

Our ref: SSD 10807896

Steve Barry

Planning Director

Independent Planning Commission NSW

Via email: [REDACTED]

02/05/2024

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

Dear Mr Barry

I refer to your letter dated 29 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
A7(c)	Modification of a previously introduced condition regarding micrositing, requiring that the revised location of a wind turbine blade tip be at least 150 metres away from a public road.	<p>The Department understands that:</p> <ul style="list-style-type: none">- the intent is to address Tamworth Council's concerns about the potential for blade throw to affect council infrastructure and the public using the road.- the proposed distance (150 m from a blade tip) is sourced from a recommendation from the Australian Energy Infrastructure Commissioner (AEIC). <p>The Department notes that the AEIC recommendation also considers that there can be a shorter distance for low use roadways if there has been a risk assessment that supports a reduced setback: <i>"An appropriate risk assessment should be considered for setbacks from roads, particularly for low use roads, which may support a reduced setback distance."</i></p> <p>The Department notes that the proposed condition for a blade tip to be 150 m from a public roadway, with a 90 m</p>

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		<p>blade length, means the centre of the tower would need to be 170 m from the roadway.</p> <p>The Applicant has prepared a blade throw risk assessment. The risk assessment concluded that:</p> <p><i>"The societal risk on Green Valley Road is 5.71×10^{-5} deaths per year or one death every 17,500 years. This is approximately 35 times less than the limit identified as acceptable in the Dutch Handbook. Considering the apparent road conditions for Green Valley Road, the actual traffic volume, and therefore the actual societal risk, is expected to be much lower than estimated here."</i></p> <p>Further, the assessment concluded that at a distance of 95 metres (from centre of tower) <i>"the probability of a person who remains at any fixed location on a neighbouring road for a whole year being hit and killed by a blade or blade fragment thrown from the Project is less than 10^{-5} per year (1-in-100,000). This is lower than the annual risk of death on Australian roads."</i></p> <p>As a result, the Department considers that this condition is not necessary to manage potential blade throw risks of the project to public roads. All turbines are located more than 95 m (from centre of tower) from public roads.</p> <p>The Department notes that the concern about potential impact on Council infrastructure (in the unlikely event of an issue) would be addressed by condition A11 requiring the applicant to repair any public infrastructure that is damaged by the development.</p> <p>The Department notes that the proposed location of turbines T26 and T27 is currently less than 170 metres (from the centre of the tower) from Green Valley Road (being 126 metres for T26 and 135 metres for T27). The suggested condition would not allow these turbines to be constructed in their proposed location or microsituated further from the road, and would instead require them to be microsituated to at least 170 metres away from Green Valley Road.</p>

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A18	Relocation of a previously introduced condition requiring the Biodiversity Management Plan to the Applicant consulting the CCC in relation to opportunities for local community conservation groups to participate in biodiversity conservation management actions.	<p>The Department understands the intent to be that potential opportunities are discussed at the CCC. Inserting a requirement into conditions of consent may elevate this intent and have unintended consequences about the role of the CCC in this measure. The Department notes that the CCC would be unlikely to have technical expertise to provide feedback.</p> <p>The Department also notes that term “biodiversity conservation actions” has specific defined meaning within biodiversity policies such as the <i>Ancillary Rules: Biodiversity conservation actions</i>.</p>
B20(f)	Retention of a previously introduced condition requiring the applicant to undertake water quality monitoring of Carlisle's Gully Catchment downstream of the project, for the life of the development.	<p>The Department maintains its position that a condition of consent requiring the Applicant undertake water quality monitoring in the receiving catchment for the life of the development is not required as potential pollution resulting from the project would be managed through several different mechanisms under the conditions of consent as proposed by the Department and other regulatory mechanisms such as the Environment Protection Licence issued by the Environment Protection Authority.</p> <p>Condition B19 requires the Applicant to comply with the <i>Protection of the Environment Operations Act 1997 (POEO Act)</i>, which makes it an offence to pollute any waters. Condition B20 provides specific requirements for implementing erosion and sediment control which are considered to be sufficient to manage sedimentation on the site. Condition B25 also requires the applicant 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> <p>Pollution, including monitoring where required, would be regulated by the EPA in an environmental protection licence (EPL) for the project as required. The EPA undertakes risk assessments of all projects requiring an EPL to identify the</p>

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		<p>site specific risks posed by the project and any environmental issues that a licence needs to address and where the EPA needs to focus its regulatory attention. On recent EPLs for wind farms, the EPA has included a requirement to prepare and develop a Soil and Water Management Plan to manage impacts during construction. The EPA, as the appropriate regulatory authority for water pollution under the POEO Act, would consider whether such a condition is required when issuing an EPL. EPLs also require an Annual Return to be prepared providing a statement of complaints and monitoring and complaints summary.</p> <p>In addition, the Department's compliance team also conducts regular site inspections during construction to ensure compliance with conditions of consent.</p> <p>Conditions C14 to C18 also require the Applicant to undertake independent environmental audits within three months of the commencement of construction activities and operations, and as requested by the Planning Secretary. The findings of these independent audits must be submitted to the Planning Secretary.</p> <p>As a result, the Department considers that the existing conditions adequately address water pollution risk and enforce compliance and would be a requirement of the EPL if the EPA considers it is required when issuing an EPL, and there is no need for an additional condition requiring water monitoring for the life of the development.</p> <p>The Department also notes that 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. Based on the advice received and the proposed conditions and compliance settings (Department and EPA) the Department considers the risk of pollution in the receiving environments to be appropriately managed.</p>

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B31	Retention of a previously introduced condition requiring vegetation for visual impact screening to be appropriately replaced if removed for road upgrade or other works.	<p>The Department understands that this condition is intended to assist the non-associated residences in the vicinity of the project site with mitigating the visual impacts. As such, the Department recommends that this requirement is instead located within Condition B1 (Visual Impact Mitigation) as follows:</p> <p><i>These mitigation measures must:</i></p> <ul style="list-style-type: none"> <i>(a) be reasonable and feasible;</i> <i>(b) be aimed at reducing the visibility of the wind turbines from the residence and its curtilage, and commensurate with the level of visual impact on the residence;</i> <i>(c) consider bushfire risk (including the provisions of Planning for Bushfire Protection 2019);</i> <i>(d) consider vegetation that may have been removed by the Applicant for road upgrades or other works within the site; and</i> (d) <i>(e) be implemented within 12 months of receiving the written request, unless the Planning Secretary agrees otherwise.</i> <p>The Department suggests that screening vegetation should be planted at receivers to maximise the effectiveness of the visual screening.</p>
B32	Modification of a previously introduced condition requiring dilapidation surveys for roads not described within the condition that may be used by the Applicant following approval from the Planning Secretary, modified to specify that this does not apply to emergency works.	<p>The Department notes that dilapidation surveys are only proposed for local roads and suggests that the condition be modified as follows:</p> <p><i>If, under condition B30, the Planning Secretary agrees to an alternative route being used during construction and/or decommissioning and the Planning Secretary is satisfied that the alternative route is not a short-term temporary alternative, the requirements of B32 (a)-(c) are to be carried out on local roads in respect of the agreed alternative route.</i></p>

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 Nicole Brewer on 02 9274 6374 or via email at

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Yours sincerely,

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Nicole Brewer
Director
Energy Assessments