

SPECIAL CAP MEETING – 20 DECEMBER 2023**ITEM 8.1**

DEVELOPMENT NO.:	23025290
APPLICANT:	YES Group (SA)
ADDRESS:	LOT 16 WARREN RD BIRDWOOD SA 5234
NATURE OF DEVELOPMENT:	Variation to the site layout plan for the Solar Farm development in DA 473/530/20 [Solar farm (4.98MW), comprising ground mounted solar arrays (maximum height 2.9m), battery storage containers (4MW), inverters, switchboards and associated decks, temporary site office, storage building & associated car parking, fencing (maximum height 2.3m), landscaping & signage]
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Productive Rural Landscape <p>Overlays:</p> <ul style="list-style-type: none"> • Traffic Generating Development • Urban Transport Routes • Water Resources • Environment and Food Production Area • Hazards (Flooding) • Hazards (Bushfire - Medium Risk) • Hazards (Flooding - Evidence Required) • Limited Land Division • Mount Lofty Ranges Water Supply Catchment (Area 2) • Native Vegetation • Prescribed Water Resources Area
LODGEMENT DATE:	29 Aug 2023
RELEVANT AUTHORITY:	Assessment Panel
PLANNING & DESIGN CODE VERSION:	2023.12 - 17 August 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Melanie Scott Senior Statutory Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

ATTACHMENT 1: Application Documents

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Representation Map

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DETAILED DESCRIPTION OF PROPOSAL:

This application is a variation to the previously approved solar farm described as a variation to the site layout plan for the Solar Farm development in DA 473/530/20:

- Solar farm (4.98MW)
- comprising ground mounted solar arrays (maximum height 2.9m)
- battery storage containers (4MW)
- inverter
- switchboards and associated decks
- temporary site office
- associated car parking
- fencing (maximum height 2.4m)
- landscaping
- signage

In particular the solar farm variation has resulted in the following amendments to the proposal:

- The site coverage of the solar farm has been reduced from 13 hectares to 10 hectares.
- The number of tracker stands has reduced from 1800 to 1547.
- No tracker stands (pylons) are proposed in the minor watercourse on the property.
- The number of battery storage units has been reduced from 5 units to 2 units as has their actual size. Previously proposed units were 6m x 15m x 3m high (90m²) to those now proposed at 2.4m x 12m x 2.7m high (28m²).
- The number of inverters has been reduced from 2 to 1 dimensioned at 12m x 2.4m x 2.7m high. This is larger than the two originally proposed and equates to a similar built form.
- The capacity of the solar farm has reduced slightly from 4.98mw to 4.95mw.
- The setback of the proposal from both Torrens Valley and Warren Road has changed.
- The temporary site office (15m²) is on site for approximately 15 weeks, during the construction period only and is not technically development but is described here for clarity.
- Landscaping is proposed in accordance with the plan prepared by Space Landscape Design. Preparation of a Landscaping Plan by a suitably qualified landscape architect was a reserved matter in the Court Order resulting from the third party appeal of the original planning consent. The landscaping as proposed with the variation application is generally on property boundaries except for the north-eastern boundary of the solar field where the landscaping is proposed mid pasture and 10m from the solar arrays. The landscaping is generally 10m wide and was originally proposed as tube stock. In response to the representations on the variation application the applicant now proposes trees identified in the Plant Schedule – Native Mix Type 2 (Drooping Sheoak and Cup Gum) as a mix of 45litre and 25litre pots, not tube stock. The more mature plantings in Plant Schedule – Native Mix Type 2 (Drooping Sheoak and Cup Gum) will provide a more immediate screening effect at the time of planting when viewed from the public realm. Additionally, there is a wider landscape zone proposed at the corner of Winton Rd and Torrens Valley Road.
- The security fence proposed is 2.4m high black PVC coated chain mesh. Previously it was galvanised chain mesh.

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The signage proposed remains unchanged and is located at the entrance gate and includes project details, site contact, emergency details and safety considerations.

As a minimum a 10m asset protection buffer is proposed between the proposed landscaping and the solar arrays.

