Dear Deputy Premier

Re: Clare Solar Farm development – Request For Call In Consideration

The purpose of this correspondence is to formally request that you, as the Minister responsible for the Sustainable Planning Act 2009 (the Act), consider the exercise of your statutory power under section 424A of the Act to issue a Proposed Call In Notice with regard to the proposed Clare Solar Farm Development. The application details are as follows:

Applicant: FRV Services Australia Pty Ltd

Land: 82,124 and 196 Shedforth Road, Clear QLD 4810

Council Reference: CONS14/0028

Court Appeal: Brisbane Registry No. 2639 of 2015 (Appellant: Wilmar Sugar Pty Ltd)

The project is a large scale, grid connected solar farm covering a maximum area of 340 hectares on privately held land. The application has been supported by the Council since its lodgement in December 2014 and a Development Permit approving it has been issued on 18 May 2015. It will provide significant benefits to the Burdekin Shire Community and the region generally.

The Development Permit has been appealed by 2 submitters primarily on the grounds of conflict with the State Planning Policy for use of Good Quality Agricultural land. However there were no state agencies as concurrence agencies under the Act for that assessment criteria. This policy covers all matters of State interest under the Act.

The Burdekin community needs clean cost effective energy, local employment and alternative economic investment and activity. Our region needs alternative energy resources being made available to it for industrial development and economic growth.

The Burdekin community ratepayers will bear the brunt of the legal cost involved in the Council being statutorily required to be a party to the Appeal, to reconsider the project under the Act on primarily State Interest grounds being raised by an objector who holds commercial interest in the use of agricultural land for its own alternative purposes within the region.
Accordingly, we seek the State’s involvement and consideration of the approval under a Ministerial Call in to ensure the best outcomes for the region is confirmed, expeditiously and effectively.

We note that the Minister has 15 business days after the day the Chief Executive receives notice of an appeal about the proposed development. Your department’s Appeals Database confirms receipt by the Chief Executive on 2 July 2015 and accordingly we request your consideration of the exercise of your discretionary statutory power in this regard in accordance with the statutory timeframe applicable.

Should you have any queries in relation to the Council’s position in support of this development for its community or as to the State interest in the development application, please do not hesitate to contact Matthew Magin on (07) 4783-9811.

Yours sincerely

Matthew Magin
Chief Executive Officer
Subject: Clare Solar Farm

Purpose: Ministerial Briefing

Date: 10 July 2015

Background:

- Development Application for Material change of Use (Not defined) – large scale, grid connected solar farm, lodged December 2014;
- No State concurrence agencies triggered, Powerlink and Energex are "advice" agencies and both supported the application;
- Not considered to have any adverse environmental, economic and amenity impacts that cannot be conditioned appropriately or managed given the static nature of the development (solar panels on poles fixed, minimal operational/administrative ancillary and no requirements for substantial traffic, supplies, offsite impacts);
- Triggered impact assessment as not a defined use under Scheme;
- 6 submissions received;
- Council approved the development subject to relevant conditions on planning grounds, including the substantially benefit to the regions intended from the development;
- Wilmar/Brotto appeal grounds:
  - conflict with State Planning Policy;
  - conflict with Rural Zone of Scheme.

Ministerial Call In Basics

- Development needs to trigger a "State Interest", in this case, the economic interest of part of the State for GQAL/Burdekin/Greater Townsville region. (s.242 SPA);
- Intent of the provisions is for the State to effectively and decisively determine applications where State Interests are involved. Once final decision is made, it can remove all rights of appeal to all parties;
- Minister must give natural justice to parties before officially calling it in. A "Proposed Call In Notice" process asking for all relevant parties to make initial representations to the Minister as to whether the development should be called in;
- Timeframes for this initial process is set. Relevant to the facts here, the Minister has 15 business days to send the Proposed Call In Notice to the Council, the Applicant, the submitters and any concurrence agencies involved (s.242A SPA). This timeframe ends 22 July 2015;

