

Development Consent

Section 4.38 of the *Environmental Planning & Assessment Act 1979*

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

These conditions are required to:

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



Mike Young
Executive Director
Energy, Resources and Compliance

Sydney

19 August 2020

SCHEDULE 1

Application Number:	SSD 9820
Applicant:	Maxwell Solar Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Land:	See Appendix 2
Development:	Maxwell Solar Farm

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DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Ancillary infrastructure	All project infrastructure with the exception of solar panels, including but not limited to collector substations, switching stations, permanent offices, battery storage and site compounds, electricity transmission lines and internal roads
Applicant	Maxwell Solar Pty Ltd, or any person who seeks to carry out the development approved under this consent
Battery storage	Large scale energy storage system
BCD	Biodiversity and Conservation Division within the Department
Cessation of operations	Operation of the development has ceased for a continuous period of 12 months
Conditions of this consent	Conditions contained in Schedules 1 to 4 inclusive
Construction	The construction of the development, including but not limited to the carrying out of any earthworks on site and the construction of solar panels and any ancillary infrastructure (but excludes maintenance works to the public road network, building/road dilapidation surveys, installation of fencing, artefact survey and/or salvage, overhead line safety marking and geotechnical drilling and/or surveying)
Council	Muswellbrook Shire Council
Decommissioning	The removal of solar panels and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning, Industry and Environment
Development	The development as described in the EIS
Development footprint	The area within the site on which the components of the project will be constructed (shown in Appendix 1)
DPIE Water	Water Group within the Department
EIS	The Environmental Impact Statement for Maxwell Solar Farm dated 10 December 2019, the Submissions Report dated 14 April 2020.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
FRNSW	Fire and Rescue NSW
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	A set of circumstances that causes or threatens to cause material harm to the environment
Material harm	Is harm that: <ul style="list-style-type: none"> • involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or • results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Medium and/or heavy rigid vehicle	A vehicle that has a combined Gross Vehicle Mass or Aggregate Trailer Mass of up to 30.0 tonnes and a maximum length of up to 12.5 metres.
Minister	Minister for Planning and Public Spaces, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent but is not an incident
Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
Over-dimensional vehicle	Over-mass and/or over-size/length vehicles
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, irrigation channels, drainage channels
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits

	provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
Secretary	Secretary of the Department, or nominee
Site	As shown in Appendix 1 and listed in Appendix 2
Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, materials storage compounds, maintenance workshops, material stockpiles, laydown areas and parking spaces
TfNSW	Transport for New South Wales
Upgrading	The augmentation and/or replacement of solar panels and ancillary infrastructure on site (excluding maintenance), in accordance with the conditions of this consent
Vehicle movement	One vehicle entering and leaving the site

SCHEDULE 2

ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

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

TERMS OF CONSENT

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

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

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

UPGRADING OF SOLAR PANELS AND ANCILLARY INFRASTRUCTURE

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

STRUCTURAL ADEQUACY

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

Notes:

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the development.*
- *Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.*

DEMOLITION

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

PROTECTION OF PUBLIC INFRASTRUCTURE

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

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

OPERATION OF PLANT AND EQUIPMENT

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

SCHEDULE 3

ENVIRONMENTAL CONDITIONS – GENERAL

BATTERIES

Battery Storage Restriction

1. This development consent does not authorise the construction or installation of a battery storage facility or systems.

Note: This condition does not prevent the Applicant from seeking to lodge a separate development application or modify this consent to install a battery storage system in the future.

TRANSPORT

Operating Conditions

2. The Applicant must ensure:
 - (a) the internal roads are constructed as all-weather roads;
 - (b) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
 - (c) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
 - (d) development-related vehicles leaving the site are in a clean condition to minimise dirt being tracked onto the sealed public road network.

