
DATED

2024

PLANNING AGREEMENT

GREATER HUME SHIRE COUNCIL

**GLENELLEN SOLAR FARM NOMINEES PTY LTD ACN 644 794 758
ATF THE GLENELLEN SOLAR FARM TRUST**



**Greater
Hume
Council**

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THIS PLANNING AGREEMENT dated

PARTIES

GREATER HUME SHIRE COUNCIL ABN 44 970 341 154
of 39 Young Street, Holbrook NSW 2644
(Council)

GLENELLEN ASSET PTY LTD ACN 644 794 758 atf The Glenellen Solar Farm Trust of
Suite A, Level 3/73 Northbourne Ave, Canberra ACT 2601 (Developer)

BACKGROUND

- A. The Land is located in the local government area of Greater Hume Shire Council.
- B. The Developer proposes to carry out the Development on the Land.
- C. The Developer has lodged the Development Application seeking development consent from the Minister to carry out the Development on the Land.
- D. The Developer has offered to enter into this Agreement with Council to make the Development Contribution.

OPERATIVE PROVISIONS

1. Definitions and interpretation

1.1. Definitions

In this Agreement, unless the context requires otherwise:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Agreement means this Planning Agreement, including any schedules, annexures or appendices to it.

Address for Service means the address of each party identified at Item 3 of Schedule 2 or any new address notified in writing by any party to all other parties as its new Address for Service.

Auditor means an appropriately qualified auditor appointed by Council.

Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Base CPI means:

- 1. For the first CPI Adjustment Date it means the CPI number for the quarter ending immediately before the Commercial Operation Commencement Date; and
- 2. For the second and all subsequent CPI Adjustment Dates it means the CPI number adopted by the parties as the Current CPI for the previous CPI Adjustment Date in each instance.

Business Day means any day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, and excluding 27 to 31 December, and concludes at 5:00 pm on that day.

Commercial Operation Commencement Date means the date on which the Development has been fully commissioned on the electricity grid in accordance with the Development Consent and is able to export all of its rated output.

Commercial Operation End Date means the date on which the Developer notifies Council in writing that it has permanently ceased operations of the Development and commenced decommissioning in accordance with the Development Consent.

Contribution Amount means an amount of the monetary contribution to be paid by the Developer in accordance with Schedule 3.

Council means Greater Hume Council ABN 44 970 341 154.

CPI means the Sydney (All Groups) Consumer Price Index published by the Australian Bureau of Statistics, or if that index no longer exists, any similar index that the Council specifies, in its sole discretion, for the purposes of this Agreement.

CPI Adjustment Date means 1 July occurring after the Commercial Operation Commencement Date and each anniversary thereafter.

Current CPI means the CPI number for the quarter ending immediately before the relevant CPI Adjustment Date.

Developer means Glenellen Asset Pty Ltd ACN 644 794 758 atf the Glenellen Solar Farm Trust.

Development means the Glenellen Solar Farm as authorised by the Development Consent as described at Item 2 of Schedule 2.

Development Application has the same meaning as in the Act, and where relevant for the purposes of this Agreement refers to the development application identified at Item 4 of Schedule 2.

Development Consent has the same meaning as in the Act, and where relevant for the purposes of this Agreement, refers to the development consent granted to the Development Application for the Development, including any modifications of that Development Consent in accordance with the Act.

Development Contribution means the contributions identified in Schedule 3 which are to be provided by the Developer in accordance with this Agreement.

Explanatory Note means the note exhibited with a copy of this Agreement when this Agreement is made available for inspection by the public pursuant to the Act, as required by the Regulation.

GST has the same meaning as in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Land means the land the subject of the Development Consent, including (but not limited to) the Land described in Item 1 of Schedule 2.

Real Property Act means the *Real Property Act 1900* (NSW).

Regulation means the *Environmental Planning and Assessment Regulation 2000* (NSW).

Security means:

- (a) an unconditional Bank Guarantee; or
- (b) an Insurance Bond from an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC08/ 01 dated 21 February 2008 as amended, supplemented or substituted from time to time; or
- (c) a Parent Company Guarantee in accordance with schedule 5.]

