

Our ref: SSD-10807896

Brad James
A/Planning Director
Independent Planning Commission NSW

Via email: [REDACTED]

18/04/2024

Subject: Thunderbolt Wind Farm (SSD-10807896) – Proposed Amendments to Conditions

Dear Mr James

I refer to your letter dated 11 April 2024, seeking the Department’s advice on the proposed conditions of consent for the Thunderbolt Wind Farm (project) for consideration of the NSW Independent Planning Commission (Commission), should it approve the project.

As requested by the Commission, the Department has considered workability, enforceability and any potential unintended consequences of the proposed conditions, and provides the following advice:

Proposed condition	Summary of the Commission’s comment	Department’s response
Definitions	Mentions of Building Code of Australia changed to National Construction Code throughout the conditions	Agreed
A7(c)	Introduction of a new condition regarding micrositing, requiring the revised location of a wind turbine blade tip to be at least 150 metres away from any public road; or no closer to the public road where the wind turbine blade top is already within 150 metres of a public road.	<p>The Department understands that this condition is intended to minimise the risk of turbine overhang over a public road and is related to turbines T26 and T27 near Green Valley Road.</p> <p>The Department considers that this condition would not materially change the outcome as the existing conditions already do not permit any project infrastructure to extend beyond the project site boundary. The 100 m micrositing condition does not allow to locate turbines closer to a public road than the overhang distance.</p> <p>In addition, the blade throw risk for road users in the vicinity of the project site was assessed in the EIS and considered to be very low (i.e. at least 35</p>

Proposed condition	Summary of the Commission’s comment	Department’s response
		times less than the blade throw risks considered acceptable in other jurisdictions).
A7(f)	Introduction of a new condition regarding micro-siting, requiring the revised location of a wind turbine to not increase the turbine’s Visual Impact Zone classification.	The Department considers that this condition would primarily relate to receiver 55 being 2005 m from the nearest turbine. As LIDAR data shows that the dwelling is already well-screened at this location, the Department considers this condition would not materially benefit this receiver.
A19 to A21	Updated text regarding the project’s Voluntary Planning Agreement, as suggested by the Department’s response to the Commission’s Request for Information, dated 3 April 2024.	Agreed
B20(f)	Introduction of a new condition requiring the Applicant to undertake water quality monitoring downstream of the project for the life of the project.	<p>The Department considers that the requirement to undertake water quality monitoring in the receiving catchment for the life of the development is not commensurate with the risk, particularly with a very low risk profile during operation.</p> <p>Firstly, relevant government agencies, including the EPA, the Water Group and BCS within NSW DCCEEW, did not request this measure in their advice to the Department. The project would be subject to an Environment protection licence (EPL). While the main environmental issue that the EPA regulates via a wind farm EPL is operational noise, the licence may also address other environmental issues during the construction phase, such as dust and sedimentation, if warranted.</p> <p>Secondly, condition B19 requires the Applicant to comply with the <i>Protection of the Environment Operations Act 1997</i>, which makes it an offence to pollute any waters. Condition B20 provides specific requirements for implementing erosion and sediment control, and the project will be subject to</p>

Proposed condition	Summary of the Commission’s comment	Department’s response
		<p>independent audits and inspections by the Department’s compliance team.</p> <p>Lastly, condition B25 requires Neoen to detail in a Biodiversity Management Plan the measures to minimise impacts on the Bell’s Turtle (an aquatic species), control erosion and provide a detailed program to monitor and report on the effectiveness of the measures employed.</p>
B23	<p>Retirement of biodiversity offset credits – inclusion of the words “unless the Planning Secretary is satisfied that impacts have been further minimised so as to require fewer offsets to be required” and deletion of “unless the Planning Secretary agrees otherwise”.</p>	<p>The Department considers requests to vary the biodiversity offset credit liability in consultation with BCS on a case-by-case basis.</p> <p>An unintended outcome of the suggested change can occur where an Applicant identifies an opportunity to reduce impacts on Threatened Ecological Communities or threatened species habitat at the expense of a non-listed PCT. While this would result in a potential increase in credits, it could improve the overall biodiversity outcome for the project.</p> <p>As such, the Department requests that the condition remains unchanged to provide the Department with this flexibility.</p>
B25(c)	<p>Inclusion of Bells Turtle as a species that should be included in the Applicant’s description of measures that would be implemented to minimise impacts to threatened flora and fauna.</p>	<p>Agreed</p>
B25(d)	<p>Introduction of a new condition requiring the Biodiversity Management Plan to consider opportunities for local community conservation groups to participate in biodiversity conservation management actions.</p>	<p>The BMP must be prepared by a suitably qualified and experienced biodiversity expert/s in consultation with BCS and AG DCCEEW. The Department considers that introducing additional requirement to engage local community conservation groups may make it difficult for the BMP management actions to be developed and</p>

