

5 December 2022

Chief Executive Officer
Shire of Serpentine-Jarrahdale
6 Paterson Street
MUNDIJONG WA 6123

Attention: Planning Department

RE: DEVELOPMENT APPLICATION FOR AMENDMENT OF DAP/16/01067 | LOT 1001 (25) PEVERETT LANE & LOT 200 (NO. 1674) & LOT 210 THOMAS ROAD, OAKFORD | EXTENSION OF 'DATE BY WHICH DEVELOPMENT MUST HAVE SUBSTANTIALLY COMMENCED'

Dear Sir/Madam,

Harley Dykstra has been engaged by Westgen Pty Ltd (the applicant) to request an amendment to the existing Development Approval granted by the Metro East JDAP (DAP/16/01067) for the Byford Solar Farm at Lot 1001 (25) Peverett Lane, Lot 200 (No. 1674) and Lot 210 Thomas Road, Oakford.

A copy of the previous MEJDAP approval (DAP/16/01067) is provided at **Appendix A**.

A copy of the Certificate of Title for all registered landowners is provided at **Appendix B**.

1. INTRODUCTION

WA renewable energy company Westgen Pty Ltd is developing the 37.5MW Byford Solar Farm, which will include large-scale battery storage, and supply clean, reliable electricity to the grid and to electricity customers of WA energy retail company Kleenheat (Wesfarmers).

The project is well advanced, having satisfied a majority of pre-building license conditions pursuant to the original DAP approval, excluding only the conditions relating to land currently being held up as a result of land tenure agreements between Main Roads and Western Power.

2.0 Background

Development Approval for the subject land was granted by the MEJDAP in December 2016, requiring substantial commencement within 2 years of approval. This approval was subsequently granted a two-year extension by the Shire of Serpentine-Jarrahdale in 2018 (attached at **Appendix C** for reference), so that substantial commencement for the approval was set for the 7th of December 2020.

In April 2020, the Minister for Planning signed a Notice of Exemption from Planning Requirements During a State of Emergency in accordance with section 78H of the Planning and Development (Local Planning Schemes) Regulations 2015, granting an automatic extension to the Development Approval until the 7th of December 2022.

In August 2022, development approval was granted by the MEJDAP (DAP/16/01067) to amend *Condition 21* of the original approval which required the development to be fully constructed within a period of two years from the *date of approval*. This was amended to require the development to be fully constructed from the *date of commencement*, to compensate for the lost construction time as a result of the global pandemic and interruptions to global supply chains.

PERTH & FORRESTDAL

Level 1, 252 Fitzgerald Street, Perth

T: 08 9228 9291

15/2 Hensbrook Loop, Forrestdale

T: 08 9495 1947

PO Box 316, Kelmscott WA 6991

E: metro@harleydykstra.com.au

ABN 77 503 764 248

Albany

Bunbury

Busselton

Forrestdale

Perth

www.harleydykstra.com.au



While the majority of conditions required to be completed before commencement of construction have so far been completed, a current land tenure delay resulting from the MRWA's planned Thomas Road widening has prevented the development from being able to achieve 'substantial commencement' before the required date of the 7th of December 2022.

This application therefore seeks approval for the amendment of the 'date by which development must have substantially commenced' by an extension of six (6) months, to the **7th of June 2023**.

3.0 Subject Land

The subject land is located within the South-Eastern Metropolitan Corridor, approximately 30km south of the Perth Central Business District and approximately 6km west-northeast of the Byford Town Centre. The subject land is located on the southern side of Thomas Road and the eastern side of Peverett Lane, Oakford.

The subject land is mostly clear of vegetation as a result of previous development. A location plan depicting the site in its planning context and an aerial photo depicting the site in relation to surrounding development have been provided below.

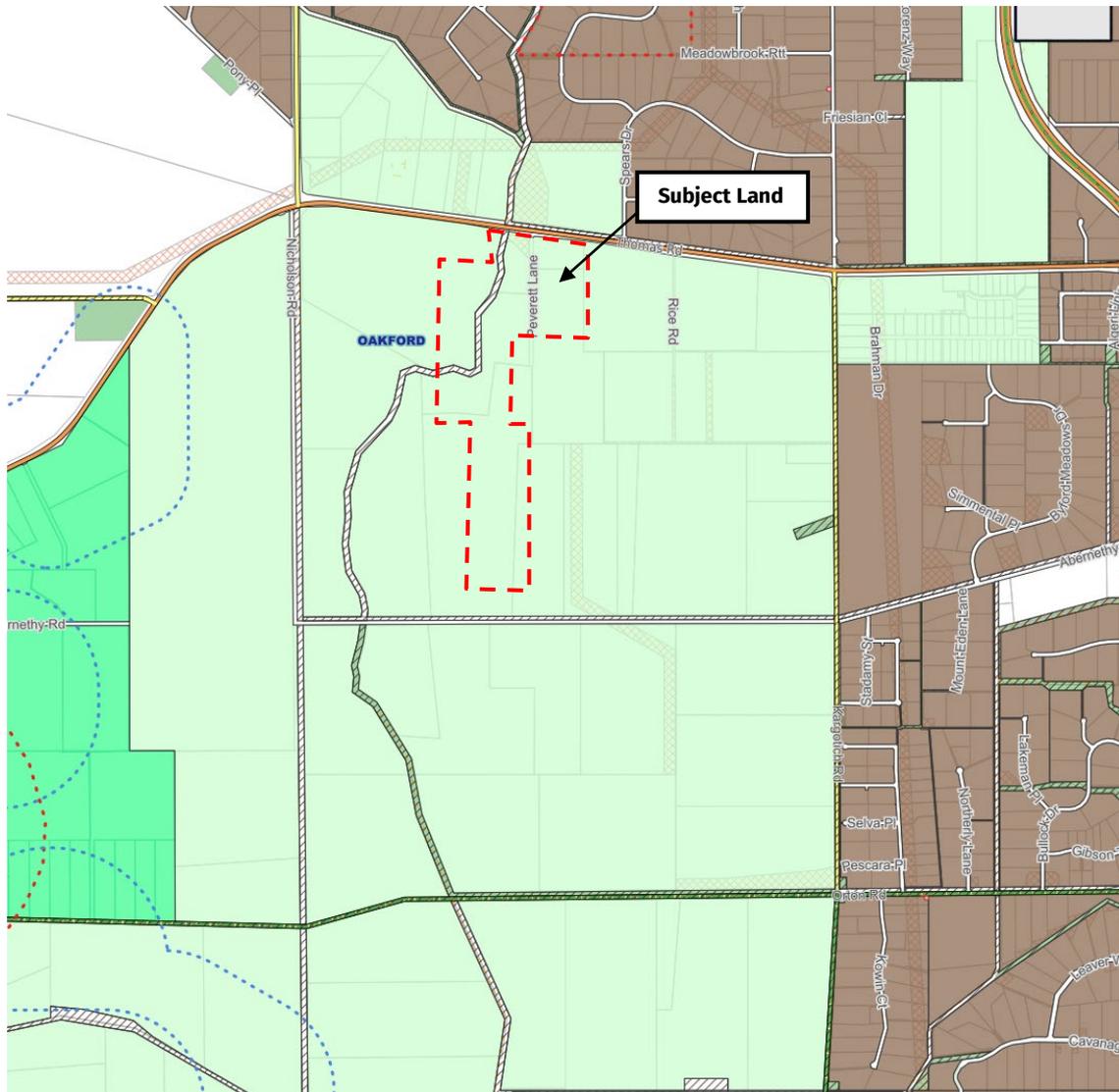


Figure 1: Location Plan

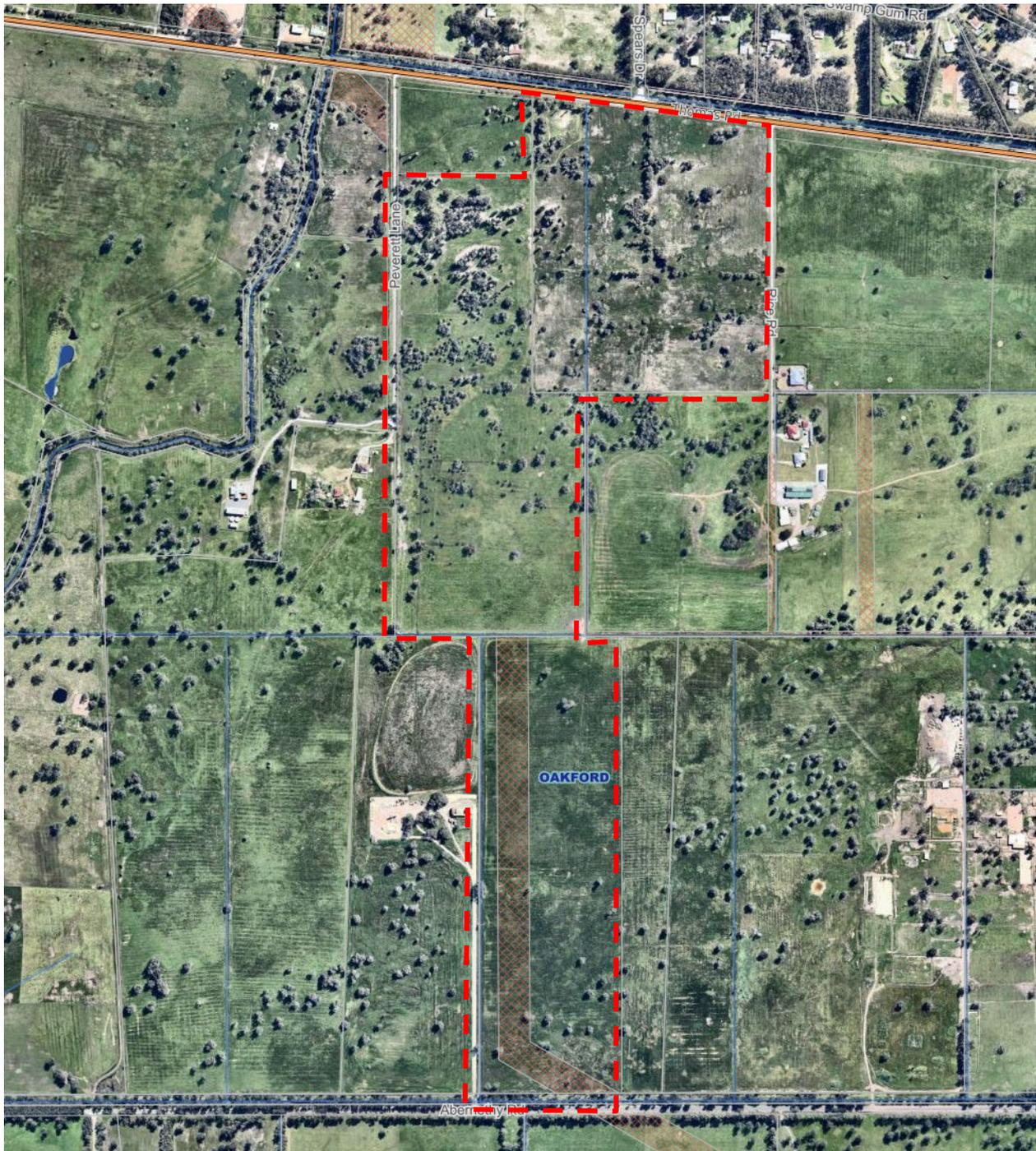


Figure 2: Aerial Photograph

4.0 Proposal

This amendment relates to the 'date by which construction must have substantially commenced' which was approved as the 7th of December 2022 under DAP determination on the 22nd of August 2022.