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1 State interest means—(a) an interest that the Minister considers affects an economic or environmental interest of the State or a part of the State, including sustainable development; or (b) an interest that the Minister considers affects the interest of ensuring there is an efficient, effective and accountable planning and development assessment system.
The Proposed Call In Notice has strict requirements about its content and the Minister must state its intentions in terms of assessment and decision making powers it may take. (e.g. it can only decide State interest matters and not the rest of the issues);

- It must give all parties a representation period of a minimum 5 business days. This is usually longer;
- The minister then must make a decision whether it will call in the development application within 20 business days of the end of this representation period;
- If the Minister does not call in the development application, the Appeal process will continue once written notice of this is given to the parties.

Effect of Ministerial Call in (with development application already in Appeal stage)

- Written Notice of the call in must be given to the Council. This notice must include reasons and the process by which the Minister will re-assess and re-decide the development application. It can 're-start' the IDAS process at any point. The Minister can choose to only decide the State interest component and hand the rest back to Council to reassess. (s.426 SPA);
- The Appeal is of no further effect once this Notice is given. Nor is the final decision of the Minister on the application appealable once made. (s.427(5));
- Council must give the Minister all reasonable assistance to the Minister to reassess and re-decide the application, including providing the application material and any other material relevant. (s.428 SPA);
- The Minister must give a Decision Notice to the applicant and the Council (some SPA provisions that would apply to Council for this don't apply to the Minister);
- If the Minister hasn't decided the complete application, it will refer the remaining aspects not decided back to the Council. And state the point in the IDAS process from which the Council must restart its process. (s.431);
- The Minister must then prepare a report about its decision and provide it to the legislative Assembly within 14 sitting days after the Ministers decision is made. (s.432 SPA);
- The Minister can ask the Council to report to it about compliance with the development approval given by the Minister if it wishes it. (s.433 SPA).

Why seek a Ministerial Call in?

- The conflict with the Council's Scheme is technical, noting the Rural Zone is the only likely Zone that sufficient land for this use would be available (unlikely to be sufficient industrial land available), the impacts of the project are minimal and conditions can deal with them sufficiently. Innovatively, it could be said that, in reality, the land is 'growing energy';
- Wilmar's objection is really about the removal of land that could be available to it for sugar cane production to develop the use, even though it has no right to force a landowner to use it for this purpose. This is anti competitive and not a true planning ground;
- The cost and time for the appeal will risk the viability of the applicant in being able to bring the developments opportunities to the region and cost ratepayers unnecessarily.
Preliminary Assessment Report
Potential ministerial call in –
Clare Solar Farm, Clare (Burdekin Shire Council)

Site:
82, 124 and 196 Shadforth Road, Clare QLD 4807

Proposal:
Development permit – Material change of use – Solar farm (use not defined)

July 2015
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Preliminary Assessment Report – MBN15/1263

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Schedule 1 – Letter from Burdekin Shire Council (call in request)
1. Introduction

This preliminary assessment report has been prepared to assist you, as the Deputy Premier, Minister for Transport, Minister for Infrastructure, Local Government and Planning and Minister for Trade, in deciding whether to give a proposed call in notice for a development application made by FRV Services Australia Pty Ltd c/o URS Australia Pty Ltd to Burdekin Shire Council (Council) for a solar farm.

Council approved the application on 18 May 2015. On 2 July 2015 a submitter appeal was filed in the Planning and Environment Court. On 10 July, Council requested you call in the development application.

This report, which leads to a recommendation for you to issue a proposed call in notice, provides a summary of the development application from a Local and State perspective, as well as an overview of the options available to you under the Sustainable Planning Act 2009 (SPA).
2. Particulars of the Development

2.1 Application Details

Our reference number: MBN15/1263

Name of applicant: FRV Services Australia Pty Ltd c/o URS Australia Pty Ltd

Date application lodged: 12 December 2014

Date application properly made: 12 December 2014

Date of decision notice issued by Council: 18 May 2015

Development approval sought: Development permit – Material change of use – Solar farm (use not defined)

