

Independent Planning Commission
135 King Street
Sydney NSW 2000

Via email: submissions@ipcn.nsw.gov.au

Dear Sir/Madam

TAMWORTH REGIONAL COUNCIL SUBMISSION TO INDEPENDENT PLANNING COMMISSION – HILLS OF GOLD WIND FARM (APPLICATION NUMBER SSD-9679)

Introduction

I write to you in relation to the proposed Hills of Gold Wind Farm development to which Tamworth Regional Council (TRC) has by resolution a strong objection, as evidenced by its letters of objection to the Department of Planning, Housing and Infrastructure (Department) over a number of years. A copy of each of these letters, dated 10 February 2021, 25 May 2022, 13 December 2022 and 10 July 2023 is attached to this submission.

Tamworth Council maintains there is simply not enough evidence provided by the Applicant to satisfy Council (or the consent authority) that the subject site is suitable for a large-scale wind farm development. Council is also not satisfied that the Assessment Report prepared by the Department has properly considered all the likely impacts of this development which leaves wide gaps in understanding of important aspects. It is evident in the Department's report, as well as in the draft conditions that the Department has reached its recommendation in the absence of the expected level of information anticipated by the *Environmental Planning and Assessment Act 1979* (EP&A Act). This has resulted in draft conditions of consent that fail both the test of finality and of certainty, leaving the consent open to legal challenge.

Detailed Comments

Council calls on the Independent Planning Commission (IPC) to give serious consideration to whether the Applicant has adequately demonstrated that:

- The method of transporting OSOM and heavy vehicles to the development site will not result in unacceptable impacts on the Nundle and Hanging Rock localities; irreversible impacts on local heritage items; and likely catastrophic impacts as a result of poor soil, steep gradient and high altitude weather conditions;
- There will be no serious or irreversible impacts on critically endangered and threatened flora and fauna species located within and adjacent to the development site and along proposed haulage routes; and
- The required owners' consents have been provided for the subject development site and along proposed haulage routes.

Council also asks that the IPC seriously consider whether the Department of Planning, Housing and Infrastructure has adequately assessed this development application and whether the recommendation as presented to the IPC is fit for purpose and is consistent with good orderly town planning principles. Council's view is that the recommendation does not provide any certainty to the affected communities nor to Council itself. In particular, Council is of the opinion that the Department has *not* adequately considered the following:

- Whether the impacts on critically endangered and threatened species has been assessed by appropriately qualified experts (for example; specialist state government bat species experts). Council's advice is that this has not occurred.
- Whether the soil profile classification and assessment of significant internal road upgrades has been properly considered, noting that Class 8 soil (which is prevalent throughout the development site) is described by the NSW Office of Environment and Heritage in *The Land and Soil Capability (LSC) Assessment Scheme* (October 2012), as being:

"not suitable for any agricultural production due to its extremely severe limitations. Class 8 land includes precipitous slopes (>50% slope) and cliffs, areas with a large proportion of rock outcrop (>70% area), or areas subject to regular inundation and waterlogging (swamps, lakes, lagoons, stream beds and banks)" (page 8),

and that land management considerations for Class 8 soil states:

"This land is unusable for any agricultural purposes. Recommended uses are restricted to those compatible with the preservation of natural vegetation including water supply catchments, wildlife refuges, national and State parks, and scenic areas" (Page 8).

- Whether an adequate assessment of the safety of construction workers / drivers has been undertaken, considering the extreme site constraints.
- The ability to site the turbines within 100m of the nominated GPS coordinates without a full understanding of the likely impacts. This provides significant scope to increase impacts on biodiversity and sensitive receivers. If this condition is to be retained additional investigations should be undertaken to include areas within 100m radius of the turbine GPS coordinates.
- Whether adequate setbacks between the proposed wind generation turbines and existing road reserves have been assessed and prescribed (it is understood that the blades of *at least* one (1) turbine will swing over a road reserve and potentially a public road).
- Whether the draft conditions of consent are robust and legal. Council considers that the conditions lack certainty and finality meaning that the development that is ultimately implemented will likely be significantly different to that approved. References to ...'*unless the Planning Secretary agrees otherwise*' or similar wording are unacceptable to Council and in Council's opinion, open to legal challenge.
- Whether Council, the community or agencies will be consulted at all when changes are proposed. In this respect, Council is disturbed by conditions such as C.4:

If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.

The implications of this and other similar conditions are extremely concerning to Council and indicate that decisions will be made “behind closed doors” in the absence of the community and the local authority most impacted by this development. These conditions fly in the face of government policy and commitment to transparency in decision making.

Site Suitability

It has been made abundantly clear that one of the key reasons for the Department’s recommendation for approval is due to the presence of high winds in the vicinity of the site and its accessibility to an existing transmission line network. While this is acknowledged, Council maintains that the significant local impacts and lack of evidence that the proposal is able to be implemented without extreme risk and damage to the environment and Council’s infrastructure must not be discounted in determining whether this particular project is suitable for the selected site. Availability of the wind resource alone does not justify the approval of the development at all cost.

Council is disappointed and extremely surprised that planning professionals at the state level could possibly be satisfied in recommending such highly flexible draft conditions which clearly do not comply with the requirements of the EP&A Act and are evidence of an inadequate development. After six (6) years of assessment and with an uncertain haulage route, the lack of certainty and finality in the draft conditions merely reinforces the fact that this is a highly inappropriate site. It is Council’s considered opinion that it has not been demonstrated by the applicant or the Department that this project is approvable.

In support of this view, Council notes that significant elements of the “last mile” transport route remain unclear and unresolved, including:

- Uncertainty around the size and frequency of heavy vehicles utilising Barry Road / Morrisons Gap Road (including the Devils Elbow);
- Missing elements in Table 7.2 of the draft consent;
- Five kilometres of unassessed internal track construction through extreme terrain and highly unstable soil profiles;
- Transport noise assessments carried out against incorrectly overstated road classifications at Hanging Rock and Morrisons Gap Road, and;
- Associated draft conditions that are consequently worded so vaguely that they are legally questionable.

The push to transition to renewable energy and decarbonisation is absolutely important. However, the absence of strong, well-developed, publicly consulted State and Federal renewable energy policies should not be to the detriment of the Nundle and Hanging Rock communities and the highly valuable environment in which they reside. Just because this particular project has the ability to access high winds and existing transmission line infrastructure, does not mean that it is an acceptable development, nor that it is in the public interest to overrule the extreme risk to the viability of the local community and environment this development will create.

Finally, attached to this letter are the following additional documents that Council hopes will be of assistance to the IPC when making its final decision on the application:

Attachment	Document
1	Review of Draft Conditions – Should the IPC be of a mind to approve the development there are a number of questions Council raises in relation to the draft conditions. Council’s comments and some recommended changes are contained within this document. Where Council has not made a comment, this does not necessarily mean Council is in agreeance to the recommended condition.
2	Legal Advice to the IPC regarding Section 138 Permit conditions.
3	Letters from Council to the Department dated 10 February 2021, 25 May 2022, 13 December 2022 and 10 July 2023.
4	NSW Wind Farm Development Comparison Spreadsheet – This document has been prepared by Council in order to provide a holistic comparison of different wind farms in NSW. The Commission’s attention is particularly drawn to the criteria highlighted in red which indicates the extreme nature of this development.

Should you require any clarification in relation to the matters raised above, please contact Council on the details below.

Yours faithfully,



Director, Liveable Communities
Tamworth Regional Council

Contact:

12 February 2024

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINMISE HARM TO THE ENVIRONMENT

Condition #	Recommended Condition	Council Comment
A1.	In meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction, commissioning, upgrading, operation, rehabilitation or decommissioning of the development.	

TERMS OF CONSENT

Condition #	Recommended Condition	Council Comment
A2.	The development may only be carried out: (a) in compliance with the conditions of this consent; (b) in accordance with all written directions of the Planning Secretary; (c) generally in accordance with the EIS; and (d) generally in accordance with the Development Layout in Appendix 1.	No specific reference to plans. EIS should be dated and version number identified. Does this include the Amendment Report?
A3.	The Applicant must comply with any requirement/s of the Planning Secretary arising from the Department's assessment of: (a) any strategies, plan or correspondence that are submitted in accordance with this consent; (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and (c) the implementation of any actions or measures contained in these documents.	
A4.	The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in	

Condition #	Recommended Condition	Council Comment
	condition A2(c) or A2(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.	

LIMITS ON CONSENT

Wind Turbines

A5.	A maximum of 47 wind turbines may be constructed and operated on the site.	
A6.	This consent does not authorise the development of wind turbine numbers 9, 10, 11, 24, 28, 42, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62 and 63. <i>Note: To identify the approved wind turbines, see the figures and corresponding GPS coordinates in Appendix 1.</i>	Does this list of Turbines also include those would not comply with conditions? E.g., within road reserves / on unrelated land / too close to national park/reserves
A7.	No wind turbine blade tip may be located within 130 metres from the surveyed boundary of Ben Halls Gap Nature Reserve.	