Whilst not development it is noted the previous plan included connection of the solar infrastructure to an existing SAPN power pole on Torrens Valley Road. The amended proposal indicates an upgraded power pole to be confirmed with connection on Winton Road, adjacent the proposed site access.

The most noticeable difference from the original application to this amended proposal is the set back of the project from TORRENS VALLEY ROAD. The previous layout was on average 100m from TORRENS VALLEY ROAD and had a large solar field adjacent Warren Rd. The original approval did not see any tracker stands in the vicinity of the minor watercourse on the land. The variation as notified averages a 20m setback to TORRENS VALLEY ROAD. The proposed variation for CAP consideration has been further set back from TORRENS VALLEY ROAD in response to representations and Council feedback to an average of 33 metres. As stated, the proposed infrastructure does cross the minor watercourse on the land but no tracker stands are proposed in the minor watercourse. There are two larger eucalypts in the middle of the proposed solar field which will have a tree protection zone and are to be retained.

BACKGROUND:

The subject land is one parcel known as lot 16 part section 6597 Warren Road Birdwood and has no development history prior to the solar farm application detailed in the table below. Application 20/530 was approved with conditions by the Adelaide Hills Council Assessment Panel on 21 October 2021 and subject to a third party appeal in the ERD Court. The CAP documents associated with the original application form separate attachments to this report and attachments and are available for the CAP to view. In the time since the original approval the planning regime has changed and the solar farm variation is assessed against the Planning and Design Code, rather than Adelaide Hills Council Development Plan. Amended conditions were agreed 4 February 2021. There have been two extensions of time on the planning consent and the current expiry date is 21 April 2024.

The resolution of the ERD Court is as follows:

1. The appeal be allowed for the limited purpose of amending the conditions of development plan consent.
2. Condition 1 of the development plan consent granted by the Adelaide Hills Council on 21 October 2020 numbered 20/530/473 ('development plan consent') be amended to delete the words "Birdwood Solar Farm amended Landscaping Plan prepared by Tetris Energy dated 14 September 2020 and date stamped by Council Amended 14 September 2020.
3. Condition 3 of the development plan consent be amended to include after the words "traffic and access" the words "including, but not restricted to the impact of dust and noise on nearby residents, damage to the existing road and safety issues arising out of the construction of the development".
4. Condition 8 of the development plan consent be amended to delete the words "first year to allow landscaping to become established and henceforth", and to replace them with the words "first three years or such other period (whether longer or shorter) until the vegetation is established and, thereafter".
5. A reserved matter be added to the development plan consent in the words: "Pursuant to section 33(3) of the Development Act 1993, the following matter shall be reserved for further assessment, to the satisfaction of the Council, prior to the granting of full development approval: The Applicant shall engage a suitably qualified landscape architect and provide to the Council a landscaping plan that minimises the visual impact of the proposed

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development as viewed from the public sphere to the Council's reasonable satisfaction. The landscaping plan should, where possible, incorporate:

- use of evergreen species
- vegetation screening along the northern side of the solar array to reduce visibility along Warren Road
- stock/wildlife exclusion fencing to protect newly planted vegetation and to aid establishment

6. The Appeal is otherwise dismissed and the Council's decision to grant development plan consent to development number 20/530/473 is affirmed.

The reserved matter has been addressed as part of this variation application and suggested conditions will include the matters detailed by the ERD Court Order.

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
4 February 2021	20-530	Solar farm (4.98MW), comprising ground mounted solar arrays (maximum height 2.9m), battery storage containers (4MW), inverters, temporary site office, storage building & associated car parking, fencing (maximum height 2.3m) & signage (non-complying)

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: LOT 16 WARREN RD BIRDWOOD SA 5234

Title ref.: CT 5460/130 **Plan Parcel:** D13143 AL16 **Council:** ADELAIDE HILLS COUNCIL

The land forms part of a large rural land holding with multiple parcels which extends more than 3 kilometres north on Warren Road to Martin Hill Road. The subject land is approximately 51 hectares in area and is bisected by the Torrens River meandering roughly from the north-eastern corner to the south-western corner. The portion of the land on the southern side of the river is gently undulating. The land on the northern side of the river is steeply sloped. The riverbanks are lined with eucalypts and there are eucalypts dotted around the subject land. The land is bounded to the south by Torrens Valley Road and to the east by Warren Road. In addition to the Torrens River, there are two minor watercourses on the land, all forming part of the Torrens River catchment. The Torrens River is flood mapped on the north-eastern portion of the land at or close to the boundary. There are two bores located on the land and some fencing. The land has historically been used for grazing and contains no buildings.