Applicable planning scheme: Burdekin Shire IPA Planning Scheme 2011

Planning scheme designation: Rural zone

Level of assessment: Impact assessable

Assessment Manager: Burdekin Shire Council (reference: CONS14/0028)

2.2 Site Details

RP description: Lot 241 on SP199878, Lot 242 on GS1028 and Lot 243 on GS1029

Owner of property: Lyndsay George and Russell Hall

Site address: 82, 124 and 196 Shadforth Road, Clare QLD 4807
2.3 Site Description

The subject site is located approximately 35 km south-west of Ayr and 85 km south-east of Townsville in North Queensland (Figure 1). The site is rural land currently used for sugar cane farming.

![Figure 1 - Site Locality](image)

The subject site consists of 3 allotments totalling approximately 340 hectares. As illustrated in Figure 2, the site is bounded by sugar cane farming to the north, west and south and adjoins the Clare substation to the north east. The site is accessed by Shadforth Road, which is located along the site’s eastern boundary.
The Clare substation is jointly managed by Powerlink and Ergon Energy and the site is encumbered by a number of Powerlink and Ergon Energy easements, as detailed in Table 1.

<table>
<thead>
<tr>
<th>Lot 241 SP199878</th>
<th>Lot 242 GS1028</th>
<th>Lot 243 GS1029</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Address</strong></td>
<td>82 Shadforth Road, Clare QLD 4807</td>
<td>124 Shadforth Road, Clare QLD 4807</td>
</tr>
<tr>
<td><strong>Site Area</strong></td>
<td>110.7 ha</td>
<td>120.1 ha</td>
</tr>
<tr>
<td><strong>Tenure</strong></td>
<td>Freehold</td>
<td>Freehold</td>
</tr>
<tr>
<td><strong>Property ownership</strong></td>
<td>Lyndsay George Russell Hall</td>
<td>Lyndsay George Russell Hall</td>
</tr>
<tr>
<td><strong>Easements, encumbrances and interests</strong></td>
<td>Easements D and E on CP GS1027 burdening the land to Queensland Electricity Transmission Corporation Limited (Powerlink)</td>
<td>Easement G on CP GS1028 burdening the land to Queensland Electricity Transmission Corporation Limited (Powerlink)</td>
</tr>
<tr>
<td></td>
<td>Easement F on CP GS1027 burdening the land to The North Queensland Electricity Board (Ergon Energy)</td>
<td>Easement C on CP GS1028 burdening the land to Queensland Electricity Transmission Corporation Limited (Powerlink)</td>
</tr>
</tbody>
</table>

Table 1 – Lot and Plan details
3. The Development Application

3.1 Proposed development

On 12 December 2014, FRV Services Australia Pty Ltd c/o URS Australia Pty Ltd lodged an impact assessable development application with Council for a development permit for material change of use for a 'use not defined' (Solar farm) under the Burdekin Shire Planning Scheme 2011, prepared under the Integrated Planning Act 1997 (IPA).

The project involves the construction and operation of a large solar farm that will include:

- up to 238 ha of rotating photovoltaic (PV) modules mounted in rows
- a solar substation adjacent to the existing Clare substation
- a warehouse
- inverters and transformers located in shipping containers
- associated power lines/cables.

The project will generate direct current which will be converted to alternating current and increased in voltage prior to sending it to the solar plant substation.

The application notes that there is potential for the project to incorporate a battery energy storage system (BESS) which would enable the plant to inject additional energy into the grid at optimal times. The applicant advises a decision on whether to incorporate a BESS is to be made at a later stage due to the significant costs involved.

The project’s detailed design, specific layout and electricity generating capacity has not been confirmed at this stage, including row spacing, internal access tracks, number of modules and inverters and the choice of whether to incorporate BESS technology or not. The applicant states that “there are a number of factors which will drive the final design of the plant, including its size such as conditions in the national electricity market (NEM), potential changes to the Renewable Energy Target (RET) and detailed site investigations such as geotechnical studies. Ultimately, the final design work will be undertaken by an engineering, procurement and construction (EPC) contractor. The EPC contractor for the Project has not yet been engaged by FRV and would normally not be engaged until the time of financial close. In any event, the contractor for the Project will be engaged following obtaining of the material change of use approval as outlined in this Planning Report”.