Wind Turbine Height

A8.	The maximum permitted height of any wind turbine (measured from the above ground level to the blade tip) is 230 metres.	
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Site Access

A9.	This consent does not authorise the development of: (a) the Crawney Road Access Option A or Option C; and (b) the Happy Valley Road bypass route. <i>Note: To identify the approved access routes, see the figures (for the transport route approved) in Appendix 1 and Appendix 7.</i>	Can this please include the Devil's Elbow Bypass Route which is identified in some versions of the EIS documentation.
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Micro-siting restrictions

A10.	Wind turbines and ancillary infrastructure may be micro-sited without further approval providing: (a) the surface disturbance remains within the development corridor (with the exception of wind monitoring masts) shown on the figure in Appendix 1; (b) no wind turbine is moved more than 100 metres from the relevant GPS coordinates shown in Appendix 1; (c) the revised location of the blade of a wind turbine is at least 50 metres away from the canopy of existing native vegetation; or where the proposed location of the blade of a wind turbine is already within 50 metres of the canopy of existing native vegetation, the revised location is not any closer to	Offset from roadways and road reserves needs to be included as a parameter for micro-siting. A 100m buffer for the placement of a wind turbine is huge. I'm not sure how the impacts are assessed or quantified if the applicant has scope to reposition each turbine so substantially. There should also be a condition which requires a registered surveyor to complete a survey to confirm the
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Condition #	Recommended Condition	Council Comment
	<p>the existing native vegetation and the revised location would not increase the turbines risk rating to bird and bat strike, as assigned in the finalised Biodiversity Development Assessment Report (BDAR), dated 25 May 2023;</p> <p>(d) the revised location of the blade tip of a wind turbine is at least 130 metres away from the surveyed boundary of Ben Halls Gap Nature Reserve;</p> <p>(e) the revised location of the wind turbine and/or ancillary infrastructure would not result in any noncompliance with the conditions of this consent;</p> <p>and</p> <p>(f) the wind monitoring masts are located within the development corridor where possible and their development would not result in any non-compliance with the conditions of this consent.</p>	<p>final location of the turbines (including footings and extent of blade tips). This is the only way to confirm if the turbines have been sighted in accordance with the conditions of consent.</p>

UPGRADING OF WIND TURBINES AND ANCILLARY INFRASTRUCTURE

A11.	<p>The Applicant may upgrade the wind turbines and ancillary infrastructure on site provided these upgrades remain within the approved development disturbance area.</p> <p>Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the Planning Secretary incorporating the proposed upgrades.</p>	
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CROWN LAND

A12.	<p>Prior to commencing the development, the Applicant must:</p> <p>(a) obtain relevant licences as required under the Crown Land Management Act 2016 to construct a private haulage road through Crown Reserve 339 being Lot 7301 of DP 1136648 for access to the wind farm site;</p> <p>(b) forward a copy of the licences, consent, approval or determination (as the case may be) to the Department; and</p> <p>(c) have received notification from the Planning Secretary that it is satisfied that the requirement in A12(a) has been met.</p>	
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STRUCTURAL ADEQUACY

A13.	<p>The Applicant must ensure that:</p> <p>(a) the wind turbines are constructed in accordance with the relevant standards, including the structural design requirements of IEC 61400-1 Wind Turbines – Part 1: Design Requirements (or equivalent); and</p> <p>(b) all new buildings and structures, and any alterations or additions to existing buildings and structures are constructed in accordance with the relevant requirements of the BCA.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none">• <i>Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the development.</i>• <i>The EP&A Regulation sets out the requirements for the certification of the development.</i>	
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DEMOLITION

A14.	<p>The Applicant must ensure that all demolition work on site is carried out in accordance with Australian Standards AS 2601-2001: The Demolition of Structures, or its latest version.</p>	
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PROTECTION OF PUBLIC INFRASTRUCTURE

A15.	<p>Unless the Applicant and the applicable authority agree otherwise, the Applicant must:</p> <p>(a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and</p> <p>(b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.</p> <p><i>Note: This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.</i></p>	
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OPERATION OF PLANT AND EQUIPMENT

A16.	<p>All plant and equipment used on site, or in connection with the development, must be:</p> <p>(a) maintained in a proper and efficient condition; and</p> <p>(b) operated in a proper and efficient manner.</p>	
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SUBDIVISION		
A17.	<p>The Applicant may subdivide land comprising the site for the purposes of carrying out the development as identified Appendix 4 and in accordance with the requirements of the EP&A Act, EP&A Regulation and Conveyancing Act 1919 (NSW).</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> • <i>Under Part 6 of the EP&A Act, the Applicant is required to obtain a subdivision certificate for a plan of subdivision.</i> • <i>Division 6.4 of Part 6 of the EP&A Act sets out the application requirements for subdivision certificates.</i> 	
APPLICABILITY OF GUIDELINES		
A18.	<p>References in the conditions of this consent to any guideline, protocol Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.</p>	
COMPLIANCE		
A19.	<p>The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.</p>	
EVIDENCE OF CONSULTATION		
A20.	<p>Where conditions of this consent require consultation with an identified party, the Applicant must:</p> <ul style="list-style-type: none"> (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and (b) provide details of the consultation undertaken including: <ul style="list-style-type: none"> (i) the outcome of that consultation, matters resolved and unresolved; and 	

	(ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.	
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COMMUNITY CONSULTATIVE COMMITTEE

A21.	The Applicant must operate a Community Consultative Committee (CCC) for the development in accordance with the Department's Community Consultative Committee Guidelines: State Significant Projects (2023), or its latest version.	
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COMMUNITY ENHANCEMENT

A22.	Prior to commencing construction, or other timeframe agreed by the Planning Secretary, the Applicant must enter into a VPA with Upper Hunter Shire Council in accordance with: (a) Division 7.1 of Part 7 of the EP&A Act; and (b) the terms of the Upper Hunter Shire Council letter dated 22 November 2023 summarised in Appendix 3.	
A23.	Within 6 months of the date of commencement of this development, or other timeframe agreed by the Planning Secretary, the Applicant must enter into a VPA or other agreement with Tamworth Regional Council in accordance with: (c) Division 7.1 of Part 7 of the EP&A Act; and (d) the terms of the Applicants offer in Appendix 3.	
A24.	If the Applicant and Tamworth Regional Council do not enter into a VPA or other agreement within the timeframe specified under condition A23, then within a further 3 months, the Applicant must make a Section 7.12 of the EP&A Act contribution to Tamworth Regional Council of \$ 6,376,562 (for 64 turbines) recalculated pro-rata for the number of approved turbines located within the Tamworth Regional Council local government area. The amount is to be adjusted at the time of actual payment in accordance with the provisions of the Tamworth Regional Council Section 94 (Indirect) Development Contributions Plan 2013 and directed to infrastructure, services and community projects in towns, villages and rural areas within the Tamworth LGA including Nundle and Hanging Rock.	Based on 47 turbines this would be approximately \$4,682,787 to be further adjusted when the number of turns in TRC is clarified. The approach may be preferable to a convoluted VPA arrangement. The payment of a S.7.12 payment may be the best outcome. This condition is inconsistent with condition A5 which restricts the development to 47 turbines.

PART B SPECIFIC ENVIRONMENTAL CONDITIONS

VISUAL

Visual Impact Mitigation

B1.	<p>For a period of 5 years from the commencement of construction, the owner of any non-associated residence within 5 km of any wind turbine identified in the Final Layout Plan may ask the Applicant to implement visual impact mitigation measures on their land to minimise the visual impacts of the development on their residence (including its curtilage). Upon receiving such a written request from the owner of these residences, the Applicant must implement appropriate mitigation measures (such as landscaping and vegetation screening) in consultation with the owner.</p> <p>These mitigation measures must:</p> <ul style="list-style-type: none">(a) be reasonable and feasible;(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;(c) consider bushfire risk (including the provisions of Planning for Bushfire Protection 2019); and(d) be implemented within 12 months of receiving the written request, unless the Planning Secretary agrees otherwise. <p>If the Applicant and the owner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none">• <i>To avoid any doubt, mitigation measures are not required to be implemented to reduce the visibility of wind turbines from any other locations on the property other than the residence and its curtilage.</i>• <i>The identification of appropriate visual impact mitigation measures will be more effective following the construction of the wind turbines. While owners may ask for the implementation of visual impact measures shortly after the commencement of construction, it is recommended owners consider whether</i>	
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	<i>there is benefit in delaying such a request until the relevant wind turbines are visible from their residence or its curtilage.</i>	
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Visual Appearance