Locality

Torrens Valley Road was a designated scenic route in the Development Plan, a planning reference which does not exist in the P&D Code. The road is under the care and control of the Department for Infrastructure and Transport. All adjoining land is located within the same zone, being the Productive Rural Landscape zone. Land holdings to the north, south and west are generally larger holdings with some smaller rural lifestyle allotments interspersed. The smaller lifestyle allotments are clustered on Winton Road to the west of the subject land and in the south-western corner across Torrens Valley Road. The land to the east and south-east of Warren Road contains smaller holdings in the same zone, one of which is the Local Heritage listed Lutheran Church and Manse. The western-most boundary of the township of Birdwood is some 180 metres to the east of the subject land. The proposed access is approximately 90 metres from the intersection of Winton and Torrens Valley Roads. The site was chosen for its proximity to the existing 33kV overhead transmission line running from the solar farm's proposed Sub-Station to the existing SAPN Angas Creek – Tungkillo 33kV electricity distribution line.

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CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Solar farm: Code Assessed - Performance Assessed
Fence: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Not listed as an exemption and not deemed minor.
- **LIST OF REPRESENTATIONS**

Representor Name	Representor's Property Address	Wishes to be heard (Y/N)	Nominated Speaker (if relevant)
Rhiannon North	1977 Warren Road Birdwood	No	N/A
Matthew Sackey	31 Winton Road Birdwood	Yes	Matthew Sackey

- **SUMMARY**
A copy of the representations are included as **Attachment 4 – Representations** and the applicant's response is provided in **Attachment 5 – Response to Representations**.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Council Engineering
Council Biodiversity

PLANNING ASSESSMENT

Desired outcomes

Desired outcomes are policies designed to aid the interpretation of performance outcomes by setting a general policy agenda for a zone, subzone, overlay or general development policies module. Where a relevant authority is uncertain as to whether or how a performance outcome applies to a development, the desired outcome(s) may inform its consideration of the relevance and application of a performance outcome, or assist in assessing the merits of the development against the applicable performance outcomes collectively.

Performance outcomes

Performance outcomes are policies designed to facilitate assessment according to specified factors, including land use, site dimensions and land division, built form, character and hazard risk minimisation.

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Designated performance features

In order to assist a relevant authority to interpret the performance outcomes, in some cases the policy includes a standard outcome which will generally meet the corresponding performance outcome (a designated performance feature or DPF). A DPF provides a guide to a relevant authority as to what is generally considered to satisfy the corresponding performance outcome but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

The variation application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Attachment 6 – Relevant P&D Code Policies**.

Productive Rural Landscape Zone:

Desired Outcomes	
DO 1	A diverse range of land uses at an appropriate scale and intensity that capitalise on the region's proximity to the metropolitan area and the tourist and lifestyle opportunities this presents while also conserving the natural and rural character, identity, biodiversity and sensitive environmental areas and scenic qualities of the landscape.
DO 2	A zone that promotes agriculture, horticulture, value adding opportunities, farm gate businesses, the sale and consumption of agricultural based products, tourist development and accommodation that expands the economic base and promotes its regional identity.
DO 3	Create local conditions that support new and continuing investment while seeking to promote co-existence with adjoining activities and mitigate land use conflicts.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 Siting and Design PO2.2/DPF2.2 Renewable Energy Facilities PO10.1, 10.2	

The solar farm is considered as value adding to primary production land and in any event is not considered sensitive to the use of the land for primary production as it will not prejudice the use of the land for grazing. Further, the land is gently undulating ensuring the proposal minimises the need for any earthworks other than pile driving.