Tax means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

1.1. Interpretation

In the interpretation of this Agreement, the following rules apply, unless the context makes it clear that a rule is not intended to apply:

- (a) Headings are for convenience only, and do not affect interpretation.
- (b) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or
 - (v) not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (vi) anything (including a right, obligation or concept) includes each part of it.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) A reference to including means "including, without limitation".
- (h) A reference to dollars or \$ is to an amount in Australian currency.
- (i) A reference to this document includes the agreement recorded by this document.
- (j) Words defined in the GST Act have the same meaning in clauses about GST.
- (k) The Schedules, Exhibits or Annexures form part of this Agreement.
- (l) This Agreement is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. Operation and application of this Agreement

2.1. Planning agreement under the Act

- (a) This Agreement constitutes a planning agreement within the meaning of section 7.4 of the Act and commences on the date it is executed by all parties.
- (b) The Agreement concludes on the date that the Developer's obligation to provide to Council the Development Contribution ceases in accordance with clause 4.1(b).
- (c) Schedule 1 of this Agreement summarises the requirements for planning agreements under section 7.4 of the Act and the way this Agreement addresses those requirements.

2.2. Application

This Agreement applies to:

- (a) the Land; and
- (b) the Development.

3. Application of sections 7.11, 7.12 and 7.24 of the Act

- (a) This Agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This Agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This Agreement does not exclude the application of section 7.24 of the Act to the Development.

4. Development Contribution

4.1. Developer to provide Development Contribution

- (a) The Developer undertakes to provide to Council the Development Contribution in accordance with the provisions of Schedule 3 to this Agreement.
- (b) The Developer's obligation to provide to Council the Development Contribution ceases upon the earlier of:
 - (i) the date upon which the Developer has paid in full the Development Contribution in accordance with Schedule 3 to this Agreement; or
 - (ii) the Commercial Operation End Date.
- (c) If the Commercial Operation End Date occurs prior to the date referred to in clause 4.1(b)(i) above, then the Developer remains liable under this Agreement for the payment of any Development Contribution obligation that accrued prior to that Commercial Operation End Date but is otherwise released by Council from any further obligation to make any Development Contributions under this Agreement.

4.2. Acknowledgement

The parties acknowledge and agree that, subject to section 7.3 of the Act:

- (a) Council has no obligation to use or expend the Development Contribution for a particular public purpose, subject to the provisions of this Agreement, and has no obligation to repay the Development Contribution; and
- (b) Notwithstanding clause 4.2 (a) above, Council acknowledges its obligation to use the Development Contribution for the public purpose within its Local Government Area.

5. Enforcement and Security

5.1. Developer to provide Security

The Developer must provide security to Council for the performance of the Developer's obligations under this Agreement by providing the Security to Council in accordance with the terms and procedures set out in Schedule 4.

5.2 Dispute Resolution

Without limiting any other remedies available to the parties, this Agreement may be enforced by any party in any court of competent jurisdiction, subject to clause 7.

5.3 Proceedings

Nothing in this Agreement prevents:

- (a) a party from commencing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and

- (b) the Council from exercising any functions under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

6. Dispute Resolution

6.1. Reference to dispute

If a dispute arises between the parties in relation to this Agreement, the parties must not commence any court proceedings relating to the dispute unless the parties have complied with this clause, except where a party seeks urgent interlocutory relief.

6.2. Notice of dispute

A Party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other parties of:

- (a) the nature of the dispute;
- (b) the alleged basis of the dispute; and
- (c) the position which the party issuing the Notice of Dispute believes is correct.

6.3. Representatives of parties to meet

- (a) The representatives of the parties must promptly (and in any event within 20 Business Days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The parties may, without limitation:
 - (i) resolve the dispute during the course of that meeting;
 - (ii) agree that further material or expert determination in accordance with clause 6.6 about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
 - (iii) agree that the parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

6.4. Further notice if not settled

If the dispute is not resolved within 10 Business Days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Determination Notice**) by mediation under clause 6.5 or by expert determination under clause 6.6.