3.2 Information Request

There were no information requests issued for this development application.

3.3 Referral

In January 2015, the development application was referred to Ergon Energy and Powerlink as advice agencies under Schedule 7, Table 3, Items 7 and 8 of the Sustainable Planning Regulation 2009 – electricity infrastructure.
Powerlink and Ergon Energy provided referral responses dated 20 and 30 January 2015 respectively. Both agencies supported the application subject to conditions. Council attached both advice agency responses to the decision notice as advice.

3.4 Public Notification

The application was publicly notified between 18 February and 13 March 2015. Five properly made submissions were received. The following key issues were raised in the submissions:

- loss of agricultural land (reduction of commercial capacity of cane production)
- impact on existing infrastructure including Shadforth Road
- impact on Wilmar’s co-generation plant
- emissions of ash and dust
- stormwater run-off, water quality and availability
- visual amenity/glare
- radiation from inverters.

3.5 Council’s Decision

Council approved the development application subject to conditions on 18 May 2015.

3.6 Documentation

The documentation for the development application can be accessed through Council’s website at:

4. Appeal periods

A submitter appeal against the development application was filed in the Planning and Environment Court on 2 July 2015. The grounds of appeal include that the development application:

- conflicts with the planning scheme and with the State Planning Policy (July 2014) (SPP July 2014)
- does not demonstrate that there are sufficient grounds to justify approval despite the conflict.
5. Request to call in the development application

In a letter dated 10 July 2015 (Schedule 1), Burdekin Shire Council requested a Ministerial call in of the development application, “to ensure the best outcomes for the region is confirmed, expeditiously and effectively.” Council considers that the solar farm will provide significant benefits to the Shire and to the region, and identifies a number of issues for you to consider, including:

“The Development Permit has been appealed by 2 submitters primarily on the grounds of a conflict with the State Planning Policy for use of Good Quality Agricultural Land. However there were no State agencies as concurrence agencies under the Act for that assessment criteria. This policy covers all matters of State interest under the Act.

The Burdekin community needs clean cost effective energy, local employment and alternate economic investment and activity. Our region needs alternative energy resources being made available to it for industrial development and economic growth.

The Burdekin community ratepayers will bear the brunt of the legal cost involved in Council being statutorily required to be a party to the Appeal ... by an objector who holds commercial interest in the use of agricultural land for its own alternate purposes within the region.”
6. Local Government Matters

The development application triggered impact assessment requiring assessment against the relevant parts of the planning scheme including the Desired Environmental Outcomes (DEO's), the Specific Outcomes and Acceptable Solutions in the Rural zone code and the Natural features overlays.

6.1 Desired environmental outcomes

A thorough assessment of the application against the DEOs will be required should you decide to call in the proposed development. Relevant DEOs include, but are not limited to:

- **DEO Economic Development** – *The Shire will have a sustainable economic base built upon its natural resources and traditional rural industries by diversifying and value-adding to the rural base consistent with the sustainable use of the Shire’s natural and community resources through the protection of Good Quality Agricultural Land from conflicting forms of development and land use activities in accordance with State Planning 1/92;*

- **DEO Urban Development and Infrastructure** – *The Shire has a sustainable urban form which is in keeping with local character, where development is adequately and efficiently serviced with necessary development and community infrastructure.*

Based on its preliminary assessment, the department agrees with Council which states that “the proposed land use is generally in accordance with the adopted DEO's. In particular, the proposal will provide opportunities for diversification, economic gain and renewable energy infrastructure. The project also complies with the concept of ecologically sustainable development in all facets of its operations.”

A more detailed assessment of the development application against the DEOs will be undertaken should you decide to call in the development application and undertake a full merit assessment under the normal assessment and decision provisions of SPA.