Traffic Management Plan

3. Prior to commencing construction, the Applicant must prepare a Traffic Management Plan for the development in consultation with TfNSW and Council, and to the satisfaction of the Secretary in writing. This plan must include:
 - (a) details of the transport route to be used for development-related traffic;
 - (b) a protocol for undertaking independent dilapidation surveys to assess the:
 - existing condition of Thomas Mitchell Drive prior to construction, upgrading or decommissioning activities; and
 - condition of Thomas Mitchell Drive following construction, upgrading or decommissioning activities;
 - (c) a protocol for the repair of Thomas Mitchell Drive if dilapidation surveys identify these roads to be damaged as a result of construction, upgrading or decommissioning works;
 - (d) details of the temporary on-site construction car park;
 - (e) details of the measures that would be implemented to minimise traffic impacts during construction, upgrading or decommissioning activities, including:
 - temporary traffic controls, including detours and signage;
 - notifying the local community about development-related traffic impacts,
 - procedures for receiving and addressing complaints from the community about development-related traffic;
 - minimising potential cumulative traffic impacts with other projects in the area, including the Maxwell Underground Coal Project during construction, upgrading or decommissioning works;
 - minimising potential for conflict with school buses, other road users and rail services as far as practicable, including preventing queuing or convoys of heavy vehicles on the public road network;
 - minimising dirt tracked onto the public road network from development-related traffic;
 - details of any employee shuttle bus service, including pick-up and drop-off points and associated parking arrangements for construction workers, and measures to encourage employee use of this service;
 - responding to local climate conditions that may affect road safety such as fog, dust and wet weather;
 - responding to any emergency repair or maintenance requirements; and
 - a traffic management system for managing over-dimensional vehicles;
 - (f) a driver's code of conduct that addresses:
 - driver fatigue;
 - procedures to ensure that drivers adhere to the designated transport routes; and
 - procedures to ensure that drivers implement safe driving practices; and
 - (g) a program to ensure drivers working on the development receive suitable training on the code of conduct and any other relevant obligations under the Traffic Management Plan.

Following the Secretary's approval, the Applicant must implement the Traffic Management Plan.

LAND MANAGEMENT

4. The Applicant must maintain soil stability of the site, unless otherwise agreed with the Secretary, including:
 - (a) establishing the ground cover of the site as soon as practicable and no later than within 3 months following completion of any construction or upgrading; and
 - (b) properly maintaining the ground cover with appropriate perennial species and weed management.

BIODIVERSITY

Vegetation Clearing

5. The Applicant must not clear any native vegetation or fauna habitat located outside the approved disturbance areas described in the EIS.

AMENITY

Construction, Upgrading and Decommissioning Hours

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

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

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

Noise

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

Dust

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

Visual

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

Lighting

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

HERITAGE

Unexpected Finds – Aboriginal Heritage

11. In the event that surface disturbance identifies an Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and the registered Aboriginal representatives must be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information System (AHIMS) which is managed by BCD and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, the archaeologists and BCD, to develop and implement management strategies for all projects/site.

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and BCD contacted via the Environment Line 131 555.

SOIL AND WATER

Water Supply

12. The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain the necessary water licences for the development.

Water Pollution

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

Operating Conditions

14. The Applicant must:
 - (a) ensure the solar panels and ancillary infrastructure (including security fencing) are designed, constructed and maintained to reduce impacts on surface water, flooding and groundwater at the site;
 - (b) minimise any soil erosion associated with the construction, upgrading or decommissioning of the development in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version;
 - (c) ensure the solar panels and ancillary infrastructure are designed, constructed and maintained to avoid causing any erosion on site; and
 - (d) ensure all works are undertaken in accordance with the *Guidelines for Controlled Activities on Waterfront Land* (NRAR, 2018), or its latest version unless DPIE Water agrees otherwise.

HAZARDS

Storage and Handling of Dangerous Goods

15. The Applicant must store and handle all chemicals, fuels and oils used on-site in accordance with:
 - (a) the requirements of all relevant Australian Standards; and
 - (b) the NSW EPA's *Storing and Handling of Liquids: Environmental Protection – Participants Handbook* if the chemicals are liquids.

In the event of an inconsistency between the requirements listed from (a) to (b) above, the most stringent requirement must prevail to the extent of the inconsistency.

Operating Conditions

16. The Applicant must:
 - (a) minimise the fire risks of the development, including managing vegetation fuel loads on-site;
 - (b) ensure that the development:
 - includes at least a 10 metre defendable space around the perimeter of the solar array area that permits unobstructed vehicle access;
 - manages the defendable space and solar array areas as an Asset Protection Zone;
 - complies with the relevant asset protection requirements in the RFS's *Planning for Bushfire Protection 2006 (or equivalent)* and *Standards for Asset Protection Zones*;

- is suitably equipped to respond to any fires on site including provision of a 20,000 litre water supply tank fitted with a 65mm Storz fitting and a FRNSW compatible suction connection located adjacent to the internal access road;
- (c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
- (d) notify the relevant local emergency management committee following construction of the development, and prior to commencing operations.