6.5. Mediation

If a party gives a Determination Notice calling for the dispute to be mediated:

- (a) the parties must agree to the terms of reference of the mediation within 15 Business Days of the receipt of the Determination Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the mediator will be agreed between the parties, or failing agreement within 15 Business Days of receipt of the Determination Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) the mediator appointed pursuant to this clause 6.5 must:
 - (i) have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) the mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;

- (e) the parties must within 15 Business Days of receipt of the Determination Notice notify each other of their representatives who will be involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) the parties must arrange and attend mediation within 6 weeks of the receipt of the Determination Notice unless otherwise agreed by the parties in writing;
- (g) the parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
- (h) in relation to costs and expenses:
 - (i) each party will bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) the costs of the mediator will be shared equally by the parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

6.6. Expert determination

If the dispute is not resolved under clause 6.3 or clause 6.5, or the parties otherwise agree that the dispute may be resolved by expert determination, the parties may refer the dispute to an expert, in which event:

- (a) the dispute must be determined by an independent expert in the relevant field:
 - (i) agreed upon and appointed jointly by the parties; provided that
 - (ii) in the event that no agreement is reached or no appointment is made within 20 Business Days of the agreement to refer the dispute to an expert; then
 - (iii) appointed on application of a party by the then President of the Law Society of New South Wales;
- (b) the expert must be appointed in writing and the terms of the appointment must not be inconsistent with this clause;
- (c) the determination of the dispute by such an expert will be made as an expert and not as an arbitrator and will be in writing and contain the reasons for the determination;
- (d) the expert will determine the rules for the conduct of the process but must conduct the process in accordance with the rules of natural justice;
- (e) each party will bear its own costs in connection with the process and the determination by the expert and will share equally the expert's fees and costs; and
- (f) any determination made by an expert pursuant to this clause is final and binding upon the parties unless:
 - (i) within 20 Business Days of receiving the determination, a party gives written notice to the other party that it does not agree with the determination and commences litigation; or
 - (ii) the determination is in respect of, or relates to, termination or purported termination of this agreement by any party, in which event the expert is deemed to be giving a non-binding appraisal.

6.7. Litigation

If the dispute is not finally resolved in accordance with this clause 6, then either party is at liberty to litigate the dispute.

6.8. No suspension of contractual obligations

Subject to any interlocutory order obtained under clause 6.7, the referral to or undertaking of a dispute resolution process under this clause 6 does not suspend the parties' obligations under this agreement.

6.9. Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 6 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 6 for any purpose other than in an attempt to settle the dispute.

7. GST

7.1. Acknowledge and agreement of the parties

The parties acknowledge and agree that Division 81 of the GST Act applies to the supplies made under and in respect of this Agreement such that clause 7.4 does not apply to the Development Contribution.

7.2. Reimbursement

Any payment or reimbursement required to be made under this Agreement that is calculated by reference to a cost, expense, or other amount paid or incurred must be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

7.3. Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

7.4. Additional Amounts for GST

Subject to clause 7.1, to the extent an amount of GST is payable on a supply made by a party (Supplier) under or in connection with this Agreement (GST Amount), subject to the receipt of a tax invoice, the recipient must pay to the Supplier the GST Amount.

7.5. Non-monetary consideration

Clause 7.4 applies to taxable supplies made for either monetary or non-monetary consideration.

7.6. No merger

This clause does not merge on completion or termination of this Agreement.

8. Assignment

8.1. Right to assign or novate

- (a) Provided it is not in material breach of its obligations under this Agreement, the Developer or any successor to the Developer (**Assigning Party**) may assign and/or novate its rights and/or obligations under this Agreement.
- (b) The Assigning Party must procure the execution of a deed by the Incoming Party and the Assigning Party to ensure all legal rights and obligations are assigned and/or novated on materially the same terms as this Agreement such that a reference to the Developer in this Agreement is, in effect, a reference to the incoming party;
- (c) The Council acknowledges and agrees that despite clause 8.1(a), the Developer may grant the Financiers a security interest over all of its rights, title and interests in this Agreement;
- (d) Within 20 Business Days of the delivery to the Council of a deed executed by the Developer and the Incoming Party under clause 8.1(b) the Council agrees to initiate the process for exhibition of the VPA, if re-exhibition is required under the Act;
- (e) The Council agrees to countersign the deed and return it to the Developer:
 - (i) Within 14 days of the end of any exhibition period required pursuant to 8.1(d); or

- (ii) if exhibition is not required, within 14 days of receipt of the deed executed by the Developer and Incoming Party;
- (f) The Developer must pay Council's reasonable legal costs and expenses incurred under this clause 8.1.