PO 10.2 suggests small scale solar facilities support rural production or value adding industries however the proposal is by no definition small scale with an area of 10ha, and the proposal does not accord with PO 10.2. This will be further discussed in General Development Policies, Infrastructure and Renewable Energy.

The proposed solar farm minimises fragmentation of the land being contained to one portion of the subject land, near a boundary and with the intent of continued grazing, it is not considered to displace existing primary production and the proposal meets PO 10.1.

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Overlays:

Traffic Generating Development

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes and Major Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from urban transport routes and major urban transport routes.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.2	

Access to the solar farm is from Winton Road, a Council road, with good separation from Torrens Valley Road which is an urban transport route.

Urban Transport Routes

Desired Outcomes	
DO1	Safe and efficient operation of Urban Transport Routes for all road users.
DO2	Provision of safe and efficient access to and from Urban Transport Routes.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO2.1, 5.1, 6.1, 7.1	

The proposed access has been considered by Council engineering staff and noting there is an 8m verge adjacent the proposed access from Winton Rd and a further 100m to the proposed secure site entry the site is considered to offer sufficient onsite queuing during construction and provides in excess of the occasional maintenance visits expected to the site. Engineering staff have indicated sight lines are adequate and the proposed crushed rubble surface to an unsealed road is suitable. Council engineering requires a piped cross over to ensure road-side drainage is uninterrupted.

Water Resources

Desired Outcomes	
DO1	Protection of the quality of surface waters considering adverse water quality impacts associated with projected reductions in rainfall and warmer air temperatures as a result of climate change.
DO2	Maintain the conveyance function and natural flow paths of watercourses to assist in the management of flood waters and stormwater runoff.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, 1.2, 1.5, 1.6, 1.8	

There is a minor water course (no defined bed or banks) which traverses the solar farm from a south-east location adjacent Torrens Valley Road to the Onkaparinga River in the north-western portion of the site. Informal consultation with the Mount Lofty Ranges Landscape Board confirmed the watercourse is ephemeral and the placement of pylons either side of the watercourse is acceptable. It is unlikely the pylons will change the hydrology of the land (PO1.1) and a box culvert in the watercourse under the security fence will enable the watercourse to operate when it is wet (PO1.2). The solar farm does not propose clearing the land, rather the driving of pylons which makes any change in the volume or quality of water run-off from the land very limited (POs 1.5, 1.6 & 1.8).

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Environment and Food Production Area

Desired Outcomes	
DO1	Protection of valuable rural, landscape, environmental and food production areas from urban encroachment.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO 1.1	

This Overlay is not relevant to the proposal as PO1.1 relates to land division.

Hazards (Flooding)

Desired Outcomes	
DO1	Impacts on people, property, infrastructure and the environment from high flood risk are minimised by retaining areas free from development, and minimising intensification where development has occurred.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use PO2.1, 2.2 Flood Resilience PO3.1, 3.2, 3.3, 3.4, 3.5/DPF3.5 (d), PO3.6/DPF3.6	

None of the proposed development is in the flood mapped portion of the site and no portion of the solar farm is closer than 55 metres to the adjacent Onkaparinga River (POs 3.4 & 5). The proposed works are not expected to have any impact on flooding for adjacent land owners (PO3.2) as it proposes post only construction and the chain mesh fence proposes mitigation in the form of a box culvert under the fence in the watercourse (PO3.3). It is noted DPF3.6 suggests a post and wire fence (other than a chain mesh fence) however the proposed box culvert is considered adequate for the ephemeral watercourse which transects the solar farm. In accordance with PO 3.1 no flood protection works are required.