6.2 Zoning provisions

The site and surrounding areas are included in the rural zone under the planning scheme. The overall outcomes sought for the rural zone include, but are not limited to:

- The establishment of new sustainable rural industries or activities in order to broaden the economic base of the Shire will be facilitated

- Incompatible land uses do not intrude on the expansion and continuation of primary industries

- Uses and works are located, designed and managed to conserve and protect good quality agricultural land (GQAL) in accordance with State Planning Policy 1/92.

Based on its preliminary assessment, the department considers that the development establishes a new sustainable industry that broadens the economic base of the Shire and that that it should not impact on the continuation of primary industries.
There are no interim development assessment provisions relating to agriculture in Part E of the State Planning Policy. In addition, there is no agriculture layer in the SPP July 2014 mapping for development assessment.

In addition, the department considers that the development application can comply with the specific outcomes of the rural zone code for the following reasons:

- The proposed development includes appropriate setbacks, is at least 100m from any existing dwellings and will be erected no more than 3m above ground level with minimal lighting so as to not be visually obtrusive.
- An appropriate level of infrastructure will be provided (i.e. on-site sewage treatment, bottled water, a new access point of Shadforth Road and on-site stormwater management).
- The site is not identified as containing medium or high bushfire hazard in the planning scheme.
- The site is not within 100m of a waterway and does not contain wetlands.
- The physical characteristics of the site are suitable for the development.
- The proposed solar farm is compatible with surrounding uses.

A more detailed assessment of the development application against the overall and specific outcomes will be undertaken should you decide to call in the development application and undertake a full merit assessment under the normal assessment and decision provisions of SPA.

### 6.3 Planning Scheme Overlays

The site is identified as Good Quality Agricultural Land under the Natural Features Overlay Map 4 and a Low Bushfire Hazard under Natural Features Overlay Map 9. The overlay provisions will need to be considered in the reassessment of the application should you decide to call in the development application.

### 6.4 Integrated Development Assessment System (IDAS)

A preliminary review of the IDAS process undertaken by Council indicates that assessment of the development application appears to have complied with the requirements of SPA.
7. **State Matters**

7.1 **State Planning Policy**

A state planning policy advances the purpose of SPA by stating the State's policy about a matter of State interest (section 22(b) of SPA).

The development application was lodged on 12 December 2014, after the commencement of the SPP July 2014.

Part E of the SPP July 2014 includes interim development assessment provisions to ensure that State interests are appropriately considered when assessing development applications where the local government planning scheme has not yet appropriately integrated the State interests in the SPP July 2014.

The planning scheme does not appropriately reflect the State interests in the SPP July 2014.

Relevant State interests in Part E are discussed below.

**Water quality**

Council's assessment of the development application stated that stormwater runoff is expected to be minimal, and no mitigation measures to control stormwater were proposed. The applicant has stated that herbicides used in weed management will be non-residual/non-persistent chemicals. Council's approval included conditions which require that the development must not interfere with the natural flow of stormwater as to cause ponding or concentration of stormwater on adjoining land or roads, and that external catchments discharging to the premises must be accommodated with the development's stormwater drainage system. It also includes a condition which requires the submission of a Construction Environmental Management Plan.

**Natural hazards, risk and resilience**

**Flood hazard area - Level 1 Queensland floodplain assessment overlay**

No flood assessment has been done for the site. The site is not located in the Flood hazard area - local government flood mapping area; nor does the planning scheme's natural features map identify the site as being flood prone or having drainage problems.

**Bushfire hazard areas – potential bushfire impact buffer**

The south-eastern boundary of the site is located in the potential buffer impact area, with a small portion of the site also being located in the Medium Potential Bushfire Intensity area. The applicant has stated that a supply of water for firefighting purposes will be maintained on site and that appropriate setbacks will be incorporated into the design in compliance with the planning scheme and bushfire management guidelines. Although Council did not include any conditions relating to bushfire, it is considered that conditions can be imposed on an approval, if found to be necessary. The planning scheme’s natural features maps identify the site as being in a low bushfire area.