In accordance with the above approval, Condition 1 stipulates the following:

- Condition 1.** *Lots 1001 Peperett Lane, Lot 210 Abernethy Road and Lot 200 Thomas Road, Oakford are to be amalgamated into a single lot prior to the submission of a building permit application. Alternatively, the owner may enter into a legal agreement with the Shire of Serpentine Jarrahdale, prepared by the Shire's solicitors at the expense of the owner. The legal agreement will allow the owner 12 months to amalgamate the lots.*

The agreement is required to be executed by all parties concerned prior to the commencement of the works hereby permitted.

However, one of the ‘concerned parties’, being Western Power, is currently required to cede a portion of the subject land over to Main Roads for their future Thomas Road reserve widening. Main Roads’ interest in securing the additional road widening land is a recent development relating to the Westport and Tonkin-Thomas freight-link project.

Recent discussions between the applicant and Western Power have suggested that this may still be several weeks from completion, and that Western Power will not be willing to execute the agreement referred to in *Condition 1* or transfer the land to Westgen in accordance with the contract of sale, until this has been finalised.

Over the past six months of working through the various conditions on the ground, advice was sought with the Shire to determine whether the preparation works to be completed before the required date of the 7th of December 2022, will be sufficient to constitute ‘substantial commencement’.

In consultation with the Shire, Harley Dykstra on behalf of Westgen Pty Ltd were advised on the 12th of September by Mr Trosic that “*my main concern is that preparation works generally are not held as sufficient to demonstrate substantial commencement.*”

Further consultation with the Shire regarding the inability of the applicant to access the subject land in order to suitably commence construction activities yielded the following advice from Mr Trosic on the 14th of September:

Yes, I suspected that the substantial commencement timeframe would be an issue. I think the only option available, given what has now been indicated in respect of land tenure delays, is to address this pursuant to the r17(1) pathway.

A compilation of previous correspondence with the Shire of Serpentine Jarrahdale is attached at **Appendix D** for reference.

Section 17(1) and 17(A) of the *Development Application Panels Regulations 2011 (DAP 2011)* allow for an applicant to apply to the DAP pursuant to the original DAP application (17(1)), or local authority (17(A)) to “*amend the approval so as to extend the period within which any development approved must be substantially commenced under regulation 16A(2).*”

In respect of the above correspondence and the aforementioned ‘land tenure delays’, this application requests that the currently approved ‘date by which construction must have suitably commenced’ be extended from the 7th of December 2022 by a total of six (6) months to the **7th of June 2023**.

5.0 Works Completed

In accordance with the original approval (DAP/16/01067) and amendments made August 2022, the current status of the imposed conditions and works required to be suitable commenced before the 7th of December 2022 are identified in **Table 1** below:

TABLE 1. WORKS COMPLETED FOR DAP/16/01067

NO.	CONDITION	WORKS COMPLETED	STATUS
1	<i>Lots 1001 Peverett Lane, Lot 210 Abernethy Road and Lot 200 Thomas Road, Oakford are to be amalgamated into a single lot prior to the submission of a building permit application. Alternatively, the owner may enter into a legal agreement with the Shire of Serpentine Jarrahdale, prepared by the Shire’s solicitors at the expense of the owner. The legal agreement will allow the owner 12 months to amalgamate the lots. The agreement is required to be executed by all parties</i>	Deed of Agreements prepared. Awaiting signing by all parties.	Partial completion

	<i>concerned prior to the commencement of the works hereby permitted.</i>		
2	<i>Prior to the submission of a building permit a site plan illustrating any existing vegetation to be retained (specifically relating to black cockatoo feeding habitat) shall be submitted and approved to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	Site Plan has been updated illustrating all vegetation to be retained and lodged with shire for approval.	Completed
3	<i>Prior to the submission of a building permit amended plans shall be submitted illustrating setbacks of 12 metres from all side and rear boundaries to any proposed development to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	Plans have been amended to show 12m setback from all side and rear boundaries.	Completed
4	<i>Prior to the submission of a building permit a noise impact statement shall be submitted and approved to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	A Noise Impact Statement has been prepared in consultation with the Shire.	Completed
5	<i>Prior to the submission of a building permit a drainage management plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	A Drainage Management Plan has been prepared in consultation with the Shire.	Completed
6	<i>Prior to the submission of a building permit a construction management plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	A Construction Management Plan has been prepared in consultation with the Shire.	Completed
7	<i>Prior to the commencement of works a Traffic Management Plan shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale. The Traffic Management Plan shall ensure there is an adequate and safe turning circle along Rice Road adjoining Lot 200 Thomas Road. This is to allow traffic entering Rice Road, outside of the operating hours of the facility, to be able to conduct a safe U-turn to exit Rice Road onto Thomas Road.</i>	A Traffic Management Plan has been prepared in consultation with the Shire and has been included in the Engineering Plans.	Completed
8	<i>Prior to the commencement of works a Bushfire and Emergency Management Plan, shall be submitted, approved and thereafter implemented to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	A Bushfire Emergency Management Plan has been prepared in consultation with the Shire.	Completed
9	<i>Prior to the commencement of works a landscaping/revegetation plan which includes mature vegetation along the perimeter of the development site for the purposes of screening and privacy of nearby affected residences shall be submitted and approved by the Shire of Serpentine Jarrahdale.</i>	A Landscape Management Plan has been prepared in consultation with the Shire.	Completed
10	<i>Prior to the commencement of the use the approved landscape/revegetation plan shall be implemented and thereafter maintained to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	To be completed prior to the use of the development.	N/A
11	<i>Prior to the commencement of the use all proposed crossovers shall be designed and constructed to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	To be completed as part of the civil works construction.	N/A
13	<i>A monetary contribution of \$500,000 being paid to Council for the establishment of public art within the Oakford area in accordance with Council's Local Planning Policy No. 59 - Public Art Policy for Major Developments to the satisfaction</i>	To be completed prior to occupation of completed development.	N/A

	<i>of the Shire prior to occupation of the development.</i>		
14	<i>A minimum of two (2) car parking bays are required to be provided within the office and switch room compound to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	Plans have been amended to include required bays.	Partially Completed
15	<i>Rice Road pavement shall be widened to a minimum width of 6 meters up to the turning circle referred to in condition 7 and it shall be sealed to the specification and satisfaction of the Shire of Serpentine Jarrahdale at the landowner/applicant's cost.</i>	Plans have been amended to show road width of 6m up to the turning circle referred to in Condition 7.	Partially Completed
16	<i>An interpretive information panel is to be provided at the tourist area to the satisfaction of the Shire of Serpentine Jarrahdale.</i>	To be completed prior to commencement of use.	N/A
17	<i>The applicant(s) / landowner(s) shall advise the Shire of Serpentine Jarrahdale in writing the solar farm facility has completed construction.</i>	To be completed upon completion of construction.	N/A
18	<i>Prior to the commencement of works a plan outlining the conceptual decommissioning and rehabilitation of the site will be required to be submitted. Within two years of the facility being decommissioned, a final decommissioning rehabilitation plan shall be submitted, approved and thereafter implemented to the satisfaction of Shire of Serpentine Jarrahdale.</i>	A Decommission and Rehabilitation Plan has been prepared in consultation with the Shire.	Completed
19	<i>Prior to the submission of a building permit a fauna and flora study shall be undertaken, submitted and approved by the Shire of Serpentine Jarrahdale. This study shall inform the landscaping plan to ensure significant flora is retained for its conservation value or habitat value with respect to fauna.</i>	A Flora and Fauna Study was approved by the Shire on 21/09/2017.	Completed
20	<i>No herbicides shall be used for the maintenance of the height of the ground cover, only mowing or grazing shall be permitted.</i>	A Landscape Management Plan in accordance with Conditions 9 & 20 has been prepared in consultation with the Shire.	Completed
21	<i>The solar farm shall be fully constructed in accordance with the approved plans within two years from the date of commencement.</i>	To be completed prior to the commencement of use.	N/A
22	<i>The applicants/operators of the solar farm shall prepare an ongoing air quality and/or erosion management plan to the satisfaction and approval of the Shire of Serpentine Jarrahdale and shall be implemented for the life of the project.</i>	To be completed prior to the commencement of use.	N/A
23	<i>No vehicle access shall be permitted onto the Thomas Road reserve and all vehicle access shall be restricted to the Local Road network.</i>	Civil Engineering plans lodged with the Shire demonstrate that this condition is to be satisfied.	Completed
24	<i>As the Planning Report indicates that significant traffic will be entering into and out of the site during construction phase, a Transport Statement or Transport Assessment for this stage of the project will be required. In this regard, please refer to the WAPC's Part 4 "Transport Assessments Guidelines for Individual Developments for further information.</i>	Civil Engineering plans lodged with the Shire demonstrate that this condition is to be satisfied.	Completed
25	<i>No development or car parking, other than landscaping shall be permitted on the land as shown required for future road purposes on the enclosed WAPC Drawing 1.3229/2.</i>	Civil Engineering plans lodged with the Shire demonstrate	Completed

		that this condition is to be satisfied.	
26	<i>No earthworks shall encroach onto the Thomas Road reserve.</i>	A Construction Management Plan indicating that no earthworks shall encroach onto the Thomas Road reserve, has been prepared and lodged with the Shire for approval.	Completed
27	<i>No stormwater drainage shall be discharged onto the Thomas Road reserve.</i>	A Construction Management Plan indicating that no stormwater drainage shall be discharged onto the Thomas Road reserve, has been prepared in consultation with the Shire.	Completed
28	<i>The applicant shall make good any damage to the existing verge vegetation within the Thomas Road reservation.</i>	A Construction Management Plan indicating that the applicant will make good any damage to the existing verge vegetation within the Thomas Road reserve, has been prepared in consultation with the Shire.	Partially Completed

As demonstrated above, the majority of the conditions and works required to be completed prior to issue of building license have been achieved so far.