Hazards (Bushfire - Medium Risk)

Desired Outcomes	
DO1	Development, including land division responds to the medium level of bushfire risk and potential for ember attack and radiant heat by siting and designing buildings in a manner that mitigates the threat and impact of bushfires on life and property taking into account the increased frequency and intensity of bushfires as a result of climate change.
DO2	To facilitate access for emergency service vehicles to aid the protection of lives and assets from bushfire danger.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1 Built Form PO2.1 Vehicle Access PO5.1/DPF5.1	

The solar farm is in a medium bush fire risk area and has clearance from existing vegetation on site. It also has a minimum 10 metre clearance from the proposed vegetation minimising the risk from bushfire. Whilst not buildings in the traditional sense, the proposed solar farm minimises the potential for trapping of debris given the general open nature of the solar farm. The applicant advises the following with regards to bushfire management: *"Grazing subject to agreement with the landowners. The YES Group have a standard Bushfire Management Plan and these are reviewed for each project to align with specific development conditions. Ground maintenance is described in our Operation Management plans that will be drafted by the construction"*

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team prior to mobilisation. The leased area, asset protection zones and vegetation screening areas are all maintained by slashing and/or cultivating soil. There is to be no site access on catastrophic fire days”.

Proposed access to the site meets CFS standards and accords with PO 5.1 and DPF 5.1.

Hazards (Flooding - Evidence Required)

Desired Outcomes	
DO1	Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Land Use PO 2.1 Flood Resilience PO3.1, 3.2, 3.3, 3.4, 3.6	

The proposal is on a portion of the land which is not flood mapped so no evidence was requested. See comments in the Hazards (Flooding) Overlay.

Limited Land Division

Desired Outcomes	
DO1	The long term use of land for primary production is maintained by minimising fragmentation through division of land.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	

This Overlay is not relevant to the proposal as it is not for a land division.

Mount Lofty Ranges Water Supply Catchment (Area 2)

Desired Outcomes	
DO1	Safeguard Greater Adelaide’s public water supply by ensuring development has a neutral or beneficial effect on the quality of water harvested from secondary reservoirs or diversion weir catchments from the Mount Lofty Ranges.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Water Quality PO1.1, 1.2 Landscapes and Natural Features PO4.1	

The proposal does not meet any of the triggers for referral to the EPA and does not propose contaminating activities. A construction management plan is required to ensure that water quality run off is appropriately managed during construction which is the stage which has potential to impact on the quality of water draining from the site. Overall, the proposal is considered to have a neutral effect on the quality of water draining from the site. As referenced elsewhere in this report the use of piles driven into the ground and the placement of the site “facilities” on arguably the most level portion of the site results in minimal modification of the landscape.

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Native Vegetation

Desired Outcomes	
DO1	Areas of native vegetation are protected, retained and restored in order to sustain biodiversity, threatened species and vegetation communities, fauna habitat, ecosystem services, carbon storage and amenity values.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Environmental Protection PO1.1, 1.2, 1.4	

The site chosen is largely devoid of vegetation other than pasture. Two eucalypts mid field, both pasture and solar, are proposed to be protected ensuring the proposal accords with PO1.1. Given the subject land is pasture there are no recorded significant wild life habitat, movement corridors, rare plant species and the proposal is considered to accord with PO1.2. Further, the proposed buffer is considered an investment in native vegetation as envisaged in PO1.4 using extensive indigenous plantings in the proposed buffers.

Prescribed Water Resources Area

Desired Outcomes	
DO1	Sustainable water use in prescribed surface water resources areas maintains the health and natural flow paths of watercourses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1	

This Overlay is not relevant to the proposal as the DTS/DPF criteria relate to activities that require water allocation licences from Landscape South Australia such as horticulture, forestry and new dams or alterations to existing dams.

General Development Policies

Clearance From Overhead Powerlines

Desired Outcomes	
DO1	Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1	

The applicant has completed the on-line declaration as follows: “under Clause 6(1) of Schedule 8 of the *Planning, Development and Infrastructure (General) Regulations 2017*, that the proposed development will involve the construction of a building which would, if constructed in accordance with the plans submitted, not be contrary to regulations prescribed for the purposes of section 86 of the Electricity Act 1996.”