B2.	<p>The Applicant must:</p> <ul style="list-style-type: none"> (a) take all reasonable steps to minimise the off-site visual impacts of the development; (b) ensure the wind turbines are: <ul style="list-style-type: none"> (i) painted off white/grey, unless otherwise agreed by the Planning Secretary; and (ii) finished with a surface treatment that minimises the potential for glare and reflection; (c) ensure the visual appearance of all ancillary infrastructure (including paint colours, specifications and screening) blends in as far as possible with the surrounding landscape; and (d) not mount any advertising signs or logos on site, except where required for safety or emergency purposes. 	That leaves it completely open. Each turbine could be a different colour.
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Lighting

B3.	<p>The Applicant must:</p> <ul style="list-style-type: none"> (a) consult with CASA regarding night time obstacle lighting requirements and, if required, ensure obstacle lights are energised during hours of darkness in accordance with CASA's recommendations; (b) minimise the off-site lighting impacts of the development; (c) ensure that any aviation hazard lighting complies with CASA's recommendations; (d) minimise the visual impacts of any aviation lights by implementing measures including as appropriate in the circumstances: <ul style="list-style-type: none"> (i) partial shielding of lights; (ii) operating the lights only at night or during times of reduced visibility; and (iii) turning the lights on and off simultaneously; and (e) ensure that all external lighting associated with the development (apart from any aviation hazard lighting): 	Does the Planning Secretary know better than CASA?
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	<p>(i) is installed as low intensity lighting (except where required for safety or emergency purposes);</p> <p>(ii) does not shine above the horizontal;</p> <p>(iii) uses best management practices for bat deterrence; and</p> <p>(iv) complies with Australian/New Zealand Standard AS/NZS 4282:2019: Control of Obtrusive Effects of Outdoor Lighting, or its latest version.</p> <p>If there is a dispute about the need for aviation hazard lighting under B3(b), including which wind turbines are to be lit, then either party may refer the matter to the Planning Secretary for resolution.</p>	
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Shadow Flicker

B4.	The Applicant must ensure that shadow flicker associated with wind turbines does not exceed 30 hours per annum at any non-associated residence.	
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NOISE AND VIBRATION

Construction Hours

B5.	<p>Road upgrades, construction, commissioning, demolition, upgrading or decommissioning activities (excluding blasting) may only be undertaken between:</p> <p>(a) 7 am to 6 pm Monday to Friday;</p> <p>(b) 8 am to 1 pm Saturdays; and</p> <p>(c) at no time on Sundays and NSW public holidays;</p> <p>unless the Planning Secretary agrees otherwise.</p>	
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Exceptions to Construction Hours

B6.	<p>The following activities may be carried outside the hours specified in condition B5 above:</p> <p>(a) activities that are inaudible at non-associated residences;</p> <p>(b) the delivery or dispatch of materials as requested by the NSW Police Force or other public authorities for safety reasons; or</p> <p>(c) emergency work to avoid the loss of life, property or prevent material harm to the environment.</p>	
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Variation of Construction Hours

B7.	The hours of construction activities specified in condition B5 of this approval may be varied with the prior written approval of the Planning Secretary. Any request to alter the hours of construction must be:	
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	<p>(a) considered on a case-by-case or activity-specific basis;</p> <p>(b) accompanied by details of the nature and justification for activities to be conducted during the varied construction hours;</p> <p>(c) accompanied by written evidence that appropriate consultation with potentially affected sensitive receivers and notification of Councils (and other relevant agencies) has been or will be undertaken;</p> <p>(d) accompanied by evidence that all feasible and reasonable noise mitigation measures have been put in place; and</p> <p>(e) accompanied by a noise impact assessment consistent with the requirements of the Interim Construction Noise Guideline (DECC, 2009), or latest version.</p>	
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Construction and Decommissioning

B8.	The Applicant must take all reasonable steps to minimise the construction or decommissioning noise of the development, including any associated traffic noise.	
B9.	The Applicant must ensure that the noise generated by any construction or decommissioning activities is managed in accordance with the requirements outlined in the Interim Construction Noise Guideline (DECC, 2009) (or its latest version).	
B10.	<p>The Applicant must comply with the following vibration limits:</p> <p>(a) vibration criteria established using the Assessing vibration: a technical guideline (DEC, 2006) (for human exposure);</p> <p>(b) BS 7385 Part 2-1993 “Evaluation and measurement for vibration in buildings Part 2” as they are “applicable to Australian conditions”; and</p> <p>(c) vibration limits set out in the German Standard DIN 4150-3: Structural Vibration – effects of vibration on structures (for structural damage).</p>	

Blasting

B11.	<p>Blasting may only be carried out on site between 9 am and 5 pm Monday to Friday and between 9 am to 1 pm on Saturday. No blasting is allowed on Sundays or NSW public holidays.</p> <p>The Applicant must ensure that any blasting carried out on site does not exceed the criteria in Table 1.</p> <p>Table 1: Blasting Criteria</p> <table border="1" data-bbox="430 448 1229 726"><thead><tr><th data-bbox="430 448 629 555">Location</th><th data-bbox="629 448 831 555">Airblast overpressure (dB (Lin Peak))</th><th data-bbox="831 448 1030 555">Ground Vibration</th><th data-bbox="1030 448 1229 555">Allowable exceedance</th></tr></thead><tbody><tr><td data-bbox="430 555 629 726">Any non-associated residence</td><td data-bbox="629 555 831 726">120 115</td><td data-bbox="831 555 1030 726">10 5</td><td data-bbox="1030 555 1229 726">0% 5% of the total number of blasts or events over a rolling period of 12 months</td></tr></tbody></table>	Location	Airblast overpressure (dB (Lin Peak))	Ground Vibration	Allowable exceedance	Any non-associated residence	120 115	10 5	0% 5% of the total number of blasts or events over a rolling period of 12 months	
Location	Airblast overpressure (dB (Lin Peak))	Ground Vibration	Allowable exceedance							
Any non-associated residence	120 115	10 5	0% 5% of the total number of blasts or events over a rolling period of 12 months							

Operational Noise Criteria – Wind Turbines

B12.	<p>The Applicant must ensure that the noise generated by the operation of wind turbines does not exceed the higher of 35 dB(A) or the existing background noise level (LA90 (10-minute)) plus 5 dB(A) for each integer wind speed, measured at hub height, from cut-in to rated wind turbine generator power, at any non-associated residence.</p> <p>Noise generated by the operation of the wind turbines is to be measured in accordance with the relevant requirements of the Department’s Wind Energy: Noise Assessment Bulletin (2016) (or its latest version). The noise generated by the operation of the wind turbines must also be adjusted for tonality and low frequency noise in accordance with the Department’s Wind Energy: Noise Assessment Bulletin (2016) (or its latest version). However, these criteria do not apply if the Applicant has an agreement with the relevant owner/s of these residences to generate higher noise levels, and the Applicant has advised the Department in writing of the terms of this agreement.</p>	
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Operational Noise Criteria – Ancillary Infrastructure

B13.	The noise generated by the operation of ancillary infrastructure must not exceed 35 dB(A) LAeq(15 minute) at any non-associated residence. Noise generated by the operation of ancillary infrastructure is to be measured in accordance with the relevant requirements of the NSW Noise Policy for Industry (2017) (or its equivalent).	
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Operational Noise Monitoring

B14.	Within 6 months of the commencement of operations (or the commencement of operation of a stage, if the development is to be staged), the Applicant must: (a) undertake noise monitoring to determine whether the development is complying with the relevant conditions of this consent; and (b) submit a copy of the monitoring results to the Department and the EPA.	
B15.	The Applicant must undertake further noise monitoring of the development if required by the Planning Secretary.	