The provision included in *Condition 1* requiring that “*the agreement is required to be executed by all parties concerned prior to the commencement of the works hereby permitted.*”, in conjunction with the unexpected delay in transfer of the land to Westgen (due to the Main Roads widening action), has prevented the applicant from accessing the subject land to complete the remaining works required.

As noted above, this is due to the current ‘land transfer agreement’ being negotiated between Main Roads and Western Power, which requires that the land for the Thomas Road reserve be ceded to Main Roads before Western Power can finalise the execution of the deed or transfer of the land.

In respect of the considerable amount of work that has already been completed by the applicant towards achieving ‘substantial commencement of work’ and clearance of conditions, and due to fact that the current delays in achieving the remaining works are a result of external parties in which the applicant can have no hope of remedying; it is considered that an extension of the approved date by which ‘construction must have substantially commenced’ is warranted in this case.

As an exact date for the finalisation of the land transfer agreement between Main Roads and Western Power cannot yet be known, it is considered appropriate that a six (6) month extension to the approved date be granted.

This would result in the required date being amended to show the following: **7th of June 2023**

6.0 Conclusion

In light of the above-mentioned particulars and the fact that the proposed amendment does not result in any changes to the approved plans or conditions, it is respectfully requested that Council grant development approval for an extension to the approved 'date by which construction of the development must have substantially commenced' by a total of six (6) months to the 7th of June 2023.

Should any further information be required to assist with this application please do not hesitate to contact the undersigned at this office.

Yours faithfully

A handwritten signature in black ink, appearing to be 'MB', with a long horizontal line extending to the right.

Miranda Bowman
Town Planner
Harley Dykstra Pty Ltd

E-mail: mirandab@harleydykstra.com.au

APPENDIX A

MEJAP Approval - DAP/16/01067

PERTH & FORRESDALE

Level 1, 252 Fitzgerald Street, Perth
15/2 Hensbrook Loop, Forrestdale
PO Box 316, Kelmscott WA 6991

T: 08 9228 9291

T: 08 9495 1947

E: metro@harleydykstra.com.au

Albany Bunbury Busselton Forrestdale Perth

ABN 77 503 764 248

www.harleydykstra.com.au



FS 536019



LG Ref: PA22/354
DAP Ref: DAP/16/01067
Enquiries: (08) 6551 9919

Mr Daniel Lewis
Harley Dykstra Pty Ltd
PO Box 316
KELMSCOTT WA 6991

Dear Mr Lewis

METRO OUTER JDAP - SHIRE OF SERPENTINE JARRAHDAL - DAP APPLICATION - PA22/354 - DETERMINATION

Property Location:	Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford
Application Details:	Development of a 29.7MW Solar Farm
Amendment Details:	Form 2.1 - Proposed Amendment to Condition 21

Thank you for your Form 2.1 Development Assessment Panel (DAP) application and plans submitted to the Shire of Serpentine Jarrahdale on 23 May 2022 for the above-mentioned development.

The application was considered by the Metro Outer JDAP at its meeting held on 22 August 2022, where in accordance with the provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, it was resolved to **approve** the application as per the attached notice of determination.

Should the applicant not be satisfied by this decision, an application may be made to amend or cancel this planning approval in accordance with regulation 17 and 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

Please also be advised that there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. Such an application must be made within 28 days of the determination, in accordance with the *State Administrative Tribunal Act 2004*.

Should you have any queries with respect to the conditions of approval, please contact Ms Heather O'Brien on behalf of the Shire of Serpentine Jarrahdale on 08 9526 1130.

Yours sincerely,

DAP Secretariat

31 August 2022

Encl. DAP Determination Notice
Approved Plans

Cc: Ms Heather O'Brien - Shire of Serpentine Jarrahdale



Planning and Development Act 2005

Shire of Serpentine Jarrahdale Town Planning Scheme No. 2

Metro Outer Joint Development Assessment Panel

**Determination on Development Assessment Panel
Application for Planning Approval**

Property Location: Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford

Application Details: Development of a 29.7MW Solar Farm

Amendment Details: Form 2.1 - Proposed Amendment to Condition 21

In accordance with regulation 8 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the above application for planning approval was **granted** on 22 August 2022, subject to the following:

1. **Accept** that the DAP Application reference DAP16/10167 as detailed on the DAP Form 2 dated 13 April 2022 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Approve** DAP Application reference DAP16/10167 and accompanying plans (attachment 2) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the Shire of Serpentine Jarrahdale Town Planning Scheme No.2, for the proposed minor amendment to Condition 21 of the approved Use Not Listed (Solar Farm), Incidental Tourist Facility, Office and Site Facility at Lot 1001, 25 Peverett Lane, Lot 200, 1674 Thomas Road and Lot 210 Abernethy Road, Oakford subject to the following conditions:

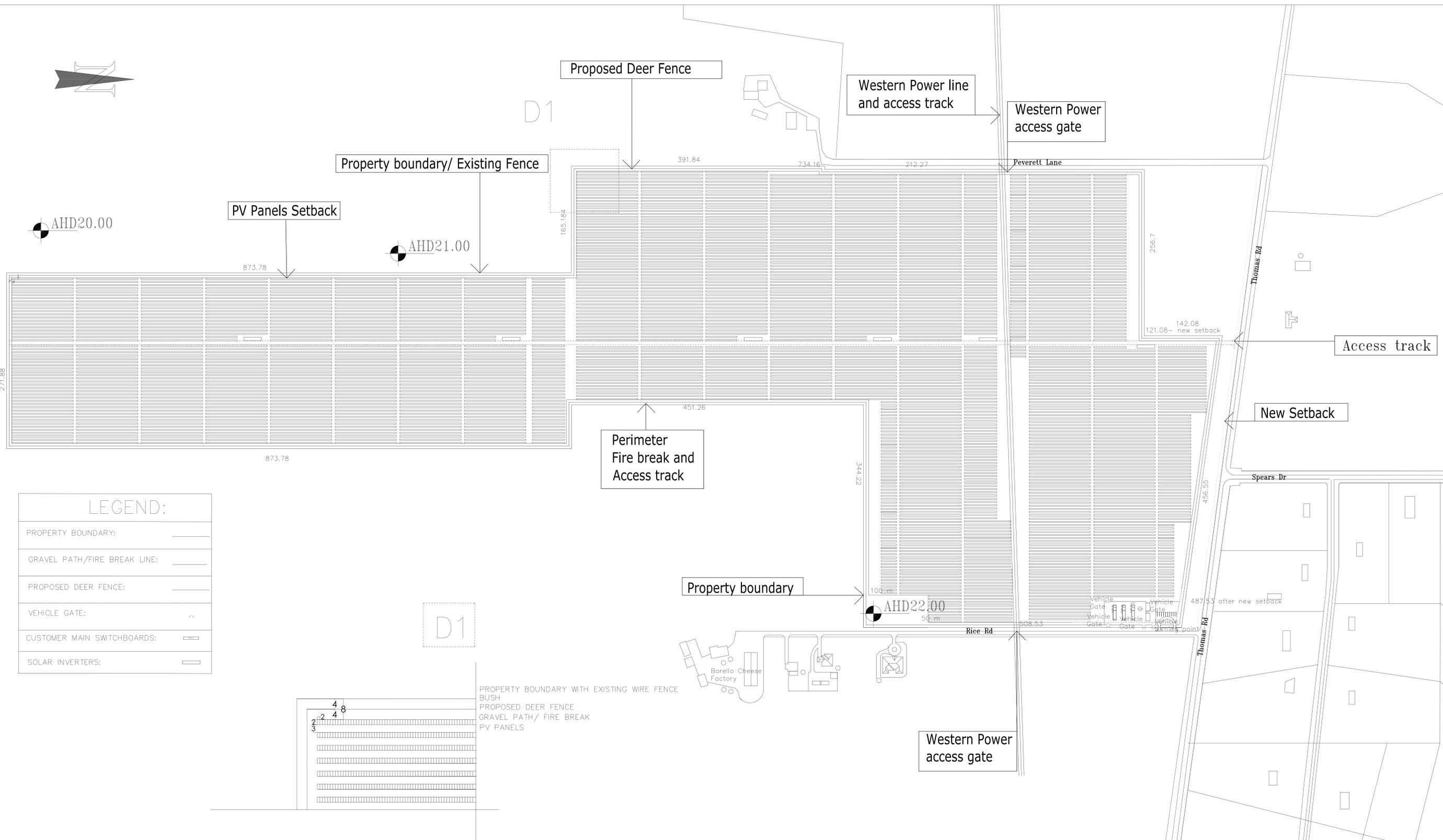
Amended Conditions

21. *The solar farm shall be fully constructed in accordance with the approved plans, within a period of two years from the commencement of construction*”.

All other conditions, footnotes and advice notes remain as per the DAPs’ original decision dated 7 December 2016.