Based on its preliminary assessment, the department considers that the development, as conditioned by Council, does not conflict with any relevant aspect of the SPP July 2014.
7.2 Regional Plan

The subject site is not located within an area affected by a regional plan.
8. State Interests

Under section 424 of SPA, you may call in a development application only if it involves a State interest. A State interest is defined in schedule 3 of SPA as:

a) an interest that the Minister considers affects an economic or environmental interest of the State or a part of the State, including sustainable development;
or

b) an interest that the Minister considers affects the interest of ensuring there is an efficient, effective and accountable planning and development assessment system.

Should you wish to call in the development application, the department has identified the following State interest:

The proposed development affects:

1. an economic and environmental interest of the State or a part of the State, including sustainable development:
   a) in that the Council considers that the Burdekin community needs:
      i) local employment and alternative economic investment and activity
      ii) effective and alternative energy resources for industrial development and economic growth
   b) in that the Council considers that the solar farm will "contribute towards diversifying the Burdekin Shire's rural economy by providing a safe, reliable and affordable alternate energy source which may lead to efficient gains and potential cost savings in the delivery of electricity in the region"
   c) in that the applicant purports that the solar farm:
      i) will "generate a clean and renewable energy and represent a positive diversification of the local economy"
      ii) "will greatly benefit the local economy through the creation of up to 200 jobs during the construction phase, up to 5 permanent jobs during the operational phase and indirect benefits to local business, contractors and suppliers"
      iii) is located on a site already "highly disturbed through sugar cane growing uses and it directly adjoins the Clare substation".

In addition to the above, the department concurs with concerns expressed by Council that the grounds of the appeal are questionable and that in this instance, the ratepayers of the Burdekin Shire should be buffered from the legal costs associated with such an appeal.

Furthermore, the appeal could jeopardise the viability of a potentially significant project involving 238 hectares of photo voltaic panels, 200 construction jobs and five operational jobs.
9. Discretionary Considerations

Section 424 of SPA provides:

*The Minister may, under this division, call in an application only if the development involves a State interest.*

The following additional matters are also considered relevant in your consideration of whether to issue a proposed call in notice:

- Whilst a development application may only be called in if it involves State interests, you are not obliged to call in a development application just because the proposed development involves a State interest.
- In considering whether or not to exercise your reserve call in powers, consideration should be given to whether you consider that the proposed development not only involves State interests, but is also of state significance to warrant a call in. In this instance, the scale and magnitude of the project, involving 238 hectares of photo voltaic panels and 200 construction jobs, is significant to this part of the state.
- Burdekin Shire Council has specifically requested that you consider exercising your call in powers for the development application, and has provided what the department considers to be substantial and reasonable reasons for their request.
- Should you decide to call in the development application, your decision cannot be appealed on its merits in the Planning and Environment Court and so your decision should finalise the position. However, while the merits of your decision cannot be challenged, the legality of your decision could be made the subject of review in the Supreme Court which might mean that there is continued delay in finalising the position after you have made your decision. While calling in the application will probably produce an earlier decision than Planning and Environment Court appeal process, there can be no certainty on the point.
10. Options

The following options are available to you, as the Planning Minister, for consideration:

Option 1 – Not to issue a notice of proposed ministerial call in

Council has the responsibility and autonomy for ensuring the good rule and government of the local government area. Council is required to assess development applications against the merits and requirements of its planning scheme. Council made its decision to approve the development application, subject to conditions, within the decision making period.

Following Council’s decision to approve the development application, a submitter appeal was lodged in the Planning and Environment Court. The Planning and Environment Court is the independent body established to resolve disputes about planning and development matters. This may be considered the appropriate avenue to resolve disputes about development proposals and the means for the views of local governments, applicants and submitters to be heard, tested and determined. Disputes in the Planning and Environment Court can be costly and time-consuming.