AIR

B16.	The Applicant must take all reasonable steps to: (a) minimise the off-site dust, fume and blast emissions of the development; and (b) minimise the surface disturbance of the site.	
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SOIL AND WATER**Water Supply**

B17.	The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply. <i>Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain the necessary water licenses before commencing any works which intercept or extract groundwater or surface water (unless an exemption applies).</i>	If Groundwater is proposed - Council requests that evidence of pre-existing groundwater bores that are suitable for the development proposed on the existing and proposed lots. Groundwater (bore) flow / yield test results to demonstrate that the existing bores have capacity to support the development and not hinder adjoining properties should be provided.
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Water Pollution

B18.	Unless an EPL authorises otherwise, the Applicant must comply with Section 120 of the POEO Act. <i>Note: Section 120 of the POEO Act makes it an offence to pollute any waters.</i>	
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Operating Conditions

B19.	The Applicant must: (a) minimise erosion and control sediment generation; (b) ensure the wind turbine pads, ancillary infrastructure, access roads and any other land disturbances have appropriate drainage and erosion and sediment controls designed, installed and maintained in accordance with Best Practice Erosion and Sediment Control (IECA, 2008) and Managing Urban Stormwater – Soils and Construction Volume 2C Unsealed Roads (DECC, 2008), or their latest versions; (c) ensure all waterway crossings are constructed in accordance with the Water Guidelines for Controlled Activities on Waterfront Land (DPE, 2022), unless DPE Water agrees otherwise; (d) ensure the concrete batching plants and substation are suitably bunded; and (e) minimise any spills of hazardous materials or hydrocarbons, and clean up any spills as soon as possible after they occur.	
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Flooding

B20.	The Applicant must ensure that the development: (a) does not materially alter the flood storage capacity, flows or characteristics in the development area or off-site; and (b) is designed, constructed and maintained to reduce impacts on surface water, localised flooding and groundwater at the site, unless otherwise agreed by the relevant local Council.	This condition will be challenging to satisfy with the proposed bypass road around the back of the Nundle pub. What does “materially” mean, given the road will result in some form of impact on flood characteristics given it identified as flood affected.
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Soil and Water Management Plan

B21.	<p>Prior to the commencement of construction, the Applicant must prepare a Soil and Water Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:</p> <ul style="list-style-type: none">(a) be prepared in consultation with the Water Group, WaterNSW and NSW DPI;(b) include a description of the measures that would be implemented to:<ul style="list-style-type: none">(i) minimise the impacts on soil and water required by condition B19;(ii) minimise the spoil generated by the development;(iii) monitor baseline data on surface water flows and quality in the watercourses that could be affected by the development, and a program to augment this baseline data over time;(iv) avoid impacts on the quality of water flowing into the Chaffey and Glenbawn catchments;(c) managing flood risk during construction;(d) include a program to monitor and publicly report on the management of spoil on site;(e) progress against the detailed completion criteria and performance indicators. <p>Following the Planning Secretary's approval, the Proponent must implement the Soil and Water Management Plan.</p>	<p>This should be monitored and reported on throughout the life of the development by an independent 3rd party expert.</p>
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BIODIVERSITY

Vegetation Clearance

B22.	<p>The Applicant must not clear any native vegetation or fauna habitat located outside the development corridor.</p>	<p>This needs to be clarified. Does this mean there is no clearing allowed on any haulage route roads reserves/ private property? If read literally, this condition would render the approval unworkable. The mapping does not properly relate to the definitions and the wording of this condition.</p>
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Restrictions on Clearing and Habitat

B23.	Unless the Planning Secretary agrees otherwise, the Applicant must: (a) ensure that the vegetation and habitat clearing limits specified in Tables 1 and 2 of Appendix 5 are not exceeded; and (b) minimise: (i) the clearing of native vegetation and key habitat. (ii) the impacts of the development on hollow-bearing trees; and (iii) the impacts of the development on threatened bird and bat populations.	So if the Planning Secretary <i>does</i> agree otherwise, the Applicant <i>can</i> exceed (a) and does not have to 'minimise' (b)i,ii,iii...? There is no certainty in conditions like these.
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Biodiversity Offsets

B24.	Prior to carrying out any development that could directly or indirectly impact the biodiversity values requiring offset, the Applicant must retire biodiversity credits of a number and class specified in Table 5-1 and 5-2 of Appendix 5, unless the Planning Secretary agrees otherwise. The retirement of these credits must be carried out in accordance with the NSW Biodiversity Offsets Scheme and can be achieved by: (a) acquiring or retiring 'biodiversity credits' within the meaning of the Biodiversity Conservation Act 2016; (b) making payments into an offset fund that has been developed by the NSW Government; or (c) funding a biodiversity conservation action that benefits the entity impacted and is listed in the ancillary rules of the biodiversity offset scheme.	
B25.	Prior to carrying out any development that could directly or indirectly impact the biodiversity values requiring offset, the Applicant must provide evidence to the Planning Secretary that biodiversity credits have been retired.	

Biodiversity Management Plan

B26.	Prior to carrying out any development that could impact biodiversity values, unless the Planning Secretary agrees otherwise, the Proponent must prepare a Biodiversity Management Plan for the development to the satisfaction of the Planning Secretary. This plan must: (a) be prepared by a suitably qualified and experienced biodiversity expert/s in consultation with BCS, NPWS and DCCEEW; (b) be prepared in accordance with the Biodiversity Development Assessment Report (Revision 11, 25 May 2023);	Why are the Little and Large Bent-Winged Bats not listed? If the Secretary agrees otherwise then the proponent does not have to do a Biodiversity Management Plan. The draft condition put a lot of decision-making pressure on the Planning Secretary.
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	<p>(c) include a description of the measures that would be implemented to:</p> <ul style="list-style-type: none">(i) meet the biodiversity mitigation measures in conditions B22 and B23;(ii) ensure the development does not adversely affect the native vegetation and habitat outside the disturbance footprint;(iii) minimise the clearing of native vegetation and habitat within the disturbance footprint;(iv) minimise the impacts of the development on threatened flora and fauna species within the disturbance footprint and its surrounds, including the:<ul style="list-style-type: none">• Large-eared Pied Bat• Eastern Cave Bat• Southern Myotis• Koala• Eastern Pygmy-possum• Squirrel Glider• Southern Greater Glider• Border Thick-tailed Gecko• Booroolong Frog• Barking Owl• Powerful Owl• Masked Owl• Sooty Owl• Spotted-tailed Quoll(v) rehabilitating and revegetating temporary disturbance areas;(vi) protecting native vegetation and key fauna habitat outside the approved disturbance area;(vii) maximising the salvage of resources within the approved disturbance area – including vegetative and soil resources – for beneficial reuse (such as fauna habitat enhancement) during the rehabilitation and revegetation of the site;(viii) collecting and propagating seed (where relevant);(ix) controlling weeds and feral pests;(x) controlling erosion;(xi) bushfire management; and	<p>We will have to hope the Secretary agrees with themselves to get the proponent to do a management plan that is in turn to the Secretary's own satisfaction.</p>
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	<p>(xii) a detailed program to monitor and report on the effectiveness of these measures;</p> <p>(d) Following the Planning Secretary's approval, the Applicant must implement the Biodiversity Management Plan.</p>	
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Bird and Bat Adaptive Management Plan

<p>B27.</p>	<p>Prior to the commissioning of any wind turbines, the Applicant must prepare a Bird and Bat Adaptive Management Plan for the development in consultation with BCS and NPWS, and to the satisfaction of the Planning Secretary. This plan must be prepared in accordance with the Biodiversity Development Assessment Report (Revision 11, 25 May 2023) or later and include:</p> <p>(a) at least 12 months' worth of baseline data on threatened and 'at risk' bird and bat species and populations in the locality that could be affected by the development;</p> <p>(b) a detailed description of other measures that would be implemented on site for minimising bird and bat strike during operation of the development, including:</p> <p>(i) the wind turbine curtailment strategy;</p> <p>(ii) minimising the availability of raptor perches on wind turbines;</p> <p>(iii) prompt carcass removal;</p> <p>(iv) controlling pests; and</p> <p>(v) using best practice methods for bat deterrence, including managing potential lighting impacts;</p> <p>(c) an adaptive management program that would be implemented if the development is having an adverse impact on a particular threatened or 'at risk' bird and/or bat species or populations, including:</p> <p>(i) a trigger action response plan to minimise potential impacts of the project;</p> <p>(ii) the implementation of measures to:</p> <ul style="list-style-type: none"> • reduce the mortality of those species or populations; or • enhance and propagate those species or populations in the locality, where feasible; and <p>(d) a detailed program to monitor and report on:</p>	
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	<p>(i) the effectiveness of these measures; and</p> <p>(ii) any bird and bat strike on site;</p> <p>(e) provision for a copy of all raw data collected as part of the monitoring program to be submitted to BCS and the Planning Secretary.</p> <p>Following the Planning Secretary's approval, the Applicant must implement the Bird and Bat Adaptive Management Plan.</p>	
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HERITAGE

Protection of Heritage

B28.	<p>The Applicant must:</p> <p>(a) ensure the development does not cause any direct or indirect impacts on the Aboriginal heritage items identified in Table 6-1 of Appendix 6, historic heritage items identified in Table 6-3 of Appendix 6, and any items located outside the development footprint;</p> <p>(b) implement all reasonable and feasible measures to avoid and minimise harm to Aboriginal heritage items identified in Table 6-2 of Appendix 6; and</p> <p>(c) salvage and relocate the item/s that would be impacted to a suitable alternative location, in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW, 2010), or its latest version.</p> <p>Note: The location of the Aboriginal heritage items referred to in this condition are shown in the figure in Appendix 6.</p>	<p>Please add the Devil's Elbow Lot to the table of heritage items that must not be impacted by this development. should be added to Table 6.1 and/or 6.3</p>
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Heritage Management Plan