9. Capacity

9.1. General warranties

Each party warrants to each other party that:

- (a) this Agreement creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this Agreement in the capacity of trustee of any trust.

9.2. Power of attorney

If an attorney executes this Agreement on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

10. No fetter

10.1. Discretion

This Agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of Council, including but not limited to, any statutory power or discretion of Council relating to a Development Application or any other application for Development Consent (collectively, Discretion).

10.2. No fetter

No provision of this Agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this Agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

- (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is suitably satisfied;
- (b) in the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this Agreement has full force and effect; and
- (c) to endeavour to satisfy the common objectives of the parties in relation to the provision of this Agreement which is to be held to be a fetter to the extent that is possible having regard to the relevant court judgment.

11. General Provisions

11.1. Entire Agreement

This Agreement constitutes the entire agreement between the parties regarding the subject matter of this Agreement and supersedes any prior negotiations, representations, understandings or arrangements made between the parties, whether orally or in writing.

11.2. Variation

This Agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

11.3. Waiver

- (a) A right or remedy created by this Agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligations by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligations or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

11.4. Further assurances

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give full effect to the arrangements contained in this Agreement.

11.5. Time for doing acts

- (a) If:
 - (i) the time for doing any act or thing required to be done; or
 - (ii) a notice period specified in this Agreement, expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5:00 pm on the specified day, it is taken to have been done on the following Business Day.

11.6. Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this Agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

11.7. Severability

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

11.8. Preservation of existing rights

The expiration or termination of this Agreement does not affect any right that has accrued to a party before the expiration or termination date.

11.9. No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this Agreement for any reason, does not merge on the occurrence of that event but remains in full force and effect.

11.10. Counterparts

This Agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

11.11. Relationship of parties

Unless otherwise stated:

- (a) nothing in this Agreement creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

11.12. Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this Agreement.

11.13. Explanatory note

The Explanatory Note must not be used to assist in construing this Agreement.

11.14. Expenses and stamp duty

- (a) Subject to clause 11.14(b), the Developer must pay its own and Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Agreement.
- (b) The Developer's liability under clause 11.14(a) for Council's reasonable legal costs and disbursements is capped at \$5,000.
- (c) The Developer must pay for all costs and expenses associated with the giving of public notice of this Agreement and the Explanatory Note in accordance with the Regulation.
- (d) The Developer must pay all Taxes assessed on or in respect of this Agreement and any instrument or transaction required or contemplated by or necessary to give effect to this Agreement (including stamp duty and registration fees, if applicable).
- (e) The Developer must provide Council with bank cheques in favour of Council, or an alternative method of payment if agreed with Council, in respect of Council's costs pursuant to clause 11.14(b):
 - (i) where Council has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this Agreement; or
 - (ii) where Council has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by Council for payment.

11.15. Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this Agreement must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by prepaid ordinary mail within Australia; or
 - (iii) in the case of a Notice to be given by Council, sent by email.
- (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery but if delivery occurs after 5:00 pm New South Wales time or a day that is not a Business Day, is taken to be given on the next Business Day;
 - (ii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
 - (iii) sent by email:

- A. before 5:00 pm on a Business Day, on that Day;
- B. after 5:00 pm on a Business Day, on the next Business Day after it is sent; or
- C. on a day that it is not a Business Day, on the next Business Day after it is sent, and the sender does not receive a delivery failure notice.