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Design

Desired Outcomes	
DO1	Development is: (a) contextual - by considering, recognising and carefully responding to its natural surroundings or built environment and positively contributes to the character of the immediate area (b) durable - fit for purpose, adaptable and long lasting (c) inclusive - by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access, and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, for occupants and visitors (d) sustainable - by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
Landscaping 3.1, 3.2, Water Sensitive Design PO5.1, Fences and Walls PO 9.1, Ancillary Development PO13.4/DPF13.4, Access PO 19.4/DPF19.4	

The proposed landscaping has been designed to contribute to biodiversity by using plants included in Council’s own list of recommended plantings (PO3.2) and enhance the appearance of the solar farm from the surrounding roads as required in PO3.1 (d) and (e). As discussed elsewhere in this report the pylon (tracker stand) construction and proposed security fence box culvert ensure the proposal does not impact on natural hydrological systems in accordance with PO5.1. On advice from a landscape architect the security fence has been proposed to be finished in black pvc coated security chain mesh to assist in minimising the impact of the fence on visual amenity which is considered in accordance with PO9.1. The proposed support structures (batteries, inverters) are a primer grey colour which will further assist in minimising impact on the amenity of the locality and as such meet PO13.4. As discussed elsewhere, with the exception of construction, there is not expected to be more than one small van on site for maintenance and there is ample parking and turnaround on site distant from property boundaries in accordance with PO19.4.

Infrastructure and Renewable Energy Facilities

Desired Outcomes	
DO1	Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.1, Visual Amenity PO2.1, 2.2, 2.3, Rehabilitation PO3.1, Hazard Management PO4.1,4.2,4.3, Electricity Infrastructure and Battery Storage Facilities PO5.1, 5.3, Renewable Energy Facilities PO7.1, Renewable Energy Facilities (Solar Power) PO9.1, 9.2,9.3/DPF 9.3, PO9.4, Temporary Facilities PO13.1, 13.2	

Representors have argued the proposal is a hazard and nuisance to adjacent development and land uses largely on the grounds of visual amenity. There is existing vegetation on the eastern and southern property boundaries, some of which is deciduous (PO2.1).

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The applicant proposes a 10m wide landscape strip on the eastern boundary of the solar farm along Torrens Valley Road. The landscaping is along the roadside, with the solar farm security fence amended to have a setback 33 metres for a 100 metre section from the intersection of Warren and Torrens Valley Roads. This setback along the southern boundary has been amended in response to representations and planning staff feedback. The proposal as amended is considered to meet PO1.1. As the solar farm footprint increases northerly into the site the setback from Warren Road increases to over 200 metres from Warren Road. The increased setback from Warren Road is a significant change and landscaping is no longer proposed parallel to Warren Road.

Along the southern boundary of the site and the proposed solar farm, the minimum set back to the security fence from the boundary is 33 metres with the solar arrays another 10 metres from the fence. The solar arrays are thus set back a minimum of 43 metres from the southern boundary. The proposed 10 metre landscaping is increased to 50 metres on the corner of Winton Road and Torrens Valley Road. This extends along the Winton Road frontage for a length of 43 metres. This is a reduced set back to that previously approved noting the Torrens Valley Scenic Route protections (100 metre setback) afforded this site in the Development Plan no longer exist in the Planning and Design Code. The final solar farm plan setbacks as described here is an increase to that proposed in the variation and to that notified in the original plans in 2020.

Further in response to representations the applicant has proposed a planting combination of three year old trees and other plants as tube stock in the landscaping. Whilst the landscaping was to be manually watered previously automated dripper line irrigation is now proposed to ensure the establishment of the landscaping. The applicant advised that the Operations and Maintenance team or contractor will be responsible for bringing water to the site to enable the watering of the landscaping.

It is considered the applicant has ensured the proposal meets the suggestions of PO2.1 in the Code when considering the infrastructure associated with the proposal is approximately 100 metres or more from Winton Road and will be screened from the west by existing large eucalypts on the land and from the south and east by the proposed landscaping.

With regards to cessation of the use a condition was proposed in the original consent and is included as (*Condition 9*) in the recommendation.

With regards to Hazard management the proposed access and fire setbacks are considered adequate to address fire risk.

The proposal is on grazing land largely devoid of native vegetation and biodiversity and the structures to support the solar farm are clustered together in the south-western area of the site but 80 metres from the southern boundary and over 100 metres from the western boundary. The structures are largely screened from this elevation by some existing mature eucalypts. For these reasons the proposal is considered to accord with POs 5.1.