B29.	<p>Prior to carrying out any development that could directly or indirectly impact the heritage items identified in condition B28, the Applicant must prepare a Heritage Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:</p> <p>(a) be prepared by a suitably qualified and experienced person whose appointment has been endorsed by the Planning Secretary;</p> <p>(b) be prepared in consultation with Aboriginal stakeholders and reviewed by Heritage NSW;</p> <p>(c) provide an updated list of Aboriginal heritage items identified in condition B28 that would be protected and remain in-situ throughout</p>	
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	<p>construction and items that would be salvaged and relocated to suitable alternative locations;</p> <p>(d) include a justification where impacts to Aboriginal heritage items identified in condition B28(b) cannot be avoided;</p> <p>(e) include a description of the measures that would be implemented for:</p> <p>(i) protecting heritage items in accordance with condition B28;</p> <p>(ii) minimising and managing the impacts of the development on Aboriginal heritage items identified in condition B28(b) which cannot be avoided, including;</p> <ul style="list-style-type: none">• undertaking test excavations of PADs;• salvaging and relocating items to suitable alternative locations; and• a strategy for the long-term management of any Aboriginal and historic heritage items or material collected during the excavations and salvage works; <p>(iii) minimising and managing the impacts of the development on historic heritage items identified in condition B28(a), including the methodology for pre-construction and post-construction dilapidation surveys for the Nundle Shire Council offices;</p> <p>(iv) a contingency plan and reporting procedure if:</p> <ul style="list-style-type: none">• heritage items outside the approved disturbance area are damaged;• previously unidentified heritage items are found; or• skeletal material is discovered; <p>(v) ensuring workers on site receive suitable heritage inductions prior to carrying out any development on site, and that records are kept of these inductions; and</p> <p>(vi) ongoing consultation with Aboriginal stakeholders and Heritage NSW during the implementation of the plan; and</p> <p>(f) include a program to monitor and report on the effectiveness of these measures and any heritage impacts of the project.</p> <p>Following the Planning Secretary's approval, the Applicant must implement the Heritage Management Plan.</p>	
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TRANSPORT

Heavy Vehicles Requiring Escort and Heavy Vehicles Routes

<p>B30.</p>	<p>The Applicant must ensure that all heavy vehicles associated with the development access to and from the site is via Selwyn Street, George Street, Industrial Drive, Maitland Road, New England Highway and:</p> <p>(a) for vehicles transporting turbine blades, the Golden Highway, Denman Road, Bengalla Road, Wybong Road, Kayuga Road, Invermein Street, Stair Street, New England Highway, Lindsays Gap Road, Nundle Road, Crosby Street, Oakenville Street, Innes Street bypass, Jenkins Street and Crawney Road;</p> <p>(b) for vehicles with loads exceeding 5.2 m in height, the Golden Highway, Denman Road, Bengalla Road, Wybong Road, Kayuga Road, Invermein Street, Stair Street, New England Highway, Lindsays Gap Road, Nundle Road and either;</p> <p>(i) Old Hanging Rock Road, Barry Road and Morrisons Gap Road; or (ii) Herring Street, Innes Street, Jenkins Street and Crawney Road;</p> <p>(c) for vehicles with loads up to 5.2 m in height, Lindsays Gap Road, Nundle Road, Crosby Street, Oakenville Street and either:</p> <p>(i) Old Hanging Rock Road, Barry Road and Morrisons Gap Road; or (ii) Herring Street, Innes Street, Jenkins Street and Crawney Road; and</p> <p>(d) only vehicles constructing or accessing the switching station can use Old Wallabadah Road, Wallabadah Creek Road and Basin Creek Road;</p> <p>as identified in the figure in Appendix 7, unless the Planning Secretary agrees otherwise.</p> <ul style="list-style-type: none">• The Applicant is required to obtain relevant permits under the Heavy Vehicle National Law (NSW) for the use of over dimensional vehicles on the road network;• To avoid any doubt, this consent does not allow the use of Thomas Mitchell Drive.	<p>This condition is so vague as to be unworkable. The definition of heavy vehicles does not adequately differentiate between routine construction traffic, heavy OSOM vehicles, and wine vain OSOM vehicles – all of which require different treatment in terms of acceptable access routes – especially through Nundle and beyond. Note that OSOM will need to be added to the definitions at the start of the draft consent, and the associated appended figure may need to be updated.</p> <p>These Streets run through the entire town of Nundle. It should specify the road segments that will be used, and not just by an unclear map.</p>
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Road Upgrades

B31.	Unless the Planning Secretary agrees otherwise, the road upgrades identified in Table 7-1 in Appendix 7 must be implemented in accordance with the relevant timing requirements.	No comment – these are all outside the TRC jurisdiction.
B32.	Unless the Planning Secretary agrees otherwise, the Applicant must implement the road upgrades identified in Table 7-2 in Appendix 7 in accordance with the relevant timing requirements, to the satisfaction of the relevant roads authority and TfNSW. 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.	<p>This condition is legally questionable on the grounds that it does not satisfy the requirements for finality and Note that Table 7-2 needs to be updated to include the Sandy Creek crossing, and a qualifying note needs to be added to include all incidental structures including but not limited to culvert extensions and headwalls.</p> <p>Legal advice has been provided – not only lacks certainty but also finality.</p>

Road Maintenance

B33.	<p>The Applicant must, in consultation with the relevant Council:</p> <p>(a) undertake an independent dilapidation survey to assess the existing condition of Lindsays Gap Road, Nundle Road, Old Hanging Rock Road, Barry Road, Morrisons Gap Road, Herring Street, Innes Street, Jenkins Street and Crawney Road described in condition B30, prior to construction, upgrading or decommissioning works; and</p> <p>(b) undertake an independent dilapidation survey one month following completion of construction, upgrading or decommissioning works, to assess the condition of Lindsays Gap Road, Nundle Road, Old Hanging Rock Road, Barry Road, Morrisons Gap Road, Herring Street, Innes Street, Jenkins Street and Crawney Road and describe the necessary repairs to return the route to a condition that is equivalent to, or better than, the existing condition identified in B33(a); and</p> <p>(c) repair and/or make good any development-related damage identified during:</p> <p>(i) the carrying out of the relevant construction 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</p>	Legal advice – as above.
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	<p>(ii) any dilapidation survey carried out in accordance with condition B33(b) within 2 months of the completion of the survey, unless the relevant road authority agrees otherwise; in consultation with the relevant roads authority, to the satisfaction of the Planning Secretary. If there is a dispute between the Applicant and the relevant Council about the repair of the above listed roads, then either party may refer the matter to the Planning Secretary for resolution.</p>	
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Operating Conditions

B34.	<p>The Applicant must ensure: (a) any new internal roads are constructed as all-weather roads; (b) any existing internal roads are maintained as all-weather roads; (c) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site, with the exception of laybys used during the movement of project vehicles; (d) the capacity of the existing roadside drainage network is not reduced; (e) any unformed Crown road reserves affected by the development are maintained for future use, unless otherwise agreed with DPE Crown Lands; (f) any road upgrades that may affect watercourse crossings comply with the Policy and Guidelines for Fish Habitat Conservation and Management (2013), unless otherwise agreed with DPI Fisheries; (g) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and (h) development-related vehicles leaving the site are in a clean condition to minimise dirt being tracked onto the sealed public road network.</p>	
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Traffic Management Plan

B35.	<p>Prior to commencing construction, the Applicant must prepare a Traffic Management Plan for the development in consultation with TfNSW, WaterNSW and Councils, and to the satisfaction of the Planning Secretary. This plan must include: (a) details of the transport route to be used for all development-related traffic;</p>	
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	<p>(b) details of the timing of the road upgrade works required by condition B31 and details of the road upgrade works required by B32 of Schedule 2 of this consent;</p> <p>(c) details of the measures that would be implemented to minimise traffic impacts during construction, upgrading or decommissioning works, including:</p> <ul style="list-style-type: none">(i) details of the dilapidation surveys required by condition B33;(ii) meeting the operating conditions required by condition B34;(iii) temporary traffic controls, including detours and signage;(iv) notifying the local community about development-related traffic impacts;(v) procedures for receiving and addressing complaints from the community about development related traffic;(vi) minimising potential cumulative traffic impacts with other projects along the transport route, including consultation with TfNSW regarding their projects;(vii) minimising potential conflict with rail services, stock movements, school buses and other road users as far as practicable, including preventing queuing on the public road network;(viii) minimising dirt/debris tracked onto the public road network from development-related traffic;(ix) details of the employee shuttle bus service (if proposed), including pick-up and drop-off points and associated parking arrangements for construction workers, and measures to encourage employee use of this service as described in the EIS;(x) encouraging car-pooling or ride sharing by employees;(xi) scheduling of haulage vehicle movements to minimise convoy lengths or platoons, and to minimise conflict with light vehicles;(xii) responding to local climate conditions that may affect road safety such as fog, dust, wet weather, snow, ice and flooding;(xiii) ensuring loaded vehicles entering or leaving the site have their loads covered or contained;	
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	<p>(xiv) avoiding impacts on WaterNSW water quality monitoring sites and ensuring suitable access to these sites is maintained;</p> <p>(xv) for the access road through the Peel Inn curtilage details of the:</p> <ul style="list-style-type: none"> • measures for its removal and rehabilitation following construction; • triggers for reinstatement during operation; and • measures for reinstatement, removal and rehabilitation following decommissioning; <p>(xvi) responding to any emergency repair or maintenance requirements;</p> <p>(xvii) a traffic management system for managing heavy vehicles requiring escort; and</p> <p>(d) a drivers code of conduct that addresses:</p> <p>(i) driver fatigue;</p> <p>(ii) procedures to ensure that drivers to and from the development adhere to the designated transport routes and speed limits;</p> <p>(iii) procedures to ensure that drivers implement safe driving practices; and</p> <p>(e) a detailed program to monitor and report on the effectiveness of these measures and the code of conduct.</p> <p>Following the Planning Secretary's approval, the Applicant must implement the Traffic Management Plan.</p>	
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AVIATION