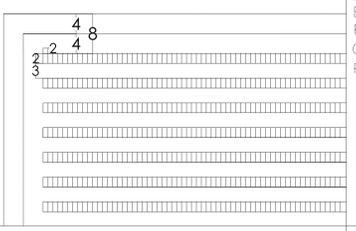
Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) or local government approval under regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

DRAFT - NOT FOR CONSTRUCTION - SUBJECT TO SITE SURVEY

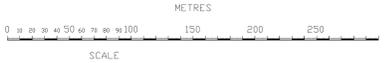


LEGEND:

PROPERTY BOUNDARY:	—
GRAVEL PATH/FIRE BREAK LINE:	—
PROPOSED DEER FENCE:	—
VEHICLE GATE:	^
CUSTOMER MAIN SWITCHBOARDS:	□
SOLAR INVERTERS:	□

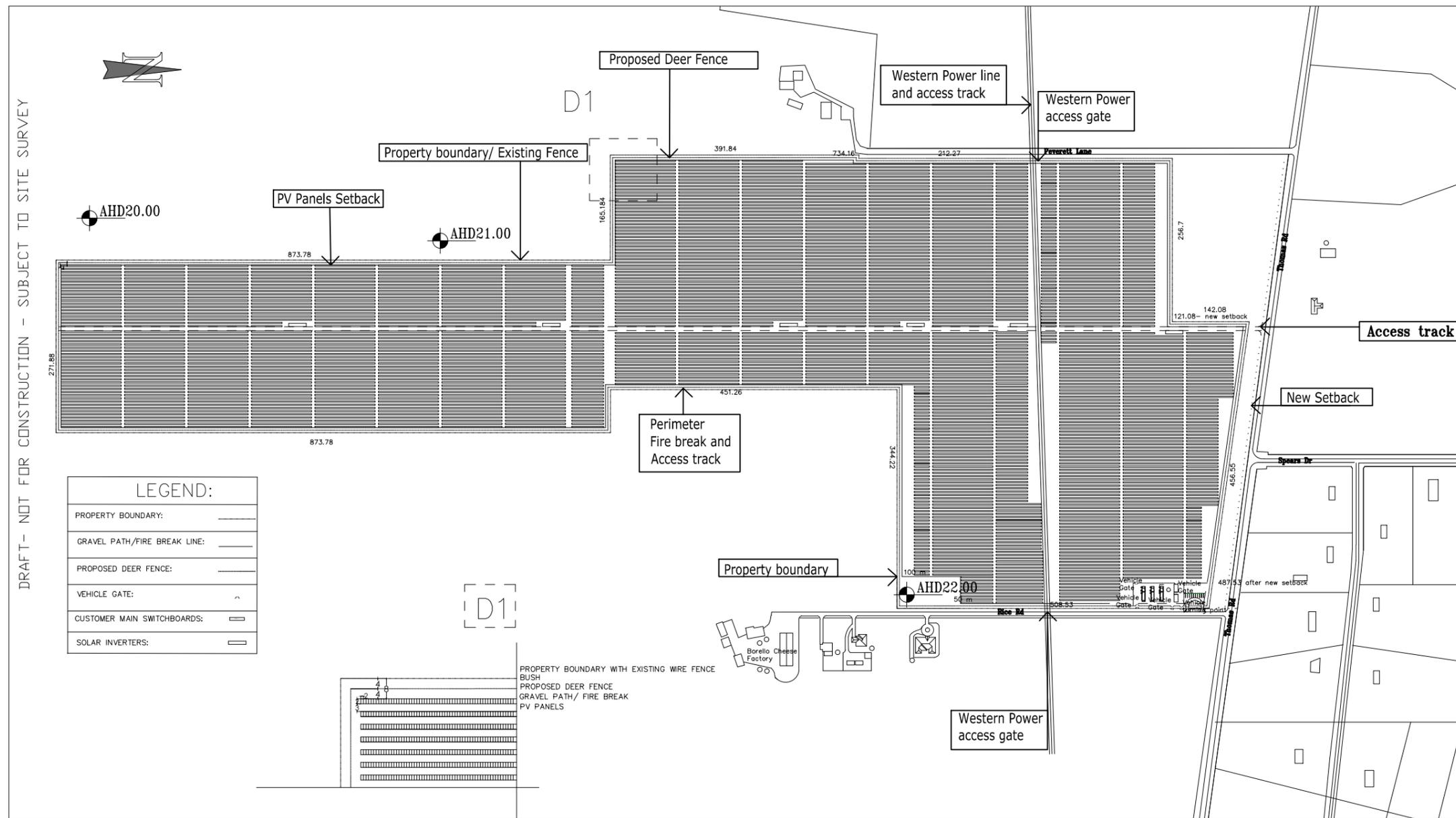


PROPERTY BOUNDARY WITH EXISTING WIRE FENCE
 BUSH
 PROPOSED DEER FENCE
 GRAVEL PATH/ FIRE BREAK
 PV PANELS



SITE PLAN

Version: 10	Rev 3	Project Name: BYFORD SOLAR FARM	Company: WestGen
Date: 21.11.2016	Lot/Address: Lot 1001 on plan 62901 / 25 Peverett Lane, Oakford, WA Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA Lot 210 on plan 152817		
Scale 1: 2000 @ A0			

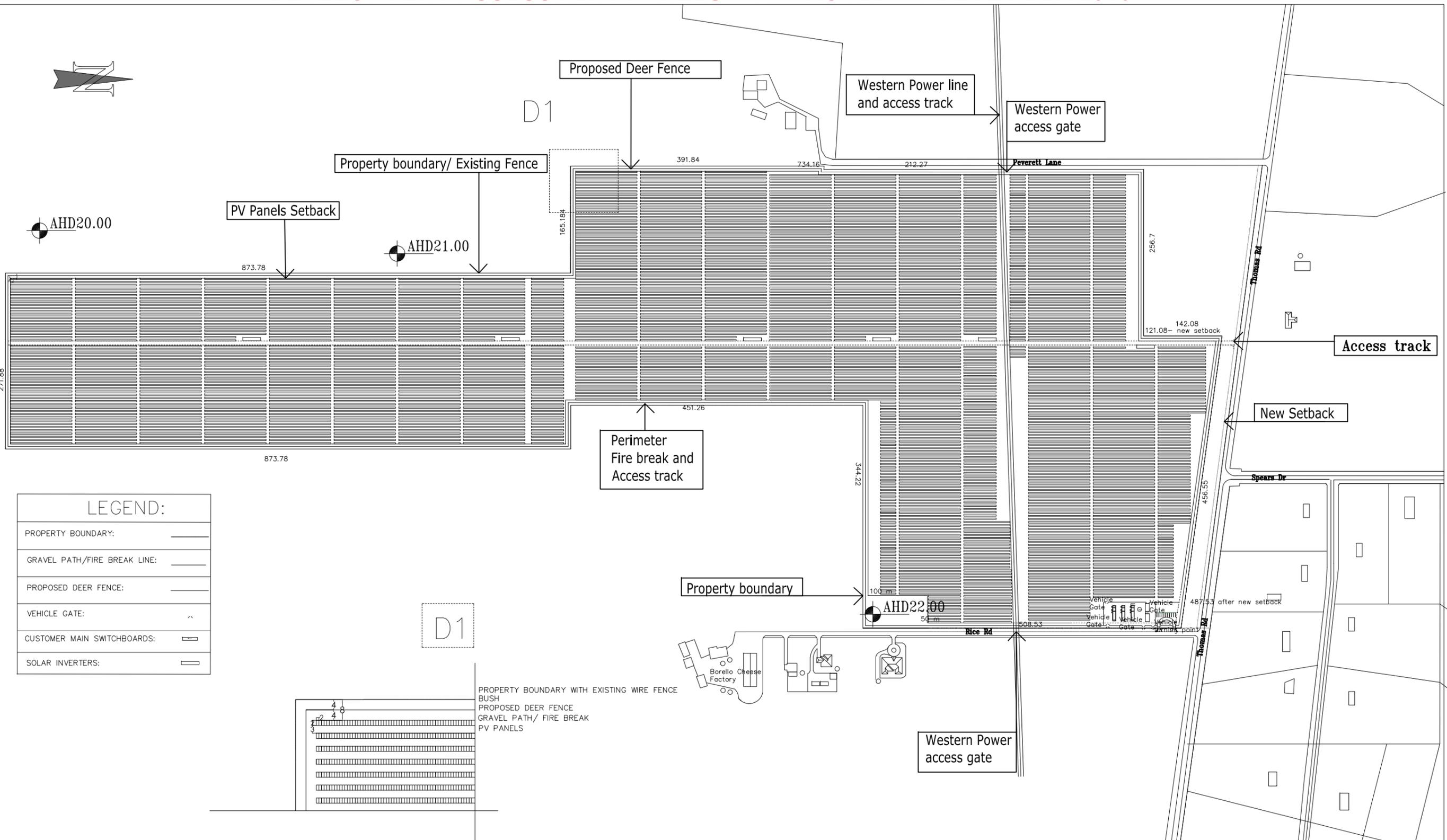


SITE PLAN

Rev: 9	Project Name: BYFORD SOLAR FARM	Company: WestGen
Date: 21.11.2016	Lot/Address: Lot 1001 on plan 62901 / 25 Peverett Lane, Oakford, WA Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA	
Scale 1: 7500 @ A3	Lot 201 on plan 152817	