The applicant has advised through extensive negotiations with SAPN the chosen site is as close as practicable to existing infrastructure (PO5.3). The varied site layout is likely to result in installation of a new power pole in the Winton Road Reserve but this is still to be confirmed. Previously the connection was to be made to an existing power pole on Torrens Valley Road.

POs 9.1, 9.2, 9.3 & and 9.4 relate particularly to solar renewable energy facilities. POs 9.1 & 9.2 have been addressed elsewhere in this report, noting the limited impact on native vegetation and the 2.4m high security fence will exclude most wildlife.

PO 9.3 is interesting in with suggested setbacks to townships in relation to both a solar farm footprint and generation capacity. Perhaps indicative of changes to technology, the variation proposal has decreased the footprint proposed significantly from 13 hectares to 10 hectares whilst losing only 3MW of generation capacity. DPF 9.3 suggests a 5MW array might be less than 8 hectares and should have a setback to the township of 500 metres. The amended proposal meets the 500metre setback on the solar farm output.

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However, given the size of the solar farm is 10 hectares the DPF guideline suggests a 1km setback which is not met.

The following image demonstrates a 500metre setback from the subject land boundaries not the solar facility. Attachment 3 of this report demonstrates the zone boundary, which is an irregular shape. The solar facility, at its closest point, is a minimum of 220m from the nearest township boundary and the site boundary is between 185m and 400m from the township boundary.



The solar farm is set back a minimum of 33metres from the eastern boundary and significant landscaping is proposed. On balance the proposal is considered to minimise the amenity impacts on the location as sought by PO 9.3, despite not meeting the guidelines provided in DPF 9.3. Recent ERD Court determinations have indicated DPFs are not absolutes.

As discussed at length in the report the proposed landscaping is considered to ensure the proposal meets PO 9.4.

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Interface between Land Uses

Desired Outcomes	
DO1	Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.2, 2.1, Solar Reflectivity/Glare PO7.1	

The set-backs, fencing and landscaping proposed are considered to minimise visual amenity impacts of the proposal for sensitive receivers on adjacent sites. With regard to other amenity impacts the proposed construction management plan requirement (**Condition 3**) plan is intended to assist with the major impact during construction. It is noted the total construction period is three months, with piling estimated to take ten days, fencing three days and mechanical installation approximately six weeks.

Representors had raised concerns with the reflective nature of solar panels. The applicant has responded that the arrays track the sun and they are designed to absorb rather than reflect and that any reflection is minimal. The solar panels also have an anti-reflective paint to minimise glare.

Transport Access and Parking

Desired Outcomes	
DO1	A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.
Performance Outcomes (PO) & Deemed to Satisfy (DTS)/Designated Performance Feature (DPF) criteria	
PO1.2, 1.2, 1.3, 1.4, Sightlines PO2.1, 2.2, Vehicle Access PO3.1, 3.2, 3.3, 3.4, 3.5, 3.8, 3.9	

Access has been approved by Council engineering as part of the previous application. Further a Construction Environmental Management Plan (CEMP) (**Condition 3**) will assist in managing the highest trafficable period for the site which is during construction.

CONCLUSION

The proposal is the first large solar farm in the Adelaide Hills Council area and the original “non-complying” proposal (2020) aroused a great deal of community interest. Solar farms were not considered in the Development Plan under which the original approval was assessed and determined. The Planning and Design Code does contemplate a broader description of renewable energy facilities and offers some guidance for assessing solar farms.

There have been a number of versions of the solar farm layout in response to planning staff and representor concerns. Amongst representor concerns visual amenity, glare and the industrial nature of the proposal remain at the forefront along with ensuring the amendments to conditions secured through the ERD Court process are complied with.

