

**Enquiries**  
**Please ask for** Theresa Folpp  
**Direct** 02 6549 3700  
**Our reference** 23/3489

20 December 2023

**Alice Clark**  
**Commissioner (Panel Chair)**  
**Independent Planning Commission**

Dear Ms Clark

**Bowmans Creek Wind Farm – Muswellbrook Shire Council Submission to the Independent Planning Commission in relation to the Bowmans Creek Wind Farm (SSD-10315)**

Muswellbrook Shire Council (Council) has reviewed the Department of Planning and Environment's (DPE) Recommended Development Consent for the Bowmans Creek Wind Farm (SSD-10315) (the Project), which, along with the Project, is currently under consideration by the Independent Planning Commission (IPCn).

Council does not consider that the concerns we have raised regarding the Project have been adequately addressed by the DPE or the Proponent. If the IPCn are of a mind to determine this application with no further changes to the Project or draft conditions, Council requests that the application be refused.

The purpose of this submission is to highlight Council's issues that remain unaddressed. Most of these issues have been raised previously to the Proponent and DPE throughout the planning process and were included as comments to DPE on the draft development consent.

## **Background**

The Project is located approximately 10km east of the township of Muswellbrook and is partially within the Muswellbrook Local Government Area (LGA). Key Project components relevant to Council are as follows:

- There are 41 turbines located in the Muswellbrook LGA;
- A portion of the underground powerline is proposed to be constructed within the road reserve; and
- There are a number of road upgrades and improvements proposed on Hebden Road and Albano Road.

## **Community Enhancement**

### Issue

Council do not support DPE's recommended condition A18 (and Appendix 3) for the following reasons:

1. The letter referenced under Condition A18 is incorrect and does not exist. This condition must reference the letter dated 06 April 2023 (see Annexure A);
2. Reference to the underground infrastructure within the Hebden Road (north) corridor is not included;
3. Reference to the required road reserve corrections on Albano Road is not included;

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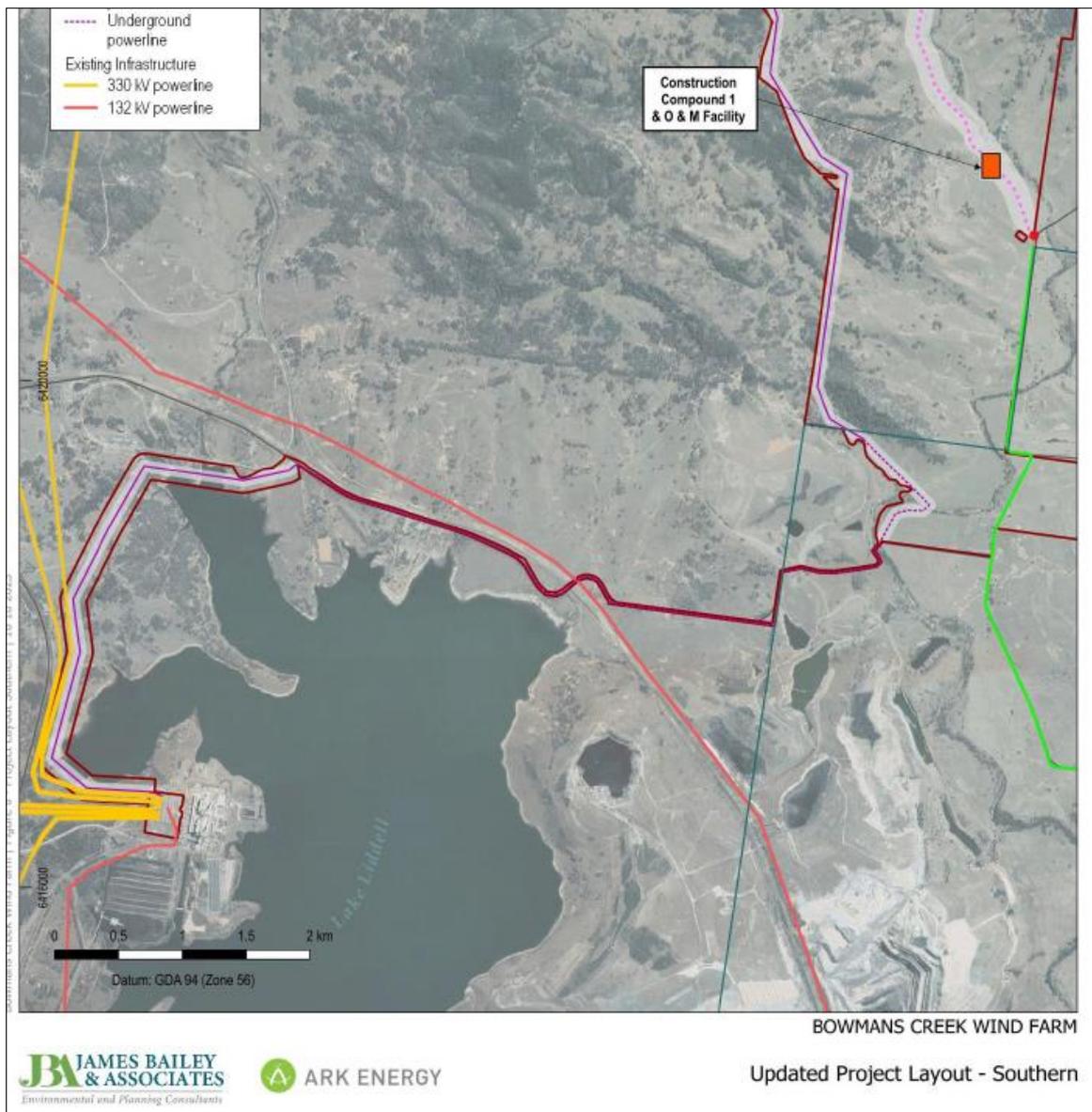
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4. Council does not agree that the Planning Secretary should be able to override Council requirements regarding changes to local roads; and
5. Council request that the second dot point in Appendix 3, Table 1 be removed as the statement is ambiguous. A change in the quantum per MW should be a matter addressed in a modification to the approval if the design of the turbine's change.