Schedule 1

Table 1 - Requirements under section 7.4 of the Act

Requirement under the Act	This Agreement
<p>Planning instrument and/or development application – (section 7.4(1))</p> <p>(1) The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a Development Application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies,</p> <p>(2) The Developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.</p>	<p>(1)</p> <p>(a) No</p> <p>(b) Yes</p> <p>(c) No</p> <p>(2) Yes – pay monetary contributions to be applied towards a public purpose</p>
Description of the land to which this Agreement applies – (section 7.4(3)(a))	See definition of Land in clause 1.1
Description of development to which this Agreement applies – (section 7.4(3)(b))	See definition of Development in clause 1.1
Description of change to the environmental planning instrument to which this Agreement applies – (section 7.4 (3)(b))	Not applicable
The scope, timing and manner of delivery of contribution required by this Agreement – (section 7.4 (3)(c))	See Schedule 3
Applicability of sections 7.11 and 7.12 of the Act – (section 7.4 (3)(d))	The application of sections 7.11 and 7.12 of the Act is not excluded in respect of the Development
Applicability of section 7.24 of the Act – (section 7.4 (3)(d))	The application of section 7.24 of the Act is not excluded in respect of the Development.
Consideration of benefits under this Agreement if section 7.11 applies – (section 7.4 (3)(e))	Financial contributions to Council
Mechanism for Dispute Resolution – (section 7.4 (3)(f))	See clause 6
Enforcement of this Agreement – (section 7.4 (3)(g))	See clause 5
No obligation to grant consent or exercise functions – (section 7.4 (10))	See clause 10

Table 2 – Other matters

Requirement under the Act	This Agreement
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an Occupation Certificate is issued	No

Schedule 2
Agreement Details (clause 1.1)

1	Land	Lot	Deposited Plan
		3	411022
		3	1190444
		27	753342
		101	791421
		1004	1033823
		1	588720
2	Development	The construction, operation and decommissioning of a photovoltaic solar farm facility and associated infrastructure with an installed capacity of approximately 200 megawatts of electricity (alternating current).	
3	Address for Service	Council Name: Greater Hume Shire Council Attention: Director Environment & Planning Address: 39 Young Street, Holbrook NSW 2644 Email: CKane@greaterhume.nsw.gov.au	
		Developer Name: Glenellen Asset Pty Ltd Attention: Project Director – Juan Cobo Address: Global Power Generation, Suite A, Level 3/73 Northbourne Ave, Canberra ACT 2601 Email: jccobo@naturgy.com	
4	Development Application	DA number SSD-9550, as amended from time to time, not including any modification resulting in the installed capacity being increased by more than 10%.	

Schedule 3

Development Contributions (clause 4)

1. Development Contributions

- (a) The Developer undertakes to provide the Development Contribution of \$2,500,000 to Council in the manner set out in the table below:

Development Contribution	Amount Excluding GST	Timing of Payment	Public Purpose
Development Contribution – First Instalment	\$500,000	Within 7 days of the Commercial Operation Commencement Date	Expenditure to be determined and utilised at the discretion of Council for any projects deemed to benefit the public within the Local Government Area.
Development Contributions – Second to Tenth Instalment	\$222,222.22 each instalment, plus CPI adjustment	Within 7 days of the first anniversary of the Commercial Operation Commencement Date and annually thereafter for nine (9) consecutive years	Expenditure to be determined and utilised at the discretion of Council for any projects deemed to benefit the public within the Local Government Area.

- (b) Each instalment of the Development Contribution must be paid by means of electronic funds transfer into an account specified by Council in writing.
- (c) On each CPI Adjustment Date, the next instalment of the Development Contribution payable is to be adjusted as follows:

$$\text{ACA} = \frac{\text{CA} \times \text{Current CPI}}{\text{Base CPI}}$$

Where:

ACA = the Adjusted Contribution Amount payable on the relevant CPI Adjustment Date; and

CA = the Contribution Amount applicable at the relevant Development Contribution instalment (and as previously adjusted in accordance with this clause where relevant).

2. Payment in advance

Nothing in this Agreement shall be read as to prevent the Developer from paying any of the remaining value of Development Contributions in advance.

Schedule 4

Security Terms

1. Developer to provide Security

- (a) In order to secure the payment of the Development Contributions the Developer has agreed to provide the Security.
- (b) The Security must:
 - (i) name Council; and
 - (ii) not have an expiry date, or if it has an expiry date:
 - (ii.i) the expiry date must be on or after the date the Agreement concludes in accordance with clause 2.1(b) of the agreement; or
 - (ii.ii) the Security must be replaced by the Developer prior to expiry.