Advantages

- You will not risk setting a perceived precedent for your involvement in similar development applications
- The state will not incur any costs associated with reassessing and re-deciding the development application

Disadvantages

- By choosing not to commence the call in process with regard to the matter, you cannot influence the outcome of the development application or address any State interests which may be relevant to a full merit assessment unless you elect to become a party to the appeal
- The applicant will be subject to significant delays in obtaining a decision about the proposed development. These delays and/or resultant court decision could deprive the Burdekin community of an important new project that will contribute to much needed economic development and jobs for this local economy
- Council (and ultimately the Burdekin Shire community) will incur costs defending the decision to approve the development application during the court process.

Option 2 – Issue a notice of proposed ministerial call in

Based on a preliminary assessment of the development application, the department considers that the development application may be called in as the proposed development involves economic and environmental State interest of part of the State and the interest of ensuring there is an efficient, effective and accountable planning and development assessment system.

Preliminary Assessment Report – MBN15/1263
Proposed call in notice

Before calling in a development application, you must give a proposed call in notice to the assessment manager, the applicant, any submitter for the application of which you are aware when the notice is given, and any concurrence agencies for the application (the affected parties). Section 424A of SPA outlines the timeframes for giving a proposed call in notice. The notice may be given at any time after the development application is made, until the latest of the following:

i) 15 business days after the day the chief executive receives notice of an appeal about the application;
ii) If there are any submitters for the application—50 business days after the day the decision notice or negotiated decision notice is given to the applicant;
iii) If there are no submitters for the application and a decision notice or negotiated decision notice is given—25 business days after the day the decision notice or negotiated decision notice is given to the applicant;
iv) If the application is taken to have been approved under section 331 and a decision notice or negotiated decision notice is not given—25 business days after the day the decision notice was required to be given to the applicant.

A notice of an appeal was received about the application on 2 July 2015, however, the latest date for issuing the proposed call in notice remains 50 business days after the day the decision notice was given to the applicant. The decision notice was given to the applicant on 18 May 2015; therefore, the last day that you may give the proposed call in notice is Tuesday 28 July 2015.

As required by section 424A of SPA, the proposed notice of call in must be given to the “affected parties” and must state:

- That you are proposing to call in the development application and the reasons why
- The point in the IDAS process, before or at the start of the decision stage, that you propose the process will restart if the application is called in
- Whether you intend to assess and decide the development application having regard only to the State interest for which the application may be called in and, if so, that the usual assessment and decision provisions do not apply to your assessment of, and decision on, the application
- That the person to whom the notice is given, may make representations to you about the proposed call in within a specified period (known as the “stated representation period”).

As required under SPA, the stated representation period must be at least five business days from the day after the proposed call in notice is given. It is recommended however that a period of 15 business days (concluding on 19 August 2015) is a more reasonable timeframe to allow affected parties to prepare a timely and well prepared response. This is based on a proposed call in notice being received by the affected parties on Tuesday 28 July 2015.

After the representation period ends, you will then have until the day before the day that is 20 business days to consider all of the representations made, and decide whether to call in the development application. The last date, based on the above assumptions, for this to occur is Tuesday 15 September 2015. If you deem it appropriate, you may extend the stated representation period, however you can only do so before the stated representation period ends.
If you decide to call in the development application, you will become the assessment manager and will have two options under which you can reassess the development application:

a) **Merit Assessment**

Section 425 of SPA provides you with the option of calling in the development application and reassessing and re-deciding it having regard to the relevant assessment and decision provisions under SPA. This option means you will reassess the development application on its merits against, amongst other things, all relevant planning instruments.

A full merit assessment would not allow you to take into account the identified State interest when undertaking your reassessment, unless the State interest arose for consideration under the relevant planning instruments.

It is considered that a full merit assessment would be required to be undertaken in this instance. A merit assessment would also allow you to address key issues raised by the submitters. These matters are considered to be best dealt with through a merit assessment, rather than a State interest assessment.

b) **State Interests Assessment**

Section 426(4) of SPA provides (so far as material) that you may, if you consider it appropriate in the circumstances, reassess and re-decide the application having regard only to the State interest for which the application was called in. Section 424A(3)(e) and (f) of SPA provides that a proposed call in notice must state whether you intend to reassess and re-decide the application having regard only to the State interest for which the application may be called in, and if so, that the usual assessment and decision provisions do not apply to your assessment and decision on the application.