More detail on these matters is provided below.

### Underground Infrastructure within Council Owned Land

The Project proposes underground transmission infrastructure within the public road reserve (as shown in Appendix 1 of the recommended Development Consent conditions and reproduced below).



The Proponent initially submitted a draft Deed of Agreement, to indicate likely principles and scope for Council's consideration in relation to the infrastructure, but finalisation of a Deed was to occur post-approval, prior to commencement of construction. It was

emphasised to the Applicant that Council would expect the need for an Agreement to be explicitly included in the conditions of consent and the Applicant had no objection to this.

Past experiences with other State Significant Developments (SSD) in the Shire has demonstrated challenges post-determination when a project requires a deed to undertake work on Council land, and this requirement is not included in the development consent.

The Deed is essential to:

- Ensure responsible and strategic management of the underground infrastructure within the public road corridor to maintain the overall functionality, safety, and aesthetic quality of the road and its surrounds;
- Address potential impacts and risks associated with the installation, maintenance, and removal of the infrastructure;
- Highlight the importance of proactive maintenance, removal, and restoration efforts;
- Outline legal requirements and provide for a financial security; and
- Establish a framework for communication, regular updates, and compliance with regulations.

#### Albano Road – Road Reserve Corrections

Parts of the existing Albano Road, proposed to be used as part of the Project, is not within the formal road reserve. Due to topography in that location, the road would have been difficult to construct within the dedicated road reserve (a legacy of Parish portions and Crown Road reserves created without adequate design and/or survey). Council requests that condition A18:

- Requires the Proponent to amend the dedicated public road reserve location to reflect the current road alignment or the amended road alignment, following reconstruction to allow OSOM transport movements; and
- Cover Council's, and any private landowner's, administrative and legal costs.

#### Requested changes to proposed Condition A18

Condition A18 should be amended as follows:

A18. Prior to commencing construction, ~~or other timeframe agreed by the Planning Secretary,~~ the Applicant must enter into a Planning Agreement with Council in accordance with:

- (a) Division 7.1 of Part 7 of the EP&A Act; and
- (b) the terms of:
  - (i) Muswellbrook Shire Council letter dated ~~26 April 2023~~; **06 April 2023 and terms outlined in Table 2 of Appendix 3**;
  - (ii) Singleton Council letter dated 27 March 2023;
  - (iii) Upper Hunter Shire Council letter dated 6 April 2023;

which are summarised in Appendix 3.

### **APPENDIX 3 GENERAL TERMS OF APPLICANT'S VPA OFFER**

The VPA must include provision for the payment, collection, management and distribution of the contributions under the agreement. **It must also include**

commitments and obligations to support infrastructure associated with the development.