**DEVELOPMENT
ASSESSMENT PANEL**
APPROVED
15-Aug-2022

DRAFT - NOT FOR CONSTRUCTION - SUBJECT TO SITE SURVEY



SITE PLAN

Version: 10 | Rev 3

Project Name: BYFORD SOLAR FARM

Company: WestGen

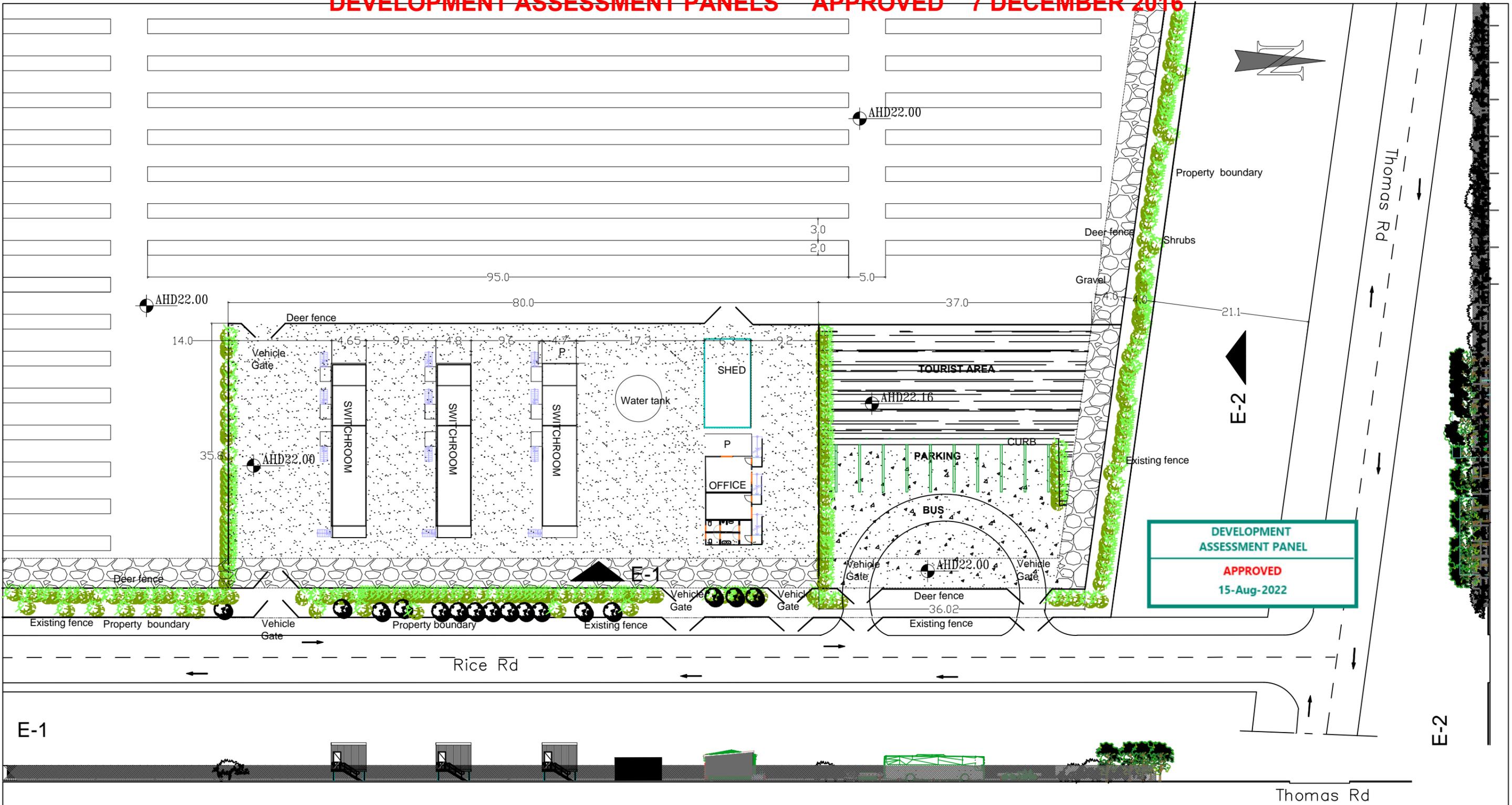
Date: 21.11.2016

Lot/Address: Lot 1001 on plan 62901 / 25 Peverett Lane, Oakford, WA
 Lot 200 on plan 152817 / 1674 Thomas Road Oakford, WA
 Lot 210 on plan 152817

Scale 1: 2000 @ A0



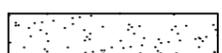
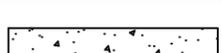
DEVELOPMENT ASSESSMENT PANELS APPROVED 7 DECEMBER 2016



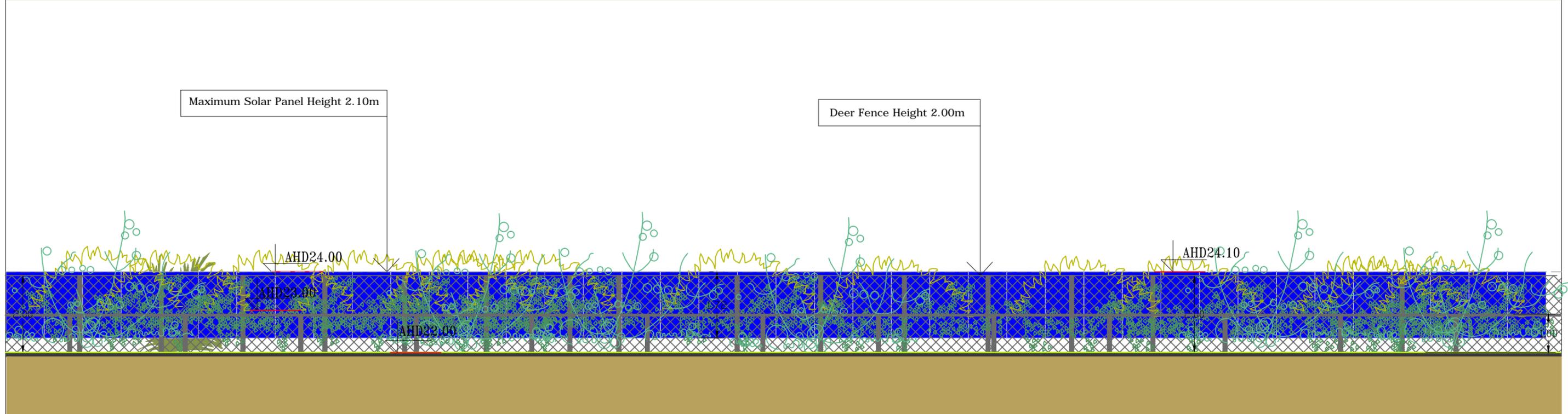
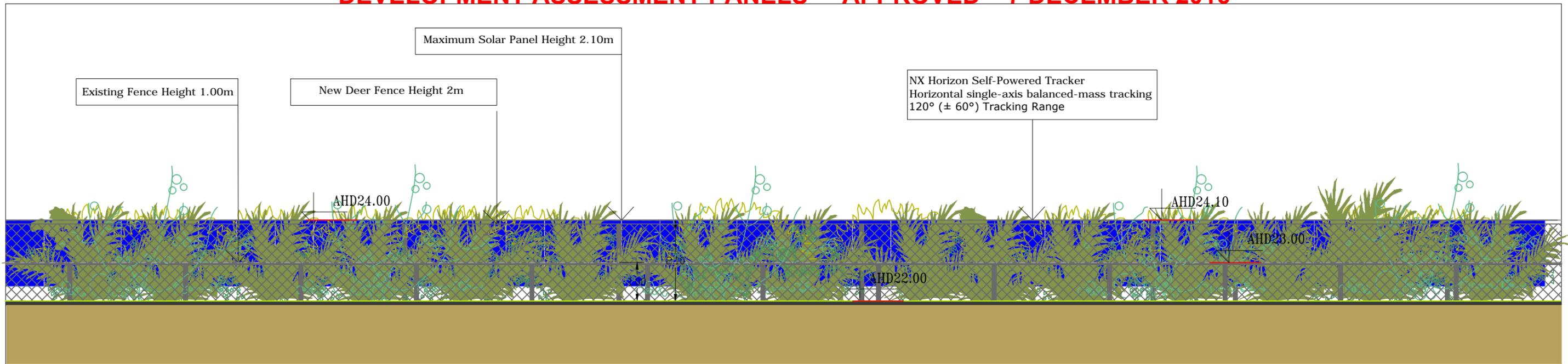
Company:

 Date: 28.11.2016.
 Drawing Number: 2
 Version: 10

Project Name: BYFORD SOLAR FARM
 Drawing Name: SWITCHYARD AREA SITE PLAN
 Lot/ Street:
 Lot 1001 on plan 62901 /25 Peverett Lane, Oakford, WA
 Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA
 Lot 210 on plan 152817

LEGEND:		0 10 20 30 40 50	
PROPERTY BOUNDARY:	-----	PROPOSED GRAVEL:	
EXISTING FENCE:	_____	CRUSHED LIMESTONE:	
PROPOSED DEER FENCE:	————	RED ASPHALT:	
PROPOSED SHRUBS:		BLACK ASPHALT:	

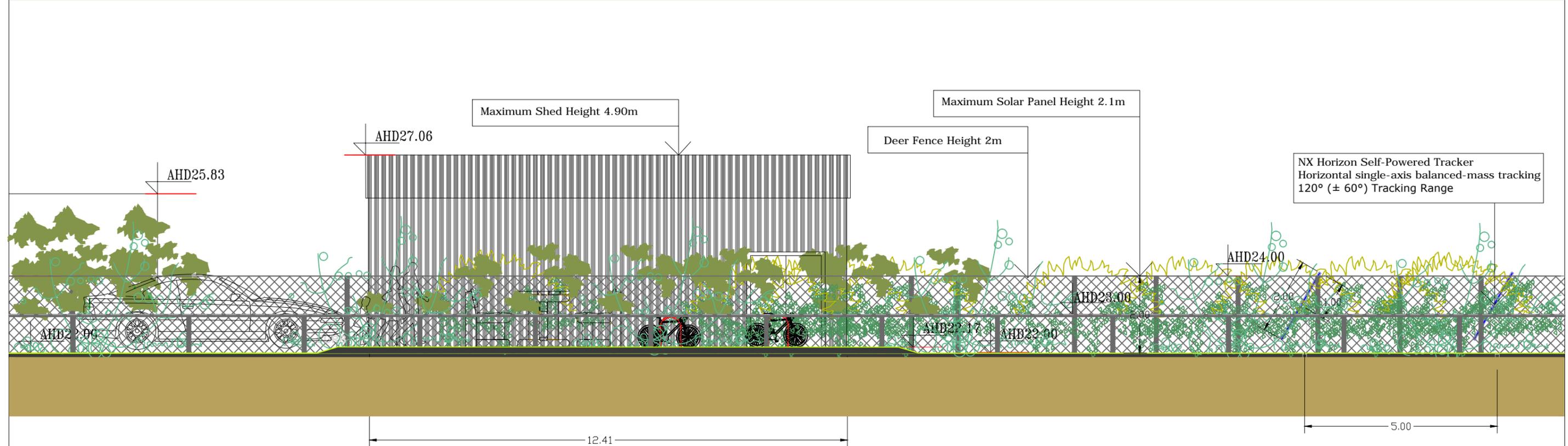
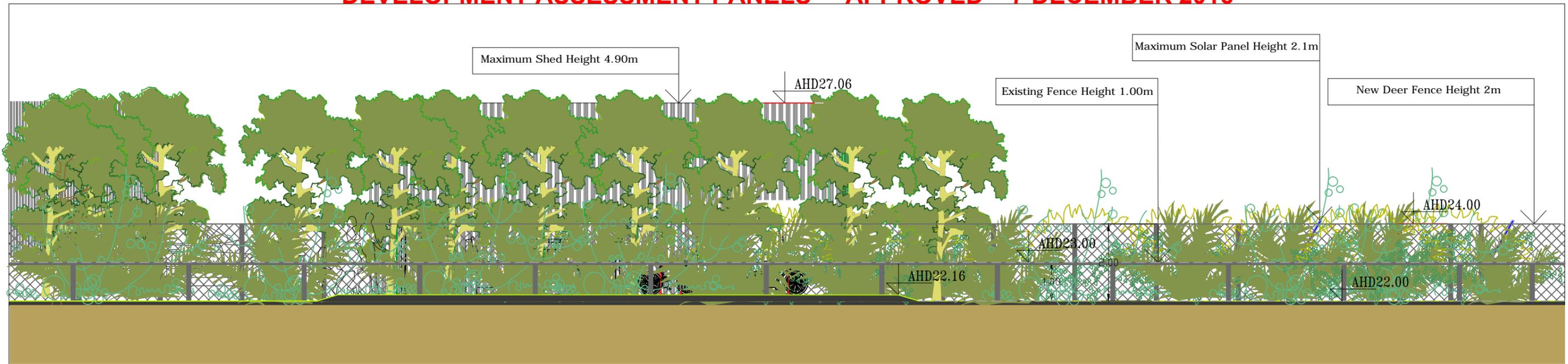
DEVELOPMENT ASSESSMENT PANELS APPROVED 7 DECEMBER 2016