2. Security

- (a) Within 10 business days of Commercial Operation Commencement Date the Developer must provide the Security to the Council having a face value amount of \$250,000 (**Security Amount**) in order to secure the Developer's obligations under this Agreement.
- (b) Council is entitled to retain the Security from the Commercial Operation Commencement Date until the earlier of:
 - (i) the Commercial Operation End Date; or
 - (ii) the date the Developer has provided all Development Contributions under this Agreement.

3. Claims on Security

- (a) Council may:
 - (i) call upon the Security where the Developer has failed to pay a Contribution Amount on or after the date for payment under this Agreement; and
 - (ii) retain and apply such monies towards the Contribution Amount and any costs and expenses incurred by the Council in rectifying any default by the Developer under this Agreement.
- (b) Prior to calling upon the Security Council must give the Developer not less than 10 Business Days written notice of its intention to call upon the Security.
- (c) If:
 - (i) Council calls upon the Security; and
 - (ii) applies all or part of such monies towards the Contribution Amount and any costs and expenses incurred by the Council in rectifying any default by the Developer under this Agreement; and
 - (iii) has notified the Developer of the call upon the Security in accordance with clause (b) of this Item 3,

then the Developer must provide to the Council a replacement Security to ensure that at all times until the date that the Security is released in accordance with Item 4 of this Schedule, the Council is in possession of Security for a face value equivalent to the Security Amount.

4. Release of Security

If:

- (a) the Developer has satisfied all of its obligations under this Agreement; and
- (b) the whole of the monies secured has not been expended and the monies accounted for in accordance with Item 2 of this Schedule,

then Council will promptly return the security (less any costs, charges, duties and taxes payable), or the remainder of the monies secured (as the case may be), to the Developer.

Schedule 5

Parent Company Guarantee

This guarantee is granted in _____, on _____ of _____, 2024¹

Global Power Generation S.A., with its registered address at Avenida de San Luis 77, Madrid 28033 Spain, and C.I.F. (company tax code) A-61713301 represented by Mr. Francisco Antonio Bustio Gutierrez with D.N.I. (Spanish national ID) number 13778750-W, and with sufficient binding authority for this act bestowed by the Public Deed authorised by Madrid Public Notary, Enrique Javier de Bernardo Martfnez-Pifieiro, dated 12 September 2019 as number 1903 of his notarial protocol, hereinafter the "Guarantor",

STATES

- I. That Glenellen Asset Pty Ltd (ACN 644 794 758) as trustee for Glenellen Solar Farm Trust (ABN 69 776 543 965) (hereinafter the "Guaranteed") is a company in which the Guarantor holds a direct share percentage of 99.01% of its capital.
- II. That on _____ of _____ 2024¹, the Guaranteed has signed with GREATER HUME SHIRE COUNCIL (ABN 44 970 341 154), (hereinafter the "Beneficiary") the Council of the Greater Hume Shire, for the Glenellen Solar Farm, of which the Guarantor declares knowledge.
- III. That the Guarantor, on request from the Beneficiary, wishes to constitute an on demand guarantee (hereinafter the "Guarantee"), guaranteeing the obligations that fall to the Guaranteed by virtue of the Voluntary Planning Agreement, as described below.
- IV. That in accordance with the above, the Guarantor issues this

GUARANTEE

1. The Guarantor unconditionally and irrevocably guarantees in favor of the Beneficiary, and on behalf and to the order of the Guaranteed, up to a maximum amount of 250,000.00 AUD, the timely completion of the payment obligations that fall to the Guaranteed by virtue of the Voluntary Planning Agreement (hereinafter, the "Guaranteed Obligations"). The Guarantor shall not take on greater liability derived from this Guarantee than that held by the Guaranteed under the Voluntary Planning Agreement.

The Guarantor's Guarantee is set up as a surety bond with respect to the Guaranteed.