Table 1 – Monetary Contributions

Councils	Payment Details
Muswellbrook Shire Council Singleton Council Upper Hunter Shire Council	<ul style="list-style-type: none"> <li>The annual contribution payable by the Applicant is \$686 per megawatt (MW) installed per annum (increased annually in accordance with increases in CPI), within the relevant local government area over the operational life of development.</li> <li><del>Should the turbine capacity exceed 5.6 MW per turbine, the quantum per MW would change.</del></li> <li>Payments will commence when the development begins operation and will cease when the development is decommissioned.</li> <li>Payments will be adjusted annually in accordance with movements in the CPI from the first 1 July occurring after the on the first anniversary of the operational date. Where application of the CPI to the payment would result in an annual contribution that would be less than the annual contribution made during the immediately preceding year, the annual contribution will remain unchanged for that year of contribution.</li> </ul>

Table 2 – Planning Agreement Requirements (Muswellbrook Shire Council)

Item	Requirement
Underground Infrastructure within Council Owned Land	<ul style="list-style-type: none"> <li>The Applicant shall undertake the following actions as part of the Planning Agreement:</li> <li>Road Functionality - The placement of the underground infrastructure will be executed in a manner that ensures it does not obstruct or compromise the intended functionality of the public road.</li> <li>Alternative Placement Consideration: the Applicant is required to prioritise the avoidance of placing the underground infrastructure within the road corridor, wherever feasible. The Applicant will conduct a comprehensive assessment and exploration of alternative options. The results of those assessments and explorations will be reported to Council staff and where possible approved by Council staff before any work is commenced within any road corridor.</li> <li>Maintenance Responsibility: the Applicant shall be fully responsible for the maintenance of and risk in the underground infrastructure and for the maintenance and repair of the public road (and road reserve) adjacent to the underground infrastructure for the duration of time that the infrastructure is located in the road reserve. A maintenance plan will be developed that includes regular inspections, timely repairs, surface restoration, emergency response, compliance with standards and reporting. The Applicant must develop a Maintenance Management Plan in respect of the road, prepared in accordance with Transport for NSW M3 specifications for road maintenance, to the satisfaction of Muswellbrook Shire Council.</li> <li>Provision of information: prior to commencing work in any road corridor, the Applicant will provide Council staff with detailed information regarding the underground infrastructure including proposed placement location, voltage capacity, dimensional analysis, impact on road functionality, clearance requirements and safety and mitigation measures in place during the development, for Council staff approval. Placement location will consider the 'Guide to Codes and Practices for Streets Opening' (NSW Streets Opening Coordination Council, 2018).</li> <li>Deed with Council: Prior to the commencement of work in any road corridor, the Applicant shall enter into a deed with Council, outlining the terms and conditions of the underground infrastructure. This deed shall include a proposed form of easement over relevant road areas to be granted prior to commencement of work in any road corridor and a comprehensive management process for the underground infrastructure throughout all stages of the Project. The management process shall take into account any necessary adjustments to accommodate road works and other road users, including interactions</li> </ul>

Item	Requirement
	<p>with other projects and utilities, whilst ensuring safety, efficiency, and minimal disruption to the public during the development, and maintenance obligations. The deed shall be prepared by Council's lawyer and executed before the commencement of any work on any road corridor and will be reviewed every ten years from the date of execution.</p> <ul style="list-style-type: none"> <li>• Removal of Underground Infrastructure: The Applicant shall be responsible for the prompt and complete removal of all underground infrastructure owned or installed by them within Council Owned Land, including extinguishment of the easement, and in accordance with the specifications and timelines agreed upon by both parties and recorded in the easements.</li> <li>• Payment of Council's Legal Costs: As part of the Planning Agreement, the Applicant shall bear the responsibility of paying Council's reasonable legal costs incurred for the preparation and execution of the Planning Agreement and the deed related to installation and maintenance and removal of the infrastructure within road corridors. This obligation shall include any legal advice, documentation, and administrative expenses .</li> <li>• Bond: As a guarantee of compliance with the obligations specified in the deed, the Applicant shall provide a bond in a form and amount approved by Council, indexed annually on each 1 July from and including the first 1 July to occur after in accordance with movements CPI. Where application of the CPI to the bond amount would result in a bond that would be less than the bond held during the immediately preceding year, the bond will remain unchanged for that year . The bond will serve as security to cover any potential costs associated with maintenance responsibilities and the removal of underground infrastructure and restoration of Council Owned Land if the party with the benefit of the approval fails to do so within an agreed period after the development is decommissioned .</li> <li>• Restoration of Land: Upon completion of the underground infrastructure removal, the Applicant shall undertake all necessary measures to restore Council Owned Land to its original condition, including but not limited to reinstating any disturbed areas, repairing damage, ensuring the site is safe and accessible to the public and, if the relevant Council Owned Land is within a council road, suitable for use as a road .</li> <li>• Liabilities and Indemnities: The Applicant shall indemnify and hold the Council harmless against any claims, damages, losses, or liabilities arising from the installation, maintenance and removal of the underground infrastructure and any related activities and will effect and maintain appropriate insurances to support this indemnity and release. This would be achieved by annual provision of a Certificate of Currency.</li> <li>• Compliance with Regulations: All activities related to the installation, maintenance and removal of the underground infrastructure and restoration of Council Owned Land shall be conducted in full compliance with all applicable laws, regulations, and standards.</li> <li>• Monitoring and Reporting: The Applicant shall provide regular progress updates to Council staff at times and frequency reasonably required by Council staff, outlining the status of the underground infrastructure, its maintenance and repair and any restoration efforts.</li> </ul>
Albano Road - Road Alignment Corrections	<ul style="list-style-type: none"> <li>• Road Alignment Correction, the Applicant shall be responsible for rectifying the errors in road alignment for the affected roads. This correction shall ensure that the roads are appropriately situated within a designated road reserve, aligning with the established and/or modified road network and meeting all relevant regulatory requirements.</li> <li>• Survey and Documentation: The Applicant shall conduct a comprehensive survey and provide all necessary documentation, including engineering plans and reports, detailing the proposed road</li> </ul>