Mitigation of Aviation-Related Impacts

B36.	<p>The Applicant must carry out the development in accordance with the National Airports Safeguarding Framework Guideline D: Managing the Risk to Aviation Safety of Wind Turbine Installations (Wind Farms)/Wind Monitoring Towers; or its latest version, unless the Planning Secretary agrees otherwise.</p>	<p>Aviation expert? Potentially does not have to follow the Framework?</p>
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Notification of Aviation Authorities

B37.	Prior to the construction of a wind turbine or wind monitoring mast, the Applicant must provide the following information to CASA, Airservices Australia, DoD and the RAAF (together the authorities), Scone Airport and all known operators of privately owned local airfields: (a) co-ordinates in latitude and longitude of each wind turbine and mast; (b) the final height of each wind turbine and mast in Australian Height Datum; (c) ground level at the base of each wind turbine and mast in Australian Height Datum; (d) confirmation of compliance with any OLS; (e) details of any proposed aviation hazard lighting; and	
B38.	Prior to the construction of a wind turbine or wind monitoring mast, the Applicant must reach an agreement with Airservices Australia to amend the operating procedures into or out of Scone Airport.	
B39.	Within 30 days of the practical completion of any wind turbine or mast, the Applicant must: (a) provide confirmation to the authorities that the information that was previously provided remains accurate; or (b) update the information previously provided.	
B40.	Should increases to the costs of aerial agricultural spraying on any non-associated property surrounding the site be attributed to the operation of the Project, the Applicant shall fully fund to the affected landowner, the reasonable cost difference between pre-construction aerial spraying and the increased cost, as agreed between the relevant parties.	How would this be worked out?

RADIOCOMMUNICATIONS

B41.	If the development results in the disruption to any radio communications services (including point-to-point microwave links) in the area, 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.	
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	<p>If there is a dispute about the mitigation measures to be implemented or the implementation of these mitigation measures, then either party may refer the matter to the Planning Secretary for resolution.</p>	
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HAZARDS

Fire Safety Study

<p>B42.</p>	<p>Prior to commencing construction of the battery storage facility, the Applicant must prepare a Fire Safety Study for the development, to the satisfaction of FRNSW and the Planning Secretary in writing. The study must:</p> <ul style="list-style-type: none"> (a) be consistent with the Department’s Hazardous Industry Planning and Advisory Paper No. 2 ‘Fire Safety Study’ guideline; (b) include reasonable worst-case bush fire scenario to and from the facility and the associated bush fire management; (c) describe the final design of the battery storage facility; (d) identify measures to eliminate the expansion of any fire incident, including: <ul style="list-style-type: none"> (i) adequate fire safety systems and appropriate water supply; (ii) separation and/or compartmentalisation of battery units; and (iii) strategies and incident control measures specific to the battery storage facility design. <p>Following approval by the Planning Secretary, the Applicant must implement the measures described in the Fire Safety Study.</p> <p><i>Note: ‘to the satisfaction of FRNSW’ above means confirmation in writing from FRNSW that the Study meets the requirements of FRNSW as required by the Department’s Hazardous Industry Planning and Advisory Paper No. 2 ‘Fire Safety Study’ guideline.</i></p>	<p>Is this the appropriate place to nominate that the Fire Management Plan should canvas and resolve the matter of containing, removing and disposing any mobilised contaminants – including heavy metals released from fires in battery storage facilities (or should this risk be referenced elsewhere in the environmental management conditions). Either way – the approval should not be silent on this risk.</p>
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Storage and Handling of Dangerous Goods

B43.	<p>The Applicant must store and handle all chemicals, fuels and oils used on-site in accordance with:</p> <ul style="list-style-type: none">(a) the requirements of all relevant Australian Standards; and(b) the NSW EPA's Storing and Handling of Liquids: Environmental Protection – Participants Handbook if the chemicals are liquids. <p>In the event of an inconsistency between the requirements (a) and (b) above, the most stringent requirement must prevail to the extent of the inconsistency.</p>	
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Operating Conditions

B44.	<p>The Applicant must:</p> <ul style="list-style-type: none">(a) minimise the fire risks of the development, including managing vegetation fuel loads on-site;(b) ensure that the development:<ul style="list-style-type: none">(i) complies with the relevant asset protection requirements in the RFS's Planning for Bushfire protection 2019 (or equivalent) and Standards for Asset Protection Zones;(ii) is suitably equipped to respond to any fires on site including provision of a 20,000 litre water supply tank fitted with a 65 mm Storz fitting and a FRNSW compatible suction connection located adjacent to an internal access road;(c) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; <p>and</p> <ul style="list-style-type: none">(d) notify the relevant local emergency management committee following construction of the development, and prior to commencing operations.	This seems extremely small amount of water supply considering the location and terrain.
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Emergency Plan

B45.	<p>Prior to commencing construction, the Applicant must develop and implement a comprehensive Emergency Plan and detailed emergency procedures for the development, in consultation with NPWS, FCNSW and RFS and provide a copy of the plan to the local Fire Control Centre. The Applicant must keep two copies of the plan onsite in a prominent position adjacent to the site entry point at all times. The plan must:</p>	
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	<p>(a) be consistent with the Department’s Hazardous Industry Planning Advisory Paper No. 1, ‘Emergency Planning’ and RFS’s Planning for Bushfire Protection 2019 (or equivalent);</p> <p>(b) include procedures for the storage and maintenance of any flammable materials;</p> <p>(c) include bushfire emergency management planning, including:</p> <p>(i) details of the location, management and maintenance of the Asset Protection Zone and on-site water supply tanks;</p> <p>(ii) a list of works that should not be carried out during a total fire ban;</p> <p>(iii) details of the access provisions for emergency vehicles and contact details for both a primary and alternative site contact who may be reached 24/7 in the event of an emergency;</p> <p>(iv) details of how RFS would be notified, and procedures that would be implemented, in the event that:</p> <ul style="list-style-type: none">• there is a fire on-site or in the vicinity of the site;• there are any activities on site that would have the potential to ignite surrounding vegetation; or• there are any proposed activities to be carried out during a bushfire danger period; <p>(v) an Emergency Services Information Package in accordance with Emergency Services information and tactical fire plan (FRNSW, 2019) to the satisfaction of FRNSW and RFS;</p> <p>(vi) operational procedures in the event of bushfires, such as shutting down turbines and the positioning of turbine blades to minimise interference with aerial firefighting operations; and</p> <p>(vii) detail the measures that would be implemented to evacuate the site in an emergency.</p>	
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Safety

B46.	The Applicant must: (a) prepare a Safety Management System for the development in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management' prior to commissioning any wind turbines on site or the battery storage facility; and (b) implement and, if necessary, update the system over the remaining life of the development.	
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WASTE

B47.	The Applicant must: (a) minimise the waste generated by the development; (b) classify all waste generated on site in accordance with the EPA's Waste Classification Guidelines 2014 (or its latest version); (c) store and handle all waste generated on site in accordance with its classification; (d) not receive or dispose of any waste on site; and (e) remove all waste from the site as soon as practicable, and ensure it is reused, recycled or sent to an appropriately licensed waste facility for disposal.	
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ACCOMODATION AND EMPLOYMENT STRATEGY

B48.	Prior to commencing construction, the Applicant must prepare an Accommodation and Employment Strategy for the development in consultation with Tamworth Regional Council, Upper Hunter Shire Council and Liverpool Plains Shire Council and to the satisfaction of the Planning Secretary. This strategy must: (a) propose measures to ensure there is sufficient accommodation for the workforce associated with the development; (b) consider the cumulative impacts associated with other State significant development projects in the area; (c) investigate options for prioritising the employment of local workers for the construction and operation of the development, where feasible; and	
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	(d) include a program to monitor and review the effectiveness of the strategy over the life of the development, including regular monitoring and review during construction. Following the Planning Secretary's approval, the Applicant must implement the Accommodation and Employment Strategy.	
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DECOMMISSIONING AND REHABILITATION