Proposed condition	Summary of the Commission’s comment	Department’s response
		implemented in accordance with the conditions of consent and Biodiversity Offset Scheme of the BC Act.
B30	Heavy vehicles requiring escort and heavy vehicle routes – inclusion of consultation with the local roads authority.	Agreed
B31(b)	Road upgrades described in Table 7-2 of Appendix 7 – removal of the words “by the Applicant”.	<p>The Department considers that this condition should be retained in its entirety. The intent is to differentiate the works that would be undertaken by the Applicant (Table 7-2) from those that are the responsibility of other entities (Table 7-1).</p> <p>Also, the Applicant can seek the Planning Secretary’s discretion if another entity undertakes these road upgrades before the Applicant.</p>
B31	Additional line requiring vegetation for visual impact screening to be appropriately replaced if removed for road upgrade works.	The Department considers this is not required, as condition B1 already requires the Applicant to undertake visual mitigation measures, such as landscaping and vegetation screening. Condition B1 also contains specific requirements for this planting.
B32	Additional line requiring dilapidation surveys for roads not described within the condition that may be used by the Applicant following approval from the Planning Secretary.	<p>The Department considers this to be unnecessary, as the alternate routes allowed for by Condition B30 would be limited to circumstances beyond the Applicant’s control. A recent example being the temporary use of an alternate route facilitated by TfNSW due to emergency rectification works for the Tarro Rail Bridge on the New England Highway.</p> <p>The Department notes that if this condition is included, it should cross reference condition B32(a)-(c) rather than B31(a)-(c).</p>
B43(e)	Waste disposal – additional requirement to consult with the relevant council.	Agreed

Proposed condition	Summary of the Commission’s comment	Department’s response
B44(a)	Additional condition requiring the Accommodation and Employment Strategy to be informed by consultation with local accommodation and employment service providers.	Agreed
B44(b)	Accommodation and employment strategy – additional requirement for the Accommodation and Employment Strategy to include consideration of potential conflicts with key tourism, cultural and entertainment-related events.	Agreed
C19	Question for the Department from the Commission: The Commission considers that regular auditing is valuable, regardless of whether a Project demonstrates operational compliance at any one time. Could you provide some additional context as to why this condition is included?	<p>As there is no time limit on receiving audits, the Department prefers the ability to cease audits in cases where there have been no previous issues and the environmental risk diminishes once the project is operational. This condition does not remove the possibility for audits, but it allows audits to happen on an as-needed basis rather than on a regular timeframe.</p> <p>The Department’s Compliance Team also regularly inspects projects as required. If the Department or other agencies identify issues, the Department can require additional audits.</p>
Appendix 3	Updated text regarding the project’s Voluntary Planning Agreement, as suggested by the Department’s response to the Commission’s Request for Information, dated 3 April 2024.	<p>The Department notes that some formatting changes are required within this Appendix, namely:</p> <ul style="list-style-type: none"> • Bullet style to be applied. • There is an accidental paragraph break in the line: “subsequent payments of \$38,921.07 (\$56,055 x 0.69*) to be made annually (for a total of 30 years) on the anniversary of the commercial operations date.” • “Administered through either” is a different font to the remainder of the table.

Department of Planning and Environment



The Department has no comment on the Commission's other proposed changes to the Department's recommended conditions of consent.

If you have any questions, please contact Anthony Ko on 02 8217 2022 or via email at

[REDACTED]

Yours sincerely,

[REDACTED]

Clay Preshaw
Executive Director
Energy, Resource and Industry Assessments