Item	Requirement
	<p>alignment correction. These documents shall be submitted to Council staff for review and approval before any physical works commence.</p> <ul style="list-style-type: none"> <li>• Public Safety and Accessibility: The road alignment correction shall prioritise public safety and accessibility for road users and neighbouring properties. The Applicant shall implement appropriate traffic management measures during the correction works (where applicable) to minimise disruptions and ensure the safety of all stakeholders.</li> <li>• Restoration of Land: Upon successful completion of the road alignment correction, the Applicant shall undertake all necessary measures to restore the affected areas (where applicable) to their original condition or as agreed upon by Council staff. This shall include reinstating any disturbed areas, repairing damages, and ensuring proper drainage and accessibility.</li> <li>• Payment of Council's Administrative and Legal Costs: As part of the planning agreement, the Applicant shall bear the responsibility of paying Council's reasonable administrative and legal costs incurred for the review and approval of the road alignment correction. This shall cover any legal advice, documentation, and administrative expenses required for the proper establishment and execution of the road alignment correction.</li> </ul>

## Road Upgrades

### Issue

There are several road upgrades and improvements proposed along Scrumlo Road and Albano Road as part of the Project.

Section 131 of DPE's assessment report states that "Councils support the... proposed road upgrades, subject to the recommended conditions requiring these proposed works".

Council does not support the recommended conditions. Council made several recommendations to DPE on the draft conditions which have not been included.

Changes are requested to ensure that concerns raised, in summary to:

- Outline road upgrade standards and to ensure adherence to pavement depth, construction width and seal quality and to maintain road integrity and safety;
- Outline responsibilities and procedures; and
- Cover Council's legal costs.

### Requested changes to proposed Condition B2

Council requests that proposed condition B2 be updated as follows:

~~B2. Unless the Planning Secretary agrees otherwise, The Applicant must implement the road upgrades identified in Appendix 5 in accordance with the relevant timing requirements, to the satisfaction of the relevant road authority.~~

Unless the relevant road authority agrees otherwise, these upgrades must comply with the current Austroads Guidelines, Australian Standards and TfNSW supplements.

Road upgrades must be undertaken in accordance with the terms of Muswellbrook Shire Council letter dated 14 February 2023, which is summarised in Table 2 of Appendix 5.

If there is a dispute about the road upgrades to be implemented, or the implementation of these upgrades, then either party may refer the matter to the Planning Secretary for resolution.

Notes

- Works on local Council roads - Under Part 4.4.2 of the EP&A Act, the applicant is required to obtain consent under section 138 of the Roads Act 1993 from the relevant road authority prior to commencing the road upgrades.
- The Applicant is required to obtain relevant permits

**APPENDIX 5 HAULAGE ROUTE AND ROAD UPGRADES**

Table 2 – Road Upgrades Description of Requirements (Muswellbrook Shire Council)