**DEVELOPMENT
ASSESSMENT PANEL**
APPROVED
 15-Aug-2022

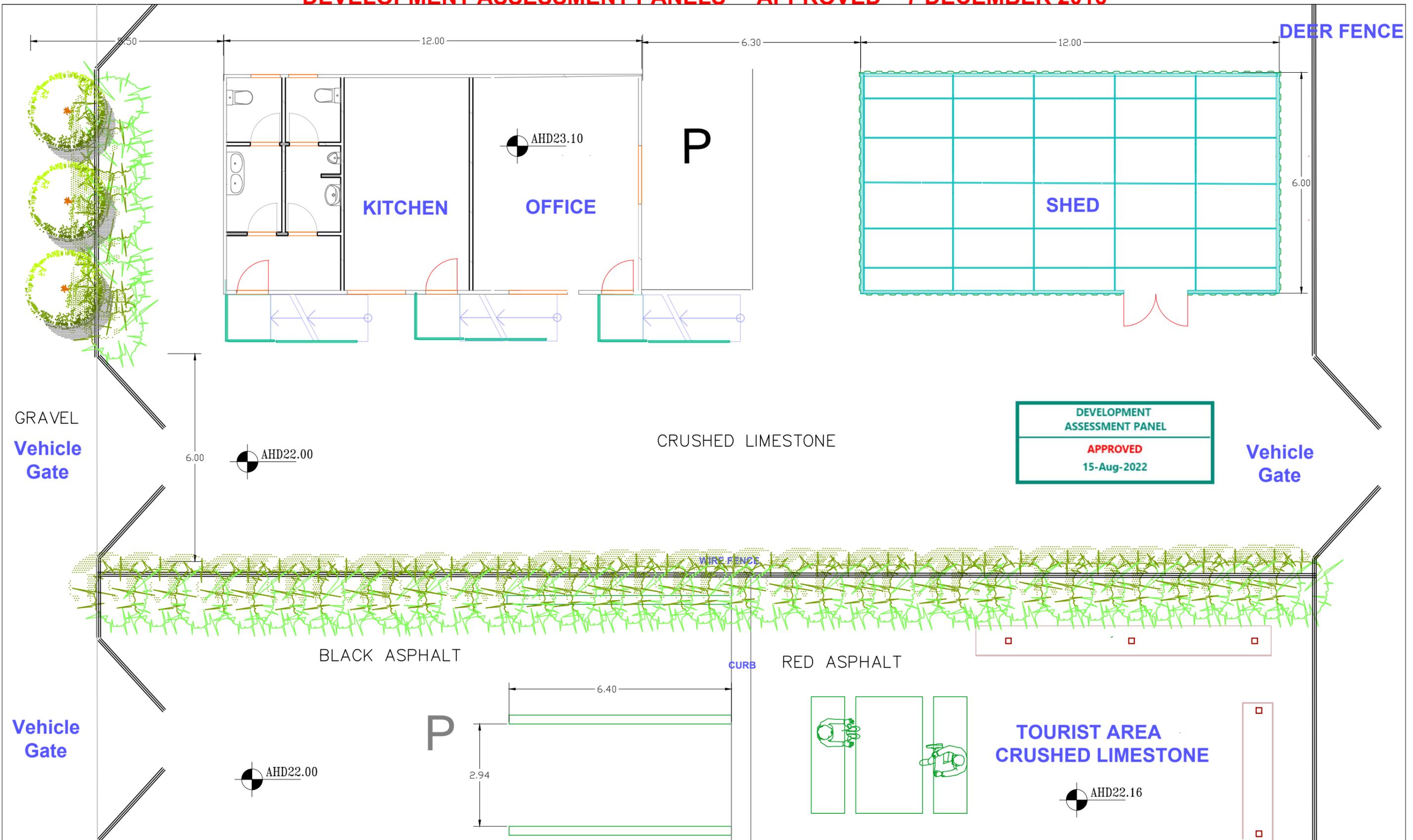
Company: 	Project Name: BYFORD SOLAR FARM Drawing Name: SOLAR FARM TYPICAL ELEVATION	Date: 28. 11. 2016	Version: 10	Drawing Number: 3
		Lot/ Street: Lot 1001 on plan 62901 /25 Peverett Lane, Oakford, WA Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA Lot 210 on plan 152817		

DEVELOPMENT ASSESSMENT PANELS APPROVED 7 DECEMBER 2016



DEVELOPMENT ASSESSMENT PANEL
APPROVED
15-Aug-2022

Company: 	Project Name: BYFORD SOLAR FARM	Date: 28.11. 2016	Version: 10	Drawing Number: 4
	Drawing Name: THOMAS ROAD ELEVATION	Lot/ Street: Lot 1001 on plan 62901 /25 Peverett Lane, Oakford, WA Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA Lot 210 on plan 152817		

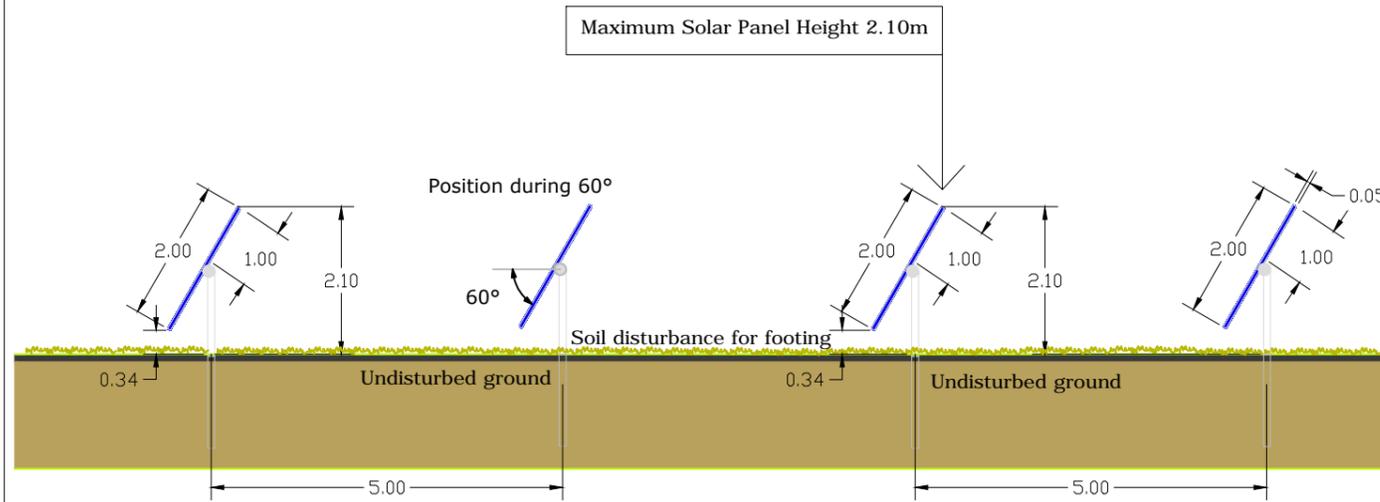


Company: 	Project Name: BYFORD SOLAR FARM	Date: 28. 11. 2016	Version: 10	Drawing Number: 6
	Drawing Name: OFFICE AND SHED FLOOR PLAN	Lot/ Street: Lot 1001 on plan 62901 /25 Peverett Lane, Oakford, WA Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA Lot 210 on plan 152817		

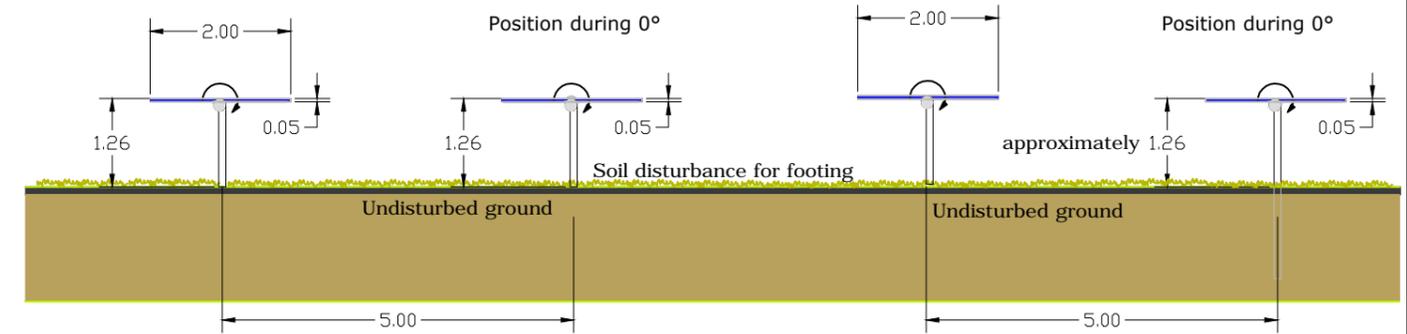
TYPICAL SECTION (60° POSITION)

NX Horizon Self-Powered Tracker
Horizontal single-axis balanced-mass tracking
120° (± 60°) Tracking Range

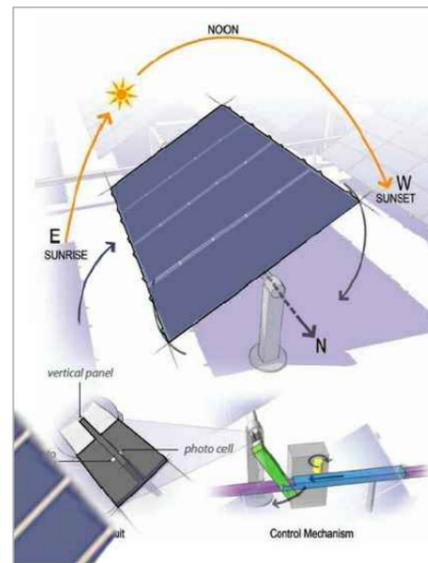
Maximum Solar Panel Height 2.10m



TYPICAL SECTION (0° POSITION)