Emergency Plan

17. Prior to commencing construction, the Applicant must develop and implement a comprehensive Emergency Plan and detailed emergency procedures for the development, to the satisfaction of Fire and Rescue NSW and the NSW Rural Fire Service. The Applicant must keep two copies of the plan on-site in a prominent position adjacent to the site entry points at all times. The plan must:
- (a) be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'* and RFS's *Planning for Bushfire Protection 2019* (or equivalent);
 - (b) identify the fire risks and hazards and detailed measures for the development to prevent or mitigate fires igniting;
 - (c) list works that should not be carried out during a total fire ban;
 - (d) include availability of fire suppression equipment, access and water;
 - (e) include procedures for the storage and maintenance of any flammable materials;
 - (f) detail access provisions for emergency vehicles and contact details for both a primary and alternative site contact who may be reached 24/7 in the event of an emergency;
 - (g) include a figure showing site infrastructure, Asset Protection Zone and the fire fighting water supply;
 - (h) include location of hazards (physical, chemical and electrical) that may impact on fire fighting operations and procedures to manage identified hazards during fire fighting operations;
 - (i) include details of the location, management and maintenance of the Asset Protection Zone and who is responsible for the maintenance and management of the Asset Protection Zone;
 - (j) include bushfire emergency management planning;
 - (k) include details of the how RFS would be notified, and procedures that would be implemented, in the event that:
 - there is a fire on-site or in the vicinity of the site;
 - there are any activities on site that would have the potential to ignite surrounding vegetation; or
 - there are any proposed activities to be carried out during a bushfire danger period.

Following approval by the relevant authorities, the Applicant must implement the Emergency Plan.

WASTE

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

DECOMMISSIONING AND REHABILITATION

19. Within 18 months of the cessation of operations, unless otherwise agreed with the Secretary, the Applicant must rehabilitate the site to the satisfaction of the Secretary. This rehabilitation must comply with the objectives in Table 3, unless otherwise agreed with the Secretary.

Table 3: Rehabilitation Objectives

Feature	Objective
Site	<ul style="list-style-type: none"> • Safe, stable and non-polluting
Solar farm infrastructure	<ul style="list-style-type: none"> • To be decommissioned and removed
Land use	<ul style="list-style-type: none"> • Restore land capability to pasture/grassland suitable for grazing
Community	<ul style="list-style-type: none"> • Ensure public safety at all times

SCHEDULE 4

ENVIRONMENTAL MANAGEMENT AND REPORTING

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

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

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

Revision of Strategies, Plans and Programs

2. The Applicant must:
 - (a) update the strategies, plans or programs required under this consent to the satisfaction of the Secretary prior to carrying out any upgrading or decommissioning activities on site; and
 - (b) review and, if necessary, revise the strategies, plans or programs required under this consent to the satisfaction of the Secretary within 1 month of the:
 - submission of an incident report under condition 7 of Schedule 4;
 - submission of an audit report under condition 9 of Schedule 4; or
 - any modification to the conditions of this consent.

Updating and Staging of Strategies, Plans or Programs

3. With the approval of the Secretary, the Applicant may submit any strategy, plan or program required by this consent on a progressive basis.

To ensure the strategies, plans or programs under the conditions of this consent are updated on a regular basis, the Applicant may at any time submit revised strategies, plans or programs to the Secretary for approval.

With the agreement of the Secretary, the Applicant may prepare any revised strategy, plan or program without undertaking consultation with all the parties referred to under the relevant condition of this consent.

Notes:

- *While any strategy, plan or program may be submitted on a progressive basis, the Applicant must ensure that all development being carried out on site is covered by suitable strategies, plans or programs at all times.*
- *If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.*

NOTIFICATIONS

Notification of Department

4. Prior to commencing the construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department via the Major Projects website portal of the date of commencement, or cessation, of the relevant phase.

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

Final Layout Plans

5. Prior to commencing construction, the Applicant must submit detailed plans of the final layout of the development to the Department via the Major Projects website, including details on the siting of solar panels and ancillary infrastructure.

Work as Executed Plans

6. Prior to commencing operations or following the upgrades of any solar panels or ancillary infrastructure, the Applicant must submit work as executed plans of the development to the Department via the Major Projects website.

Incident Notification

7. The Department must be notified via the Major Projects website portal within 7 days after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

Non-Compliance Notification

8. The Department must be notified in writing via the Major Projects website portal within 7 days after the Applicant becomes aware of any non-compliance with the conditions of this consent. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been done, or will be, undertaken to address the non-compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

9. The Applicant must commission and pay the full cost of Independent Environmental Audits of the development. The audits must:
 - (a) be prepared in accordance with the *Independent Audit Post Approval Requirements* (DPIE, 2020);
 - (b) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
 - (c) be prepared, unless otherwise agreed with the Secretary:
 - (i) within 3 months of commencing construction;
 - (ii) within 3 months of commencement of operations; and
 - (iii) as directed by the Secretary;
 - (d) be carried out in consultation with the relevant agencies;
 - (e) assess whether the development complies with the relevant requirements in this consent, and any strategy, plan or program required under this consent; and
 - (f) recommend appropriate measures or actions to improve the environmental performance of the development and any strategy, plan or program required under this consentunless the Secretary agrees otherwise.

Within 3 months of commencing an Independent Environmental Audit, or unless otherwise agreed with the Secretary, a copy of the audit report must be submitted to the Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations.