Council	Requirement
Muswellbrook Shire Council	<ul style="list-style-type: none"> <li>- Road Upgrades will generally be to the following standards:               <ul style="list-style-type: none"> <li>o Sealed local road to remain a sealed road: pavement depth in accordance with applicable standards or 300mm road base, 6.0 m seal and 8.0 m formation width, topped with 14/10 double/double bitumen seal.</li> <li>o Unsealed local road to remain unsealed: construction width 8.0m, pavement thickness 150mm.</li> </ul> </li> <li>- Council staff will consider requests to vary the upgrade treatment standards on Local rural roads for specific sections of the road, subject to documentation of physical and environmental constraints where application of road width standards, described in the Consent Conditions, will cause unreasonable ground disturbance.</li> <li>- Council staff will require upgrade treatments to allow for any passing bays recommended in the traffic management plans for construction of the wind farm.</li> <li>- Consent under section 138 (s138) of the <i>Roads Act 1993</i> (Roads Act) will be required for any work in, on or over a public road. Any such consent may be issued on conditions reasonably required by Council as roads authority.</li> <li>- Any cost (including legal) resulting from the execution of Council's powers under Section 138 of the Roads Act, or from any landowner court action will be paid for in full by the Applicant.</li> <li>- Prior to issuance of any s138 consent, the Applicant will provide detailed information to Council staff on road geometry, road surface, drainage, proposed services within the road corridor, and results from a Road Safety Audit.</li> <li>- Road construction must be in accordance with relevant AusRoads and AUSPEC standards (subject to geotechnical assessment, Road Safety Audit and to Council's written satisfaction). Any consents required from authorities other than the Council are to be obtained at the Applicant's sole risk and cost.</li> <li>- Water way crossings and filled depressions will need to be upgraded to applicable standards, taking into consideration environmental, geomorphological and river hydraulic factors. Pre-construction, a detailed flood assessment should be undertaken by a suitably qualified consultant, to Council's written satisfaction. An additional structural assessment of any existing drainage structures to be retained within the road reserve is to be provided demonstrating adequate load capacity.</li> <li>- The Applicant, at its cost, is solely responsible for obtaining affected landowner consent, property acquisition and/or adjustment to relevant boundaries defining the road corridor, as it relates to existing roads within private land prior to the issuance of any S138 consent.</li> <li>- Road boundaries are to be fully fenced to enable removal of cattle grids, undertaken in consultation with landowner and Council staff. Any requirement to reconstruct, adjust, repair, or amend public gates, will be undertaken in consultation with the landowner and Council staff.</li> </ul>

Council	Requirement
	<ul style="list-style-type: none"> <li>- Underground Infrastructure within the road corridor that is not related to road function will be removed during decommissioning.</li> <li>- Due diligence engineering, biodiversity and heritage assessments will be provided to Council staff with the Section 138 application.</li> </ul>

## Road Maintenance

### Issue

Council requests that Cond B4 be updated to include an independent dilapidation survey on practical completion of the road upgrades to Scrumlo and Albano Roads.

Currently, the condition only requires a dilapidation survey prior to undertaking the road upgrades and then following construction of the Project (which means that traffic will use the reconstructed roads for construction of the turbines for approximately 18 months before the second dilapidation survey). This approach does not allow an accurate assessment of the damage to the upgraded roads, caused by the road usage during the 18 months. A comparison should be made between the road's condition before any upgrades and immediately after the upgrades are completed.

Additionally, the Proponent should be required to:

- Develop a maintenance management plan for roads for the life of the Project; and
- Design the site access point to an applicable standard.

These conditions assist Council in holding the Proponent accountable for the proper upkeep of the roads and ensures that construction occurs to an applicable standard.

### Requested changes to proposed Condition B4.

Council requires the development consent to be updated as follows:

B4. The Applicant must, in consultation with the relevant Council:

(a) undertake an independent dilapidation survey to assess the existing condition of Albano Road, Bowmans Creek Road, Hebden Road (north), Hebden Road (south) (including Hebden Bridge) and Scrumlo Road on the access route, prior to construction, upgrading or decommissioning works; and

(b) undertake an independent dilapidation survey on practical completion of road upgrades on Albano Road, Bowmans Creek Road, Hebden Road (north), Hebden Road (south) and Scrumlo Road on the transport route, prior to construction, upgrading or and decommissioning works;

~~(b)~~ (c) undertake an independent dilapidation survey one month following completion of construction, upgrading or decommissioning works, to assess the condition of the roads listed in condition B4(a) and describe the necessary repairs to return the route to a condition that is equivalent to, or better than, the existing condition identified in B4(a); and

The dilapidation surveys will record the condition of the road pavement, drainage structures and other road related infrastructure.