2. This guarantee is irrevocable and shall remain fully in force for a period of 24 months from the date of signing of the Voluntary Planning Agreement, or until the Solar Farm Reaches COD (Commercial Operation Date), providing that all the Guaranteed Obligations arising before that expiry date have been duly paid in full and therefore there are no outstanding amounts to be paid as per this Guarantee, whichever comes first.

3. The Guarantor shall meet the Guaranteed Obligations that have not been duly met by the Guaranteed, on first written demand during the Guarantee period sent by the Beneficiary in accordance with the following procedure.

The Beneficiary must request payment from the Guarantor in writing, stating (i) the amount of the Guaranteed Obligations claimed and (ii) the current account of the Beneficiary to which the Guarantor should make the payment.

Once the demand has been received, the payment shall be made within the ten (10) calendar days following the date of receipt of the demand into the current account indicated therein, provided that the sum total does not exceed the maximum amount established in this Guarantee.

4. All the amounts that the Guarantor must pay under this Guarantee shall be made without any deductions whatsoever. If at any time the Guarantor should need to make any deduction or retention on behalf of the Beneficiary in relation to taxes levied by applicable law, with regard to any payment owed under this Guarantee, the amount owed by the Guarantor shall be increased as necessary to ensure that, after the application of the deduction or retention, the Beneficiary receives on the date on which such payment is to be made, a net amount equal to

the sum that the Beneficiary would have received if said deduction or reduction had not been necessary.

If the Beneficiary recoups the amount deducted or retained, the Guarantor shall have the right to claim its payment back from the Beneficiary.

For the purposes of the application of this clause the Beneficiary shall provide a Certificate of Residence for Tax Purposes issued by the appropriate Fiscal Authority according to applicable legislation or a Treaty to avoid Double Taxation, if applicable.

5. Neither the Guarantor nor the Beneficiary may, without the prior agreement of the other party, cede or transfer their contractual position under this Guarantee.
6. For the purposes of this contract, notifications, demands and communications of any kind arising from this Guarantee shall be made in writing and delivered personally or by registered mail, to the Guarantor's and/or Beneficiary's addresses shown below. Any changes to them must be notified fifteen (15) days in advance using the same methods to the other party.

GUARANTOR'S ADDRESS:	BENEFICIARY'S ADDRESS:
Global Power Generation S.A. C.I.F. (company tax code) A-61713301 Acanto, 11-13 28045 Madrid (Spain) Att: Alfonso M. Egana Ph: +34 91 257 72 16 Mail: aeganah@naturgy.com	GREATER HUME SHIRE COUNCIL ABN 44 970 341 154 39 Young Street, Holbrook NSW 2644 Att: Colin Kane Ph: +61 428 667 071 Mail: ckane@greaterhume.nsw.gov.au

A notification shall be deemed to have been received:

- a. If delivered in person, at the moment of delivery
 - b. If sent by registered mail, on receipt by the addressee.
7. This Guarantee is governed by the laws of the State of New South Wales, and the Guarantor, expressly and completely renouncing any other legal code that might apply by Law, subjects itself, irrevocably and exclusively, to the jurisdiction of the Courts and Tribunals of the State of Victoria with regard to any disagreements that may arise from the validity, compliance, contents and effects of this guarantee.

In witness whereof, this document is signed at the time and place shown in the heading.

Global Power Generation S.A.
A-61713301


Francisco Antonio Bustio Gutierrez
Chief Executive Officer

EXECUTION PAGE

Executed as an Agreement




THE SEAL of GREATER HUME SHIRE COUNCIL
was affixed in accordance with Reg 400 *Local
Government (General) Regulation 2005* (NSW)
pursuant to a resolution:

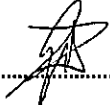

.....
Councillor/Mayor


.....
General Manager/Councillor

EXECUTED by GLENELLEN ASSET PTY LTD ACN
644 794 758 in accordance with section 127 of the
Corporations Act 2001 (Cth):


.....
Signature of Director

David Santo Tomas
.....
Name of Director


.....
Signature of Director/Secretary

Guillermo Alonso
.....
Name of Director/Secretary

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Signature of Director

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Name of Director

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Signature of Director/Secretary

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Name of Director/Secretary