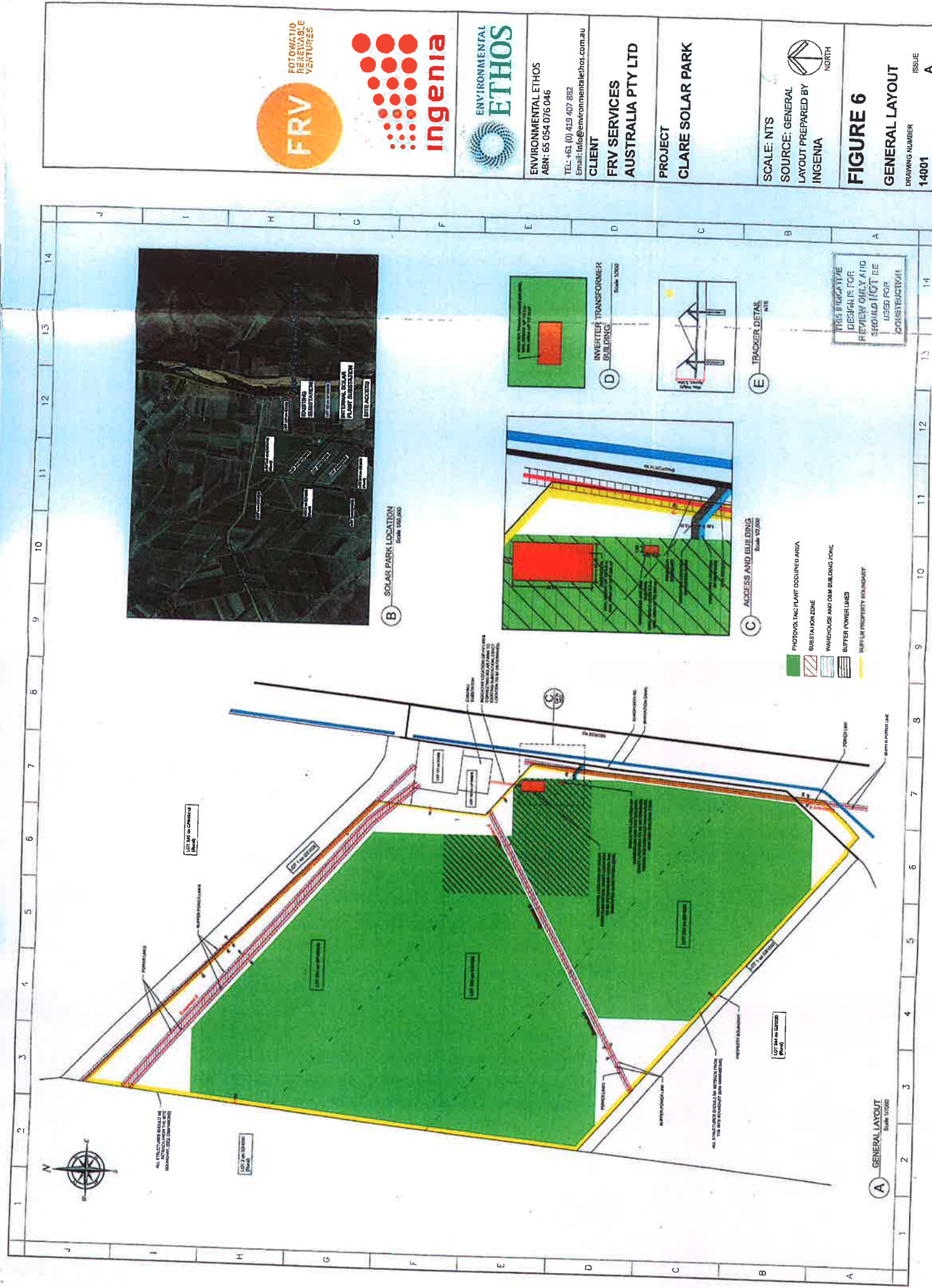
*"On balance, the scientific evidence does not indicate that exposure to 50Hz EMF's found around the home, the office or near powerlines is a hazard to human health."*

Whilst there is no scientifically proven causal link between EMF and human health, Powerlink nevertheless follows an approach of "*prudent avoidance*" in the design and siting of new powerlines. This includes seeking to locate new powerline easements away from houses, schools and other buildings, where it is practical to do so and the added cost is modest.

The level of EMF decreases rapidly with distance from the source. EMF readings at the edge of a typical Powerlink easement are generally similar to those encountered by people in their daily activities at home or at work. And in the case of most Powerlink lines, at about 100 metres from the line, the EMF level is so small that it cannot be measured.

Powerlink is a member of the ENA's EMF Committee that monitors and compiles up-to-date information about EMF on behalf of all electricity network businesses in Australia. This includes subscribing to an international monitoring service that keeps the industry informed about any new developments regarding EMF such as new research studies, literature and research reviews, publications, and conferences.

We encourage community members with an interest in EMF to visit ARPANSA's website: [www.arpansa.gov.au](http://www.arpansa.gov.au) Information on EMF is also available on the ENA's website: [www.ena.asn.au](http://www.ena.asn.au)



 <b>FRV</b> FOTOMATIO RENEWABLE VENTURES	 <b>ingenia</b>	 <b>ENVIRONMENTAL ETHOS</b>	<b>ENVIRONMENTAL ETHOS</b> ABN: 65 034 076 046 TEL: +61 (0) 419 407 882 Email: info@environmentalethos.com.au	<b>CLIENT</b> <b>FRV SERVICES AUSTRALIA PTY LTD</b>	<b>PROJECT</b> <b>CLARE SOLAR PARK</b>	<b>SCALE: NTS</b> <b>SOURCE: GENERAL LAYOUT PREPARED BY INGENIA</b>	 NORTH	<b>FIGURE 6</b> <b>GENERAL LAYOUT</b> DRAWING NUMBER <b>14001</b>	ISSUE <b>A</b>
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THIS ITERATIVE DESIGN FOR REVIEW ONLY AND SHOULD NOT BE USED FOR CONSTRUCTION!

-  PHOTOVOLTAIC PLANT OCCUPIED AREA
-  SUBSTATION ZONE
-  WAREHOUSE AND O&M BUILDING ZONE
-  BUFFER POWER LINES
-  NEIGHBOURHOOD PROPERTY BOUNDARY

**A GENERAL LAYOUT**  
Scale 1:10,000

**B SOLAR PARK LOCATION**  
Scale 1:50,000

**D INVERTER TRANSFORMER BUILDING**  
Scale 1:500

**E TRACKER DETAIL**  
NITE

**C ACCESS AND BUILDING**  
Scale 1:2,000



## Attachment 2 – SPA Extract Appeal Rights

### SUSTAINABLE PLANNING ACT 2009, IDAS DEVELOPMENT APPLICATION

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

#### **MATERIAL CHANGE OF USE, RECONFIGURING A LOT & OPERATIONAL WORKS**

#### **Division 8 Appeals to court relating to development applications and approvals**

##### **461 Appeals by applicants**

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

##### **462 Appeals by submitters—general**

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

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

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

##### **464 Appeals by advice agency submitters**

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

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

**465 Appeals about decisions relating to extensions for approvals**

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

**466 Appeals about decisions relating to permissible changes**

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

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

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