Rehabilitation Objectives – Decommissioning

Condition #	Recommended Condition	Council Comment										
B49.	<p>Within 18 months of the cessation of operations, unless the Planning Secretary agrees otherwise, the Applicant must rehabilitate the site to the satisfaction of the Planning Secretary. This rehabilitation must comply with the objectives in Table 2.</p> <p>Table 2: Rehabilitation Objectives</p> <table border="1"> <thead> <tr> <th>Feature</th> <th>Objective</th> </tr> </thead> <tbody> <tr> <td>Development site (as a whole)</td> <td> <ul style="list-style-type: none"> • Safe, stable and non-polluting • Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use as far as is reasonable and feasible </td> </tr> <tr> <td>Revegetation</td> <td> <ul style="list-style-type: none"> • Restore native vegetation generally as identified in the EIS </td> </tr> <tr> <td>Above ground wind turbine infrastructure (excluding wind turbine pads)</td> <td> <ul style="list-style-type: none"> • To be decommissioned and removed, unless the Planning Secretary agrees otherwise </td> </tr> <tr> <td>Wind turbine pads</td> <td> <ul style="list-style-type: none"> • To be covered with soil and/or rock and revegetated </td> </tr> </tbody> </table>	Feature	Objective	Development site (as a whole)	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use as far as is reasonable and feasible 	Revegetation	<ul style="list-style-type: none"> • Restore native vegetation generally as identified in the EIS 	Above ground wind turbine infrastructure (excluding wind turbine pads)	<ul style="list-style-type: none"> • To be decommissioned and removed, unless the Planning Secretary agrees otherwise 	Wind turbine pads	<ul style="list-style-type: none"> • To be covered with soil and/or rock and revegetated 	<p>“Unless the Planning secretary agrees otherwise” is heavily used throughout this consent and this condition is just another example.</p> <p>Covering over the concrete pads with soil and rock – are there any other better solutions?</p>
Feature	Objective											
Development site (as a whole)	<ul style="list-style-type: none"> • Safe, stable and non-polluting • Minimise the visual impact of any above ground ancillary infrastructure agreed to be retained for an alternative use as far as is reasonable and feasible 											
Revegetation	<ul style="list-style-type: none"> • Restore native vegetation generally as identified in the EIS 											
Above ground wind turbine infrastructure (excluding wind turbine pads)	<ul style="list-style-type: none"> • To be decommissioned and removed, unless the Planning Secretary agrees otherwise 											
Wind turbine pads	<ul style="list-style-type: none"> • To be covered with soil and/or rock and revegetated 											

	Above ground ancillary infrastructure (including the battery storage facility)	<ul style="list-style-type: none"> To be decommissioned and removed, unless an agreed alternative use is identified to the satisfaction of the Planning Secretary 		
	Internal access roads	<ul style="list-style-type: none"> To be decommissioned and removed, unless an agreed alternative use is identified to the satisfaction of the Planning Secretary 		
	Underground cabling	<ul style="list-style-type: none"> To be decommissioned and removed, unless the Planning Secretary agrees otherwise 		
	Land use	<ul style="list-style-type: none"> Restore or maintain land capability to pre-existing use 		
	Community	<ul style="list-style-type: none"> Ensure public safety at all times 		

Progressive Rehabilitation

B50.	<p>The Applicant must:</p> <p>(a) rehabilitate all areas of the site not proposed for future disturbance progressively, that is, as soon as reasonably practicable following construction or decommissioning;</p> <p>(b) minimise the total area exposed at any time; and</p> <p>(c) where it is not possible to carry out measures for permanent rehabilitation, employ interim rehabilitation strategies to minimise dust generation, soil erosion and weed incursion until such time that it is.</p>	
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Dismantling of Wind Turbines

B51.	Any individual wind turbines which cease operating for more than 12 consecutive months must be dismantled within 18 months after that 12 month period, unless the Planning Secretary agrees otherwise.	
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PART C Environmental Management, Reporting and Auditing

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

Condition #	Recommended Condition	Council Comment
C1.	Prior to carrying out any development, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Planning Secretary. This strategy must: (a) provide the strategic framework for environmental management of the development; (b) identify the statutory approvals that apply to the development; (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development; (d) set out the procedures that would be implemented to: (i) keep the local community and relevant agencies informed about the operation and environmental performance of the development; (ii) receive, handle, respond to, and record complaints; (iii) resolve any disputes that may arise; (iv) respond to any non-compliance; (v) respond to emergencies; and (e) include: (i) references to any strategies, plans and programs approved under the conditions of this consent; and	

Condition #	Recommended Condition	Council Comment
	<p>(ii) a clear plan depicting all the monitoring to be carried out in relation to the development, including a table summarising all the monitoring and reporting obligations under the conditions of this consent.</p> <p>Following the Planning Secretary's approval, the Applicant must implement the Environmental Management Strategy.</p>	

Revision of Strategies, Plans and Programs

C2.	<p>The Applicant must:</p> <p>(a) update the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary prior to carrying out any upgrading or decommissioning activities on site; and</p> <p>(b) review and, if necessary, revise the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary within 3 months of the:</p> <p>(i) submission of an incident report under condition C10 of Schedule 2;</p> <p>(ii) submission of an audit report under condition C15 of Schedule 2; or</p> <p>(iii) any modification to the conditions of this consent.</p>	
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Staging, Combining and Updating Strategies, Plans or Programs

C3.	<p>With the approval of the Planning Secretary, the Applicant may:</p> <p>(a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);</p> <p>(b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and</p>	
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Condition #	Recommended Condition	Council Comment
	(c) update any strategy, plan or program required but this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).	
C4.	If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.	No consultation with all parties required to be consulted? Transparency – due process? Strangely worded condition leaving almost everything up in the air?
C5.	If approved by the Planning Secretary, updated strategies, plans or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan or program.	
C6.	If the Planning Secretary agrees, a strategy, plan or program may be staged without addressing particular requirements of the relevant condition of this consent if those requirements are not applicable to the particular stage.	

NOTIFICATIONS

Notification of the Department

C7.	<p>Prior to commencing the construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing via the Major Projects website portal of the date of commencement, or cessation, of the relevant phase.</p> <p>If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to commencing the relevant stage, and clearly identify the development that would be carried out during the relevant stage.</p>	
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Final Layout Plans

C8.	Prior to commencing construction, the Applicant must submit detailed plans of the final layout of the development to the Department via the Major Projects website portal including:	
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Condition #	Recommended Condition	Council Comment
	(a) details on siting of wind turbines, including micro-siting of any wind turbines and/or ancillary infrastructure (including wind monitoring masts); (b) the GPS coordinates of the wind turbines; and (c) showing comparison to the approved layout. The Applicant must ensure that the development is constructed in accordance with the Final Layout Plans.	
Work as Executed Plans		
C9.	Prior to commencing operations or following the upgrades of any wind turbines or ancillary infrastructure, the Applicant must submit work as executed plans of the development and showing comparison to the final layout plans to the Planning Secretary, via the Major Projects website portal.	
Incident Notification		
C10.	The Department must be notified in writing via the Major Projects website portal immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 8.	
Non-Compliance Notification		
C11.	The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.	
C12.	A non-compliance notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and	

Condition #	Recommended Condition	Council Comment
	what actions have been, or will be, undertaken to address the non-compliance.	
C13.	A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.	Strangely worded condition - A non-compliance associated with an incident would be the most important to notify.

Notification of Landowners

C14.	Prior to the commencement of construction, the Applicant must notify the owners of any non-associated residence within 5 km of any approved wind turbine of their rights under condition B1 of Schedule 2.	
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Independent Environmental Audit

C15.	Independent Audits of the development must be conducted and carried out at the frequency and in accordance with the Independent Audit Post Approval Requirements (2020) to the following frequency: (a) within 3 months of commencing construction; and (b) within 3 months of commencement of operations.	
C16.	Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.	
C17.	The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified in condition C14 of Schedule 4 upon giving at least 4 weeks' notice to the Applicant of the date upon which the audit must be commenced.	
C18.	In accordance with the requirements in the Independent Audit Post Approval Requirements (2020), the Applicant must: (a) review and respond to each Independent Audit Report prepared under the conditions of this consent; (b) submit the response to the Planning Secretary; and	

Condition #	Recommended Condition	Council Comment
	(c) make each Independent Audit Report, and response to it, publicly available within 60 days of submission to the Planning Secretary, unless otherwise agreed by the Planning Secretary.	
C19.	Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approval Requirements (2020) unless otherwise agreed by the Planning Secretary.	
C20.	Notwithstanding the requirements of the Independent Audit Post Approval Requirements (2020), the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.	