~~(b)~~ (d) repair and/or make good any development-related damage identified during:

- (i) the carrying out of the relevant construction, upgrading and/or decommissioning works if it could endanger road safety, as soon as possible after the damage is identified but within 7 days at the latest; and
- (ii) dilapidation surveys carried out following the completion of the relevant construction, upgrading and/or decommissioning works within 2 months of the completion of the survey, unless the relevant road authority agrees otherwise;

to the satisfaction of the relevant roads authority.

#### Proposed conditions B5 and B6.

B5. The Applicant must develop a Maintenance Management Plan in respect of these roads, prepared in accordance with Transport for NSW M3 specifications for road maintenance, to the satisfaction of the relevant council. The Applicant must maintain Albano Road, Bowmans Creek Road, Hebden Road (north), Hebden Road (south) and Scrumlo Road on the transport route, as depicted in Appendix 5 during construction.

B6. Prior to commencing construction of the development, the Applicant must upgrade the site access point to meet the general requirements of Council's 'Standard Drawings for Rural Property Access' (or relevant plan for Singleton Shire Council) to the satisfaction of the relevant road authority.

#### **Decommissioning Bond**

Cond B43 includes a requirement to decommission the infrastructure and rehabilitate the site to pre-existing use. Council is concerned that there is a lack of financial security to prevent the Council, landowners and the community from bearing environmental risks and economic costs associated with potential abandonment of the site before decommissioning or adequate rehabilitation.

DPE have released the draft Energy Policy framework which includes a decommissioning calculator however, there is no clear directive to the Proponent to provide a financial security.

The *Draft Wind Energy Guideline* simply states that a host agreement may prescribe assurances including (emphasis added)

*'ongoing evidence that the applicant **has the capacity** to fund decommissioning activities'.*

The *Draft Private Agreement Guidelines* requires a security and states that a '*Landowner may call on a Security provided under this Agreement if.... The Developer becomes insolvent or is required to undertake the decommissioning*'. However, the guideline does not clearly define how the security will be calculated and whether it will include decommissioning. The definition for Security simply states '*means a Bank Guarantee or bond that is reasonably satisfactory to the Landowner provided in accordance with the terms of this Agreement*'.

DPE currently consider that a Proponent will not be required to pay a security deposit for decommissioning as a renewable project will always remain profitable while operating, and it is only within the last few years of its operation that it may lose profitability. This assumption is incorrect for the following reasons:

- The renewable energy market, like any other, is subject to fluctuations influenced by economic, regulatory, and technological changes. Unforeseen market dynamics, policy shifts, or economic downturns during the lifetime of the Project could impact the profitability of the Project, challenging the assumption of perpetual profitability;
- Renewable energy projects face operational risks such as equipment failures, changes in resource availability, and evolving technology. These operational challenges could affect the project's financial performance and, if not adequately addressed, could lead to unexpected financial burdens; and
- Predicting the financial performance of a renewable energy project over its entire lifecycle is inherently uncertain. Factors such as advancements in technology, energy storage solutions, and emerging market trends can influence the long-term viability of projects.

Council requests a condition of consent requiring lodgement of a security deposit with the Planning Authority to cover the full cost of decommissioning and rehabilitation calculated in accordance with the Department's new decommissioning calculator as referenced in the *'draft Energy Policy Framework'* (2023).

### **Decommissioning Plan**

Similar to other SSD in the Shire, Council requires confidence that rehabilitation undertaken under Cond B43 will be undertaken to a suitable standard. There should be a condition requiring the Applicant to, not less than 12 months prior to decommissioning commencing, prepare a Decommissioning Plan for the site that outlines the following:

- i) A program for the decommissioning of all project elements, above and below ground infrastructure, redundant buildings and other infrastructure related to the approved development.
- ii) A strategy for recycling of projects elements and the rehabilitation of the site to return it to a standard consistent to pre-existing use.
- iii) A timeline for the completion of decommissioning and rehabilitation works within 12 months of the conclusion of the premises operational lifetime.

### **Habitat Connectivity**

Habitat connectivity will be further fragmented with a loss of 133 ha of woody vegetation. Due to past farming practices substantial clearing has occurred in this area in the past, so the loss of 133 ha of additional vegetation is significant.

While disturbance of threatened vegetation is proposed to be offset under State legislation, any land-based offsets are unlikely to be located within the Muswellbrook Local Government Area (LGA) and may not adequately address the direct ecological consequences within this Shire.

Council requests that the Proponent undertake revegetation initiatives within the Project Boundary e.g. additional plantings, habitat restoration, improvements to wildlife corridors, improvements to soil health, to offset the impacts of the Project.

By doing so, the Proponent would be addressing the environmental disturbances occurring directly in the Shire, aligning with the principles of responsible environmental stewardship. This will also help to foster a positive relationship between the Proponent and the Muswellbrook community.