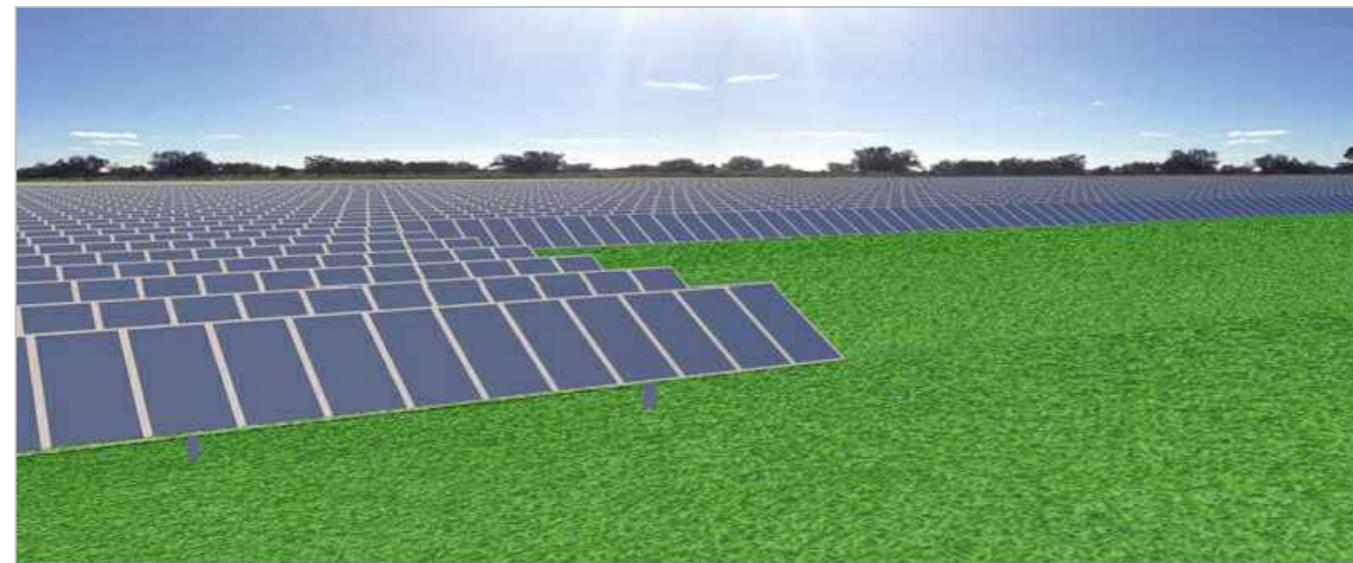


SCHEMATIC VIEW



DEVELOPMENT
ASSESSMENT PANEL
APPROVED
15-Aug-2022

EAST FACING VIEW



Company:



Project Name: BYFORD SOLAR FARM

Date: 28. 11. 2016

Version: 10

Drawing Number: 7

Drawing Name:

TYPICAL SECTION

Lot/ Street:

Lot 1001 on plan 62901 /25 Peverett Lane, Oakford, WA
Lot 200 on plan 152817 /1674 Thomas Road Oakford, WA
Lot 210 on plan 152817

APPENDIX B

Certificate(s) of Title(s)

WESTERN



AUSTRALIA

REGISTER NUMBER 200/DP152817	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **1616** FOLIO **103**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

BGRoberts
REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 200 ON DEPOSITED PLAN 152817

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

SCARLET BROOK PTY LTD OF 34 GOLFFIEW STREET, YOKINE

(T F537121) REGISTERED 4/5/1994

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. F537122 MORTGAGE TO WESTPAC BANKING CORPORATION REGISTERED 4/5/1994.

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 1616-103 (200/DP152817)
PREVIOUS TITLE: 1147-147
PROPERTY STREET ADDRESS: 1674 THOMAS RD, OAKFORD.
LOCAL GOVERNMENT AUTHORITY: SHIRE OF SERPENTINE-JARRAHDALE

NOTE 1: A000001A LAND PARCEL IDENTIFIER OF PEEL ESTATE LOT 200 (OR THE PART THEREOF) ON SUPERSEDED PAPER CERTIFICATE OF TITLE CHANGED TO LOT 200 ON DEPOSITED PLAN 152817 ON 22-JUL-02 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.
NOTE 2: THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.

WESTERN



AUSTRALIA

REGISTER NUMBER 1001/DP62901	
DUPLICATE EDITION 1	DATE DUPLICATE ISSUED 22/11/2011

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2781** FOLIO **497**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

BGRoberts
REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 1001 ON DEPOSITED PLAN 62901

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

ELECTRICITY NETWORKS CORPORATION OF 363 - 365 WELLINGTON STREET, PERTH
(AF L765476) REGISTERED 21/11/2011

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP62901
PREVIOUS TITLE: 2702-263
PROPERTY STREET ADDRESS: 25 PEVERETT LANE, OAKFORD.
LOCAL GOVERNMENT AUTHORITY: SHIRE OF SERPENTINE-JARRAHDALÉ
RESPONSIBLE AGENCY: ELECTRICITY NETWORKS CORPORATION

WESTERN



AUSTRALIA

REGISTER NUMBER 210/DP152817	
DUPLICATE EDITION 1	DATE DUPLICATE ISSUED 15/10/2008

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2702** FOLIO **264**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.

BGRoberts
REGISTRAR OF TITLES



LAND DESCRIPTION:

LOT 210 ON DEPOSITED PLAN 152817

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

ELECTRICITY NETWORKS CORPORATION OF 363 - 365 WELLINGTON STREET, PERTH
(T K725842) REGISTERED 26/9/2008

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP152817
PREVIOUS TITLE: 1016-869
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AUTHORITY: SHIRE OF SERPENTINE-JARRAHDAL
RESPONSIBLE AGENCY: ELECTRICITY NETWORKS CORPORATION

NOTE 1: K741011 LAND PARCEL IDENTIFIER OF PEEL ESTATE LOT 210 CHANGED TO LOT 210 ON DEPOSITED PLAN 152817 ON 14.10.2008 TO ENABLE ISSUE OF A DIGITAL CERTIFICATE OF TITLE.
NOTE 2: THE ABOVE NOTE MAY NOT BE SHOWN ON THE SUPERSEDED PAPER CERTIFICATE OF TITLE OR ON THE CURRENT EDITION OF DUPLICATE CERTIFICATE OF TITLE.
NOTE 3: L206466 DEPOSITED PLAN 62900 LODGED FOR INTEREST PURPOSES ONLY.

APPENDIX C

Shire of SJ – DA Extension (2018)

All enquiries to Planning Services on 9526 1111
Our ref: PA18/1110/HC:wj



Sustainable. Connected. Thriving!

18 December 2018

Westgen Pty Ltd
Suite 7, 56 Kings Park Road
WEST PERTH WA 6005

Via email: richard.harris@westgen.com.au

Dear Sir/Madam,

Proposed Solar Farm ('Use Not Listed')
Lot 1001, 25 Peverett Lane and Lots 200, 1674 and 210 Thomas Road, Oakford

Thank you for your development application, received 13 December 2018 on the aforementioned lot. The Shire is pleased to advise that, in accordance with Local Planning Policy 1.3 – Amendments and Extensions to Existing Approvals, the timeframe for your development application has been extended for a further two years.

In accordance with the above policy, all conditions of the previous approval (attached) remain unchanged. The approval is now valid up until 7 December 2020. If the subject development is not substantially commenced within this two year period, the approval shall lapse and be of no further effect.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ashwin Nair'.

Ashwin Nair
Manager Statutory Planning and Compliance

APPENDIX D

Shire of SJ - Correspondence

Miranda Bowman

From: Andrew Trosic <atrosic@sjshire.wa.gov.au>
Sent: Friday, 14 October 2022 11:24 AM
To: Henry Dykstra; Heather O'Brien; Ashwin Nair; Helen Ball
Subject: Re: Byford Solar Farm (HD 23157)

[EXTERNAL EMAIL] This email originated from an external source, Please do not open any links or attachments unless you recognise the sender and know the content is safe.

Hi Henry

Yes I suspected that the substantial commencement timeframe would be an issue. I think the only option available, given what has now been indicated in respect of land tenure delays, is to address this pursuant to the r17(1) pathway.

This is something me, Ash and Heather had actually thought may eventuate, given the lack of resources currently available in the construction sector. But in this case it appears a tenure delay.

My observation is that this application will need to be advertised, reported to council (as the RAR) and then determined by DAP.

pretty much meaning we need the application in asap, and with a suggestion that more than a 3 month extension is needed in my opinion given the challenging market at the moment. And of course the reasons for whatever time extension you seek.

Heather, could you liaise with Henry in this regard?

17. Amendment or cancellation of development approval by DAP

(1) An owner of land in respect of which a development approval has been granted by a DAP pursuant to a DAP application may apply for the DAP to do any or all of the following —

- (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced under regulation 16A(2);
- (b) to amend or delete any condition to which the approval is subject;
- (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
- (d) to cancel the approval.

(2) An application under subregulation (1) —

- (a) may be made during or after the period within which the development approved must be substantially commenced under regulation 16A(2); and
- (b) must be made in the form of Form 2 in Schedule 3; and
- (c) must be accompanied by the relevant fee set out in Schedule 1; and
- (d) must be lodged with the local government with which the DAP application was lodged.

(3) Unless otherwise provided in this regulation, regulations 10 to 13 apply to an application under subregulation (1) as if the application were a DAP application.

(4) The DAP may determine an application under subregulation (1) by —

- (a) approving the application with or without conditions; or
- (b) refusing the application.

(5) As soon as practicable after the application is determined, the presiding member must give the applicant and the relevant responsible authority written notification of the determination which must include the following —

- (a) the date of the determination;
 - (b) the determination;
 - (c) the terms of any condition to which the approval is subject;
 - (d) reasons for any refusal;
 - (e) unless the application is granted unconditionally, a statement of the effect of regulation 18.
- (6) The administrative officer of the DAP must ensure that the notification is published on the DAP website.

Yours faithfully,

Andrew Trosic

Director Development Services

E – atrosic@sjshire.wa.gov.au

T – 9626 1120

M – 0409 038 429

Shire of Serpentine Jarrahdale

6 Paterson St, Mundijong WA 6123

www.sjshire.wa.gov.au

Andrew Trosic

Director Development Services

+618 9526 1120 | 0409 038 429

Shire of Serpentine Jarrahdale

6 Paterson Street, Mundijong, WA, 6123

www.sjshire.wa.gov.au



**SJ Community
Grants Program**

Applications open – apply today!



From: Henry Dykstra <HenryD@HarleyDykstra.com.au>

Sent: Friday, October 14, 2022 10:38:34 AM

To: Andrew Trosic <atrosic@sjshire.wa.gov.au>

Subject: Byford Solar Farm (HD 23157)

Hello Andrew

I refer to the above and the various works and meetings that have happened between ourselves and the Shire staff over the last month or more. The engineering drawings for the civil works have been drafted and we expect them to be lodged with the Shire engineering department for approval next week. There is a suite of management plans that have been compiled in order to satisfy many of the other conditions, some of those have been lodged with the Shire's relevant departments and the remaining ones will follow over the coming week.