You may have regard to any common material for the development application and any other matters which are considered relevant to the State interest (section 427(8) (b) of SPA). As provided in schedule 3 of SPA, common material for a development application means:

a) all the material about the application the assessment manager has received in the first 3 stages of IDAS, including—
   i) any concurrence agency requirements, advice agency recommendations and contents of submissions that have been accepted by the assessment manager; and
   ii) any advice or comment about the application received under section 256, and

b) if a development approval for the development has not lapsed—the approval; and

c) an infrastructure agreement applicable to the land the subject of the application.

While you may consider submissions about the proposed development, the key issues raised by submitters are less likely to be able to be addressed through a State interest assessment. Similarly, local matters could only be addressed where they relate to the relevant State interests.
Recommendation on assessment

To ensure a robust assessment taking into account all matters raised in the submissions and local matters, the department recommends that if you determine to issue a notice of proposed ministerial call, you should propose to undertake a full merit planning reassessment, against the relevant planning instruments, under the assessment and decision provisions of SPA. The department also recommends that you propose to re-commence the IDAS process from the start of the decision stage, on the following grounds:

- Council determined to approve the development application, with conditions. It is therefore considered that there is sufficient information, received within the first three stages of the IDAS process, for you to undertake a reassessment of the application.

Advantages

- If you choose to propose to call in the development application, you will have the opportunity to undertake a reassessment of the proposal and re-decide the application.
- If you decide to call in the development application, you will be able to ensure that a decision on the development application is reached expeditiously, rather than being subject to delays and cost implications resulting from the submitter appeal that has been lodged in the Planning and Environment Court. Whilst no appeal may be made in the Planning and Environment Court against a ministerial call in decision, proceedings may be commenced in the Supreme Court on the basis that procedural fairness was not afforded or some other legal error was committed.

Disadvantages

- If you decide to call in the development application, the department estimates that a full reassessment will cost approximately $20,000 and take two months to complete after the application is called in.
- There may be the perception that your involvement in this development application would be a precedent for your involvement in similar development applications.

Option 3 – Elect to become a party to the appeal

Under section 489 of SPA, if an appeal is lodged in the Planning and Environment Court, you may, at any time before the appeal is decided, elect to be a party to the appeal if you are satisfied an appeal involves a State interest.

If you are minded to consider this option, a further briefing notes addressing the merits of intervening in the appeal would be provided for your consideration.
11. Recommendation

The department's preliminary assessment of the request to call in the Shadforth Road solar farm application has concluded that:

- the application does involve a State interest
- the scale and magnitude of the project, involving 238 hectares of photovoltaic panels and 200 construction jobs, is significant to this part of the State
- if the matter is not resolved expeditiously, the Burdekin community could be deprived of an important new project that will contribute to much needed economic development and jobs for this local economy.

Based on the department's preliminary assessment, the department recommends that you issue a proposed call in notice for this development application.

Should you choose to issue a proposed call in notice, it is recommended that you:

1. Identify that you intend to restart the IDAS process at the commencement of the decision stage and
2. Identify that you intend to reassess and re-decide the development application under the normal assessment and decision provisions of SPA; and
3. Provide 15 business days for affected parties to make representations on your proposed notice to call in; and
4. Provide the following reasons for your decision:
   a) The development is of an economic and environmental interest of the State or a part of the State, due to the following:
      i) the proposal will complement the existing energy supply with a renewable energy source that will service industrial development and economic growth within its region
      ii) the proposal will provide significant economic investment and activity to this part of the State through the provision of 200 construction jobs and 5 ongoing operational jobs
      iii) the proposal will diversify Burdekin Shire's local economy by providing a safe, reliable and affordable alternate energy source
      iv) the proposal will not cause environmental damage as it is proposed to be located on a site already disturbed through agricultural activities
      v) the proposal is appropriately located as it will be co-located with the existing Clare substation.