## **Biodiversity Pre-Clearance Surveys**

Council supports pre-clearance surveys being undertaken prior to construction works, as outlined in the Biodiversity Assessment for the Project.

*Pre-clearing surveys will be undertaken ahead of clearing, to limit fauna injury and mortality and to identify habitat features to be relocated. Pre-clearance surveys will be conducted by a suitably qualified ecologists and all fauna found during these surveys will be encouraged to move on or relocated by the ecologists in areas of similar habitat nearby that will not be impacted.*

*If threatened hollow-dwelling species are located, removal will be once the ecologist determines the breeding period for that species has ended and all juveniles have moved on.*

*Staging of Clearing methods including: Provisions made to protect any native fauna during clearing activities including:*

- *All staff working on the vegetation clearing will be briefed about the possible fauna present and should avoid injuring any present;*
- *Animals disturbed or dislodged during the clearance but not injured will be assisted to move to adjacent bushland or other specified locations;*
- *If animals are injured during the vegetation clearance, appropriate steps will be taken to humanely treat the animal by an appropriately trained/qualified person (either taken to the nearest veterinary clinic for treatment, or if the animal is unlikely to survive, it will be humanely euthanised); and*
- *At the end of clearing works (or relevant stages thereof), a clearing supervision report will provided detailing the total number and species of individuals recorded and details of their release and/or treatment in case of injured fauna.*

## **Bushfire Preparedness**

### Bushfire Response

The Muswellbrook LGA is within the Hunter REZ. Renewable energy projects (e.g. Battery Storage, Solar) are proposed.

Council has concerns regarding the local Rural Fire Service's (RFS) capability to manage chemical fires and electrical fires from renewable energy projects, particularly battery Storage and wind farms.

Given that the local RFS relies on volunteers, it is impractical to depend solely on their response capabilities. Council supports the commitment to the employment of a full-time professional dedicated to managing and mitigating the community's risk. Additionally, Council recommends that the local RFS receives the following:

- Tailored training - for example chemical fire response, high-altitude, wind turbine awareness, hazardous materials, communication protocols, community relations and simulated drills; and
- Equipment upgrades - for example foam systems, high-reach appliances, communication and rescue equipment, and community awareness programs.

Also, the Project site is some distance from RFS facilities. On a windy ridgeline any fire created from malfunctioning turbines has the potential to spread rapidly. The Proponent

has committed to keeping firefighting equipment on-site for use by any staff/contractors ahead of arrival of RFS crews.

Council requests that Cond B39 address this commitment, and any measures required to ensure community safety and resilience in emergencies related to wind farm operations.

### **Environmental Pollution**

Council seeks clarification that each turbine pad will be designed with adequate bunded capacity to contain any oil present within the nacelle (gearbox or transformer) of each turbine.

### **Accommodation and Employment Strategy**

The Recommended Conditions include a requirement for an Accommodation and Employment Strategy – see Cond B42.

Since the Environmental Impact Statement (EIS) for the Project was prepared, several renewable energy zones (REZ) (including the Hunter REZ) have been declared as suitable areas for renewable energy generation and energy storage.

As a result of the declaration, Council has observed an increase in the number of applications for solar and battery storage projects, in addition to other projects in the shire including Maxwell Underground, Mount Pleasant Mine, Muswellbrook Bypass, Liddell Power Station Demolition, Hunter Valley Operations North and South and Hunter Gas Pipeline, and new 500KV transmission lines projects, all with similar or overlapping construction periods.

A cumulative construction labour force assessment was undertaken in 2023 for the Muswellbrook Solar Farm which included several concurrent developments including. The assessment showed:

*A peak demand of 1,909 construction workers estimated to be required in 2025 (inclusive of the peak construction workforce for the project).*

*If 50% of the cumulative construction labour force were to require accommodation in the Muswellbrook township, this would equate to demand for up to 955 rooms of accommodation.*

The assessment shows that there are already accommodation difficulties being experienced in the Upper Hunter region and that further project approvals of all types will exacerbate this issue.

Council is concerned that if the Proponent completes the Accommodation and Employment Strategy, and do not accurately address the potential challenges e.g unknown or extended construction periods for various projects, the dynamic nature of construction timelines and the nuanced impacts on accommodation and employment dynamics, there is no redress for Council. It may be better for EnergyCo to do this body of work and to provide temporary construction housing in the area than individual project Proponents.