Council staff are satisfied the proposed landscaping prepared by a Landscape Architect meets the ERD Court order requirements and will assist in reducing the impact of the solar farm on visual amenity in the locality. Of note the amendments proposed by the applicant since public notification include:

- more mature plantings on all sides of the proposal
- extended landscape watering
- increased boundary setbacks to Warren and Torrens Valley Road

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Council staff accept the applicant's assertions with regards to glare and note the tracker stands (pylons) are trackers which follow the sun, reducing the opportunity for glare and, the object of a solar farm is to absorb not reflect. Given the setback to the main roads, the improved landscaping and the proposed continued use of the land for grazing purposes, the variation proposal is considered on balance to meet the aspirations and relevant provisions of the Planning and Design Code.

The variation proposal is sufficiently consistent with the relevant performance outcomes of the Planning and Design Code and it is considered that the proposal is not seriously at variance with the Planning and Design Code. In the view of staff, the proposal has sufficient merit to warrant planning consent. Staff therefore recommend that CAP **GRANT** Planning Consent, subject to conditions.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

- 1) Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and**
- 2) Development Application Number 23025290 by YES Group (SA) for variation to the site layout plan for the Solar Farm development in DA 473/530/20 [Solar farm (4.98MW), comprising ground mounted solar arrays (maximum height 2.9m), battery storage containers (4MW), inverters, switchboards and associated decks, temporary site office, storage building & associated car parking, fencing (maximum height 2.3m), landscaping & signage] at Lot 16 Warren Road Birdwood is GRANTED Planning Consent subject to the following conditions:**

CONDITIONS

Planning Consent

- 1) The development granted shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.**
- 2) The external finishes to the buildings (temporary site office, battery storage, inverters and fencing) herein approved shall be as follows:**

WALLS:	Colorbond Woodland Grey or similar
ROOF:	Colorbond Woodland Grey or similar
CHAIN MESH FENCE:	Black PVC or similar
- 3) A Construction Environmental Management Plan (CEMP) shall be submitted for approval by Council prior to the commencement of site works. The CEMP shall include specific management measures or plans for the following aspects:**
 - Air quality and dust;**
 - Traffic and access including, but not restricted to the impact of dust and noise on nearby residents, damage to the existing road and safety issues arising out of the construction of the development; and**
 - Waste management**

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- 4) An Operational Environmental Management Plan (OEMP) shall be submitted for approval by Council prior to the commencement of commercial operations. The OEMP shall include specific management measures or plans for the following environmental aspects:
 - Noise and vibration
 - Fire risk
 - Public safety
 - Storm water management
 - Vegetation management and irrigation
 - Emergency response planning
 - Complaints management
- 5) Exposed and/or cleared ground surfaces (as a result of construction activities) shall be reinstated and/or reseeded with appropriate ground cover as soon as practicable following substantial completion.
- 6) The operation of plant or equipment (approved herein) shall be designed and operated to comply with the *Environment Protection (Noise) Policy 2007*.
- 7) The portable toilet shall be removed from the site upon completion of the construction phase and prior to the commencement of the operational use of the development.
- 8) Within nine months of cessation of the solar farm use, the renewable energy infrastructure approved herein (including all arrays, associated equipment and structures, cabling, fencing, footings etc) shall be decommissioned and removed, with the land rehabilitated to its pre-development condition.
- 9) Landscaping and tree planting proposed in the Landscape Plan and Planting Plan Drawing Nos L-01 & L-02 Revision C prepared by Space Landscape Design and dated 07/12/2023 must be planted in the first spring after construction on the site commences. The landscaping must be regularly watered in the first three years or such other period (whether longer or shorter) until the vegetation is established and henceforth maintained, with any dead or dying plants to be removed and replaced, to the general satisfaction of Council.

ADVISORY NOTES

General Notes

- 1) No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.
- 2) Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.
- 3) This Planning Consent is valid for a period of twenty-four (24) months commencing from the date of the decision, subject to the below or subject to an extension having been granted by the relevant authority. If applicable, Building Consent must be obtained prior to expiration of the Planning Consent.
- 4) Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

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- 5) The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. The clearance of native vegetation includes the flooding of land, or any other act or activity that causes the killing or destruction of native vegetation, the severing of branches or any other substantial damage to native vegetation. For further information visit:

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.

- 6) Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.

OFFICER MAKING RECOMMENDATION

Name: Melanie Scott

Title: Senior Statutory Planner