Clearing permit exemption notifications are currently being progressed as well.

The two largest lots within the development are currently owned by Western Power and are contracted to be transferred to WestGen shortly. Western Power has recently advised that they have been prevented by Main Roads from doing the land transfer until the additional Thomas Road widening has been excised from the land. Western Power and Main Roads have reached agreement and expect to have that road widening finalised at Landgate by the end of November/ early December 2022.

Andrew, this does mean that although WestGen would have been able to substantially commence work by December 2022, Western Power is delaying settlement due to the new Main Roads road widening requirement and Western Power is not prepared to entertain early access for WestGen to commence work. Andrew, I would appreciate your guidance as to whether it would be possible for us to seek a three-month extension on the substantial commencement date, given the above situation that has unfolded. I am happy to discuss this over the phone if you prefer, however, I thought I would give you the early "heads up".

I look forward to hearing from you.

Kind Regards

Henry Dykstra
Executive Director / Manager of Planning

T: 08 9495 1947 | M: 0407 405 584
Web: www.harleydykstra.com.au
Unit 15, 2 Hensbrook Loop, Forrestdale WA 6112



Albany Bunbury Busselton Forrestdale Perth

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Miranda Bowman

From: Andrew Trosic <atrosic@sjshire.wa.gov.au>
Sent: Monday, 12 September 2022 5:20 PM
To: Lorraine Spencer; Ashwin Nair; Dannielle Kupke
Cc: Ashwin Nair; richard.harris@westgen.com.au; Henry Dykstra; Heather O'Brien; Helen Ball
Subject: RE: DAP APPLICATION PA16/01067: BYFORD SOLAR FARM OAKFORD Byford Solar Farm - Confirmation request Substantial Commencement of Development

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Byford Solar Farm

[EXTERNAL EMAIL] This email originated from an external source, Please do not open any links or attachments unless you recognise the sender and know the content is safe.

Dear Lorraine *et al*

Thank you for the email.

The Shire confirms that:

1. Substantial commencement must be achieved by 7 December 2022. This needs to demonstrate, inter alia, substantial works that are directly referable to the development being substantially commenced.
2. The applicant has proposed a set of works with the question of whether such works, if implemented on or before 7 December 2022, would represent substantial commencement.
3. This is a question of fact and degree, and somewhat speculative. The Shire can only assess the substantial commencement question at the time in which it is required to be achieved (i.e. by 7 December 2022).
4. The Shire considers the following matters, in addition to others relevant matters, in respect of the question of whether a development has achieved substantial commencement:
 - a. *Have all the development approval conditions that need to be satisfied prior to commencement of works, been satisfied;*
 - b. *Has full site clearing, bulk earthworks and stabilisation been completed;*
 - c. *Have civil plans for all accessways, crossovers, drainage systems and cabling conduits been submitted to and approved by the Shire;*
 - d. *Have at least 50% of the works included in (c) been completed;*
 - e. *Have construction sand pads and slabs been installed for all site structures;*
5. The Shire notes that a previous agreement had been made to allow Condition 13 to be met through a staged contribution arrangement. This agreement however was not adhered to in terms of when staged payments were intended to commence. In any case, the Shire does not consider an agreement or arrangement to be necessary, as the contribution is only payable at occupation of the development (not prior to works).

I hope this assists.

Yours faithfully,

Andrew Trosic
Director Development Services

e - atrosic@sjshire.wa.gov.au
t - 9526 1120
m - 0409 038 429

Shire of Serpentine Jarrahdale
6 Paterson Street Mundijong, WA 6123
www.sjshire.wa.gov.au



Andrew Trosic

Director Development Services

+618 9526 1120 | 0409 038 429

Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong, WA, 6123
www.sjshire.wa.gov.au



Community
Citizen of the
year Awards



From: Lorraine Spencer <lorraines@harleydykstra.com.au>

Sent: Monday, 12 September 2022 4:42 PM

To: Andrew Trosic <atrosic@sjshire.wa.gov.au>; Ashwin Nair <anair@sjshire.wa.gov.au>; Dannielle Kupke <dkupke@sjshire.wa.gov.au>

Cc: Ashwin Nair <anair@sjshire.wa.gov.au>; richard.harris@westgen.com.au; Henry Dykstra <HenryD@HarleyDykstra.com.au>; Heather O'Brien <hobrien@sjshire.wa.gov.au>

Subject: RE: DAP APPLICATION PA16/01067: BYFORD SOLAR FARM OAKFORD Byford Solar Farm - Confirmation request Substantial Commencement of Development

Hello Andrew

Thank you for your response, and I note in particular the importance of ensuring physical works on site directly related to the implementation of the project are of prime importance. Our aim is certainly to ensure that all internal accessways and drainage systems will be 50% constructed by early December 2022, and that any sand pads and slabs associated with the site office building and adjoining storage shed will be installed.

Our client would very much appreciate some formal confirmation from the Shire that the six commitments outlined in our email would be deemed to satisfy the substantial commencement criteria in relation to this project. Obviously with a project of this scale they need to have certainty that all risks are properly managed, and for this reason the Shire's confirmation in an email response would be very much appreciated and necessary.

5. All major procurement of equipment and construction contracts will have been executed, with evidence thereof provided to the Shire.
6. Payment of the first instalment of \$100,000 p.a. being one of five instalments; in respect to Condition 13 – contribution for public art to Council as per the Shire of Serpentine/Jarrahdale's letter of 07/07/2017.

Would you kindly confirm so that we can let our client know as soon as possible.

We welcome any feedback you may have in relation to the above. Please contact Henry Dykstra and cc Lorraine Spencer and Richard Harris in this respect.

Kind regards

Henry Dykstra BA (URP), MPIA

Executive Director / Manager of Planning

T: 08 9495 1947 | M: 0407 405 584 | www.harleydykstra.com.au
Unit 15, 2 Hensbrook Loop, Forrestdale WA 6112



Albany Bunbury Busselton Forrestdale Perth

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Subject: RE: DAP APPLICATION PA16/01067: BYFORD SOLAR FARM OAKFORD Byford Solar Farm - Confirmation request
Substantial Commencement of Development

Hello Ashwin
Is there any news on the below queries from two weeks ago?

Kind Regards

Lorraine Spencer
Lead Administrator/Project Support Officer

T: 08 9495 1947
Web: www.harleydykstra.com.au



Albany Bunbury Busselton Forrestdale Perth

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From: Lorraine Spencer
Sent: Wednesday, 31 August 2022 1:40 PM
To: Andrew Trosic <atrosic@sjshire.wa.gov.au>
Cc: Ashwin Nair <anair@sjshire.wa.gov.au>; richard.harris@westgen.com.au; Henry Dykstra <HenryD@HarleyDykstra.com.au>
Subject: FW: DAP APPLICATION PA16/01067: BYFORD SOLAR FARM OAKFORD Byford Solar Farm - Confirmation request
Substantial Commencement of Development

Hello Andrew

As discussed in our meeting this morning, our client Westgen Solar Project Pty Ltd is seeking confirmation from the Shire of Serpentine/Jarrahdale that the below list of items would be deemed to satisfy the substantial commencement criteria in relation to this project;

1. All of the Development Approval Conditions that need to be satisfied prior to commencement of development will have been completed;
2. Vegetation clearing and associated permits will have been implemented;
3. Internal accessways and drainage systems will have been designed, approved by Council and 50% constructed;
4. The sand pads and slabs will be installed for both the site office building and the adjoining storage shed; and

From my perspective, the question of fact and degree is probably the key one to consider.

Looking at what you set out, with the addition of demolition of the single house which has also occurred, there appears to be a commitment of resources which is not insignificant, compared to the overall project.

My main concern is that preparation works generally are not held as sufficient to demonstrate substantial commencement. For that reason, it would be critical to ensure those works that are directly referable to the development, are done.

Points 3 and 4 are therefore critical, to achieve directly referable works to the development, to affect substantial commencement.

Ash, Heather, thoughts??

Yours faithfully,

Andrew Trosic
Director Development Services

E – atrosic@sjshire.wa.gov.au
T – 9626 1120
M – 0409 038 429

Shire of Serpentine Jarrahdale
6 Paterson St, Mundijong WA 6123
www.sjshire.wa.gov.au

Andrew Trosic
Director Development Services

+618 9526 1120 | 0409 038 429
Shire of Serpentine Jarrahdale
6 Paterson Street, Mundijong, WA, 6123
www.sjshire.wa.gov.au



The banner features a dark blue background on the left with the text "Applications open" in large yellow font and "Nominate today!" in white below it. To the right, on a light blue background, are three logos: the Australia Day logo (a stylized heart shape), the Community Citizen of the Year Awards logo (text), and the Shire of Serpentine Jarrahdale logo (a tree inside a circle).

From: Lorraine Spencer <lorraines@harleydykstra.com.au>
Sent: Monday, September 12, 2022 9:32:27 AM
To: Ashwin Nair <anair@sjshire.wa.gov.au>; Dannielle Kupke <dkupke@sjshire.wa.gov.au>
Cc: Ashwin Nair <anair@sjshire.wa.gov.au>; richard.harris@westgen.com.au <richard.harris@westgen.com.au>; Henry Dykstra <HenryD@HarleyDykstra.com.au>; Andrew Trosic <atrosic@sjshire.wa.gov.au>

Kind regards

Henry Dykstra BA (URP), MPIA
Executive Director / Manager of Planning

T: 08 9495 1947

Web: www.harleydykstra.com.au



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From: Andrew Trosic <atrosic@sjshire.wa.gov.au>

Sent: Monday, 12 September 2022 9:49 AM

To: Lorraine Spencer <lorraines@harleydykstra.com.au>; Ashwin Nair <anair@sjshire.wa.gov.au>; Dannielle Kupke <dkupke@sjshire.wa.gov.au>

Cc: Ashwin Nair <anair@sjshire.wa.gov.au>; richard.harris@westgen.com.au; Henry Dykstra <HenryD@HarleyDykstra.com.au>; Heather O'Brien <hobrien@sjshire.wa.gov.au>

Subject: Re: DAP APPLICATION PA16/01067: BYFORD SOLAR FARM OAKFORD Byford Solar Farm - Confirmation request Substantial Commencement of Development [Filed 12 Sep 2022 10:40]

[EXTERNAL EMAIL] This email originated from an external source, Please do not open any links or attachments unless you recognise the sender and know the content is safe.

Hi Lorraine

Thanks for the follow up. I thought it was responded to, so I will respond now.