Cond B42 should be amended as follows:

1. Part (b) of this condition states the strategy 'must consider the cumulative impacts associated with other State significant development projects in the area'. This condition needs to include other types of projects in the area as well (e.g SSI and Transport for NSW projects) which carry a large construction workforce.
2. The Accommodation and Employment Strategy should:
  - a) Demonstrate how accommodation demand will be managed during periods of high demand e.g during large regional sporting and community events;
  - b) Document an approach to informing regional accommodation providers of project workforce accommodation demands including anticipated timing;
  - c) Enable the coordinated placement of the workforce in short-term accommodation in beneficial locations in the Shire;
  - d) Keep key stakeholders informed of predicted project accommodation demands with six-month lead times preferable; and
  - e) Contain a monitoring framework incorporating 'triggers' in decisions about additional accommodation options.

## Others Matters

Council request the following draft conditions be updated as well:

- Cond A8. The Applicant may upgrade the wind turbines and ancillary infrastructure on site provided these upgrades remain within the approved development disturbance area **and approved wind turbine height**.
- Cond A13 requires subdivision of land for the purpose of the Project. Registration of a restrictive covenant against the title to each newly created title lot prohibiting any additional dwelling being constructed on the lot and acting as a notification that lots do not have a dwelling entitlement is requested.
- Cond B6 requires preparation of a Traffic Management Plan. This condition should include reference to communication where mobile phone coverage is limited and procedures to be used in remote areas.
- Cond B37. If the development results in the disruption to any radio communications services (including point-to-point microwave links) in the area **or to any Council or emergency service VHF**, then the Applicant must make good any disruption to these services as soon as possible following the disruption, but no later than 1 month following the disruption of the service unless the relevant service provider or user or Planning Secretary agrees otherwise.
- Cond C21 requires the Applicant to make available on its website, "a comprehensive summary of monitoring results". A summary of energy output (MW) commissioned and of energy output (MW) produced should be included. This will aid calculate of contributions during the construction and commissioning phase and provide transparency for the community.
- A condition is required for the preparation of a Construction Environment Management Plan. There was a commitment in the EIS to include key environmental management measures for noise, waste, erosion and sediment control, dust and also to include the process for receiving and responding to community complaints.

Council appreciates the opportunity to make a submission and trust that the IPCn will thoroughly consider the implications of the Project on the Shire.

Should you need to discuss the above, or require any further information, please contact Theresa Folpp, Development Compliance Officer on 02 6549 3700 or email [council@muswellbrook.nsw.gov.au](mailto:council@muswellbrook.nsw.gov.au).

Yours faithfully

A handwritten signature in black ink, appearing to be 'SP', written in a cursive style.

Sharon Pope  
**Director Environment and Planning**

***ANNEXURE A – Council Voluntary Planning Agreement General Terms  
Acceptance Letter***

**Enquiries**  
**Please ask for** Theresa Folpp  
**Direct** 02 6549 3700  
**Our reference** Bowmans Creek Windfarm

06 April 2023

**Rebecca Riggs**  
**Project Manager**  
**Ark Energy**

Dear Rebecca,

**Bowmans Creek Wind Farm – Muswellbrook Shire Council Acceptance of General Terms of Voluntary Planning Agreement**

Reference is made to the email from Ark Energy dated 22 March 2023 regarding the General Terms of the Bowmans Creek Wind Farm Planning Agreement (PA).

The previous offer made by the (then) Epuron (dated 22/02/22) was a contribution of \$3,400 per turbine per year (CPI indexed from the date of commissioning). On the 21 March 2022, the SSD Committee resolved that preference was a “rate based on megawatt output to allow flexibility for changes to turbine capacity over the life of the Project”.

The General Terms for the PA are based on 1% levy on capital investment value which equates to \$686/MW (installed) per annum, increased by CPI from generation commencement.

The email from Ark Energy also noted the following:

- Currently the per turbine rate to reach the 1% capital investment is calculated using a 5.6MW turbine, meaning the per turbine rate is \$3842;
- Acknowledging that should the turbine capacity be greater than 5.6MW, the quantum would change; and
- There are 41 turbines proposed in Muswellbrook Shire, based on the per turbine rate of \$3842 (based on a 5.6MW turbine) that would equate to \$157,505.00 per annum.

The offer provided is consistent with the SSD Committee resolution, so the offer is accepted.

Should you need to discuss the above, please contact Theresa Folpp, Development Compliance Officer on 02 6549 3700 or email [council@muswellbrook.nsw.gov.au](mailto:council@muswellbrook.nsw.gov.au).

Yours faithfully



Sharon Pope  
**Director Environment and Planning**