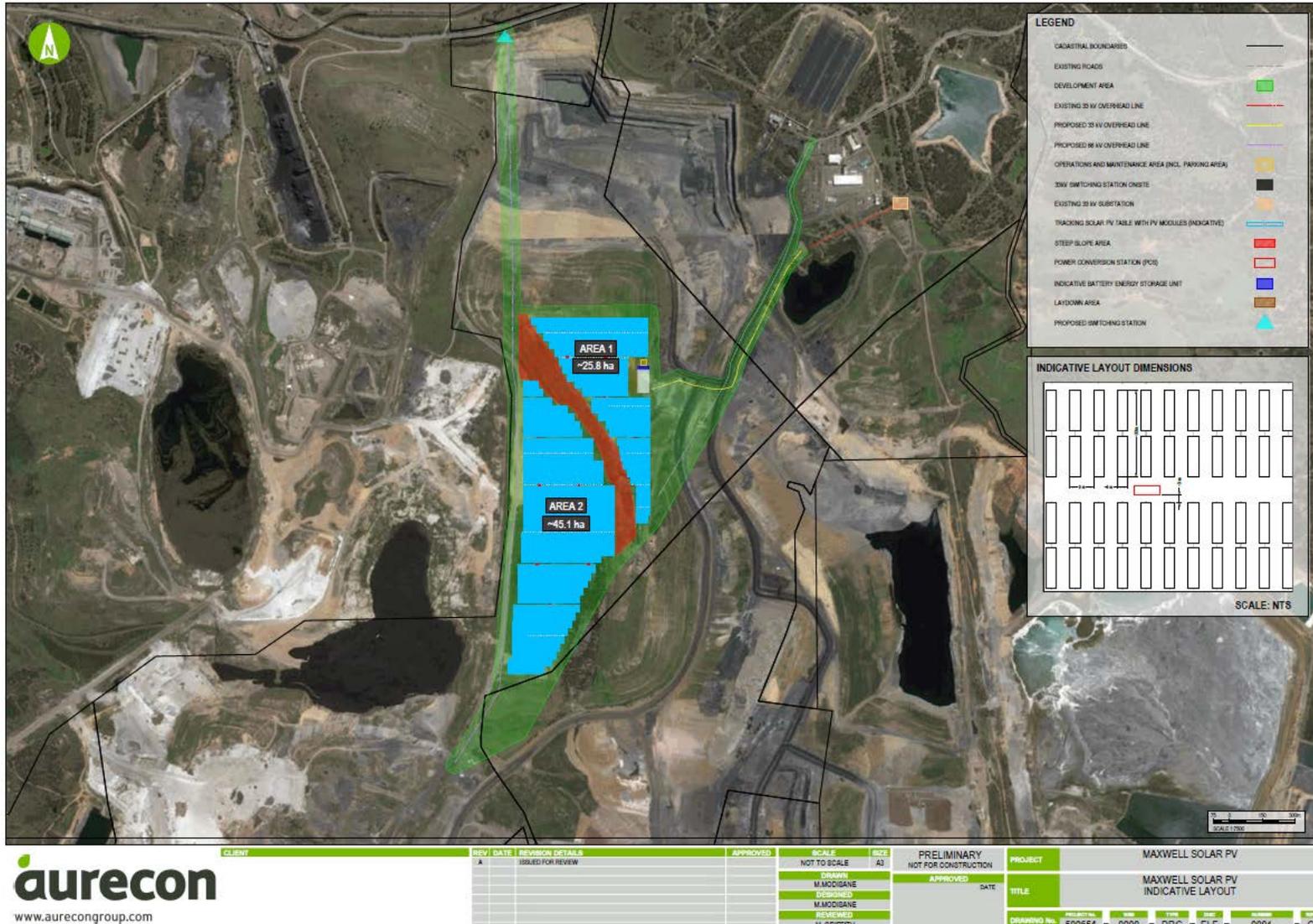
The recommendations of the Independent Environmental Audit must be implemented to the satisfaction of the Secretary, confirmed in writing.

ACCESS TO INFORMATION

10. The Applicant must:
 - (a) make the following information publicly available on its website as relevant to the stage of the development:
 - the EIS;
 - the final layout plans for the development;
 - current statutory approvals for the development;
 - approved strategies, plans or programs required under the conditions of this consent;

- the proposed staging plans for the development if the construction, operation or decommissioning of the development is to be staged;
 - how complaints about the development can be made;
 - a complaints register;
 - compliance reports;
 - any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
 - any other matter required by the Secretary; and
- (b) keep this information up to date.

APPENDIX 1 GENERAL LAYOUT OF DEVELOPMENT



**APPENDIX 2
SCHEDULE OF LANDS**

<i>Lot Number</i>	<i>Deposit Plan (DP)</i>
6	701496
4	701496
21	54087
64	850818