ACCESS TO INFORMATION

C21.	<p>The Applicant must:</p> <ul style="list-style-type: none"> (a) make the following information publicly available on its website as relevant to the stage of the development: <ul style="list-style-type: none"> (i) the EIS; (ii) the final layout plans of the development; (iii) current statutory approvals for the development; (iv) approved strategies, plans or programs required under the conditions of this consent (other than the Fire Safety Study and Emergency Plan); (v) the proposed staging plans for the development if the construction, operation and/or decommissioning of the development is to be staged; (vi) a comprehensive summary of the monitoring results of the development, which have been reported in accordance with the various plans and programs approved under the conditions of this consent; (vii) how complaints about the development can be made; 	
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Condition #	Recommended Condition	Council Comment
	(viii) minutes of CCC meetings (ix) the annual Statement of Compliance with the EPL; (x) any independent environmental audit, and the Applicant's response to the recommendations in any audit; and (xi) any other matter required by the Planning Secretary; and (b) keep this information up to date.	



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Partner
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25 January 2024

By Email

Clare Sykes, Panel Chair
The Office of the Independent Planning Commission
Level 15, Suite 15.02
135 King Street
SYDNEY NSW 2000

Dear Sir/Madam

The Hills of Gold Wind Farm State Significant Development Application No. SSD-9679 Property: Nundle Crawney Hanging Rock

1. Introduction

- 1.1. We refer to the above property and the associated development application that seeks consent for the construction and operation of a wind farm with up to 64 turbines, a 100 megawatt battery energy storage system, a 330 kilovolt transmission line and other associated ancillary infrastructure at Nundle Crawney Hanging Rock (**Proposed Development**) that is currently before the Independent Planning Commission (**IPC**).
- 1.2. Our office acts on behalf of Tamworth Regional Council (**Council**) who have some significant concerns regarding a number of the proposed conditions that have been published by the IPC.
- 1.3. Council has made two objections to the IPC in relation to the Proposed Development detailing Council's concerns dated 10 February 2021 and 13 December 2022 (**Objections**).

2. Summary

- 2.1. Council has significant concerns regarding the lawfulness of proposed conditions B32 and B33 if they were to be imposed as currently drafted.
- 2.2. Council retains its concerns regarding the Proposed Development as a whole and as articulated in their Objections.

3. Proposed Conditions

- 3.1. The relevant proposed conditions B32 and B33 are set out below (emphasis has been added to the particular parts of the proposed conditions that Council has particular concern with):

B32. Unless the Planning Secretary agrees otherwise, the Applicant must implement the road upgrades identified in Table 7-2 in Appendix 7 in accordance with the relevant timing requirements, to the satisfaction of the relevant roads authority and TfNSW. 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.

B33. The Applicant must, in consultation with the relevant Council:

Interstate offices
Canberra Melbourne

- (a) undertake an independent dilapidation survey to assess the existing condition of Lindsays Gap Road, Nundle Road, Old Hanging Rock Road, Barry Road, Morrisons Gap Road, Herring Street, Innes Street, Jenkins Street and Crawney Road described in condition B30, prior to construction, upgrading or decommissioning works; and
- (b) undertake an independent dilapidation survey one month following completion of construction, upgrading or decommissioning works, to assess the condition of Lindsays Gap Road, Nundle Road, Old Hanging Rock Road, Barry Road, Morrisons Gap Road, Herring Street, Innes Street, Jenkins Street and Crawney Road and describe the necessary repairs to return the route to a condition that is equivalent to, or better than, the existing condition identified in B33(a); and
- (c) repair and/or make good any development-related damage identified during:
 - (i) the carrying out of the relevant construction 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) any dilapidation survey carried out in accordance with condition B33(b) within 2 months of the completion of the survey, unless the relevant road authority agrees otherwise; in consultation with the relevant roads authority, to the satisfaction of the Planning Secretary.

If there is a dispute between the Applicant and the relevant Council about the repair of the above listed roads, then either party may refer the matter to the Planning Secretary for resolution.

- 3.2. When assessing and approving a development application, the consent authority must assess and determine the development application with finality. That is, that it must assess all impacts the proposed development will have on the environment and cannot leave parts of the proposed development for later consideration and assessment either by the assessing body or an alternative assessing body.¹ Additionally, there is a requirement for 'certainty' to be provided in both the assessment and determination of any development application.
- 3.3. Proposed condition B32:
 - 3.3.1. purports to allow the Planning Secretary (who is not the consent authority) to agree "otherwise" to the road upgrades that are included in the Proposed Development. This could have the effect of allowing the road upgrades identified in Table 7-2 to be radically changed, or completely removed, from the Proposed Development; and
 - 3.3.2. proposes to leave any dispute regarding the implementation of the road upgrades to the Planning Secretary for "resolution".
- 3.4. Proposed condition B32, proposes to allow any dispute regarding the repair of any roads identified in that condition to the Planning Secretary for "resolution".
- 3.5. The proposed road upgrades along the haulage route in the Proposed Development are a significant issue that has been the subject of significant assessment as outlined in the *State Significant Development Assessment Report* dated December 2023 (**Assessment Report**). This is because there were significant impacts which have been identified on the towns along the proposed haulage routes.
- 3.6. The current haulage route recommended in the Assessment Report followed a process of substantive consultation with the community and relevant road managers, and consideration of potential impacts of all options. Any proposed changes to the haulage route will require

¹ *King v Great Lakes Shire Council* (1986) 58 LGRA 366 per Cripps CJ at p383-384; *Jungar Holdings Pty Ltd v Eurobodalla Shire Council* (1989) 70 LGRA 79 per Hemmings J at p89

Department of Planning & Environment
GPO BOX 39
SYDNEY NSW 2001

Attention: Anthony Ko
Your Reference SSD-9679

<https://www.planningportal.nsw.gov.au/major-projects/project/9701>

Dear Sir/Madam,

TAMWORTH REGIONAL COUNCIL SUBMISSION – STATE SIGNIFICANT DEVELOPMENT – HILLS OF GOLD WIND FARM – APPROXIMATELY 5 KM SOUTH OF HANGING ROCK AND 8 KM SOUTH-EAST OF NUNDLE

Ref: *lr/SL/GV Document Set ID 606951*

I refer to your correspondence received 27 November 2020 giving notice of the public exhibition of a state significant development, Hills of Gold Wind Farm (SSD-9679). Thank you for the opportunity to provide comment on the proposed development, please find Tamworth Regional Council's submission below:

General

Tamworth Regional Council is generally supportive of renewable energy initiatives. The Proposal is a large renewable energy development and therefore has relevance at a global, national and regional scale. This Project follows the trend (mega-trend) away from fossil fuel and toward renewable energy power generation.

The Tamworth Regional Council Blueprint 100 Document Part 1 (Action 6.5) and Part 2 - Local Strategic Planning Statement identify renewable energy as being important issues and goals in the region. This is also in accordance with the Department of Planning Industry and Environment New England North West Regional Plan 2036 which identifies the potential for the region to become the renewable energy hub of NSW.

This is a major development (\$770m CIV), with many potential flow-on benefits to the community; economic benefits through various commercial opportunities; the potential for job opportunities with the proposed 215 direct and 430 indirect jobs (construction) and 30 permanent and 50 indirect jobs ongoing; substantial local road upgrades and potential associated tourism activities during construction and operational phases. Council is therefore very mindful of the potential opportunities available to its community if a development of this nature was to proceed.

However, Council wishes to raise some significant concerns regarding this specific Proposal. While Council supports the principle of renewable energy, the documentation submitted as part of the development application raises considerable doubt regarding whether the subject site is in fact appropriate or sustainable for such a large-scale renewable development. It is on this basis that Council finds itself unable to support the proposed development in its current form and provides the following comments and reasons for its concerns / objection, all of which are relevant to the question of whether the proposed location is suitable for the proposed development:

Development Engineering Comments

The development was referred to Council's Development Engineering Division, which provided the following comments:

Introduction

Whilst the Development Engineering comments are confined to strictly engineering subject matter, they highlight the likely physical impacts associated with various aspects of the proposed development. These physical impacts will then create potential environmental, cultural, visual and related impacts. In particular, the Development Engineering comments highlight those areas in which the likely extent of required works may have been understated or overlooked by the proponent.

Items that fall within the engineering purview include traffic impact associated with the establishment, operational and decommissioning phases of the project, together with earthworks, road works and drainage aspects associated with access roads, temporary batching plants, temporary and permanent site infrastructure (laydown, parking areas, sheds and the like), and the turbines themselves.

Traffic Impact

Establishment Phase:

The establishment phase of the project will generate the most significant traffic impact. The documentation supplied in support of the project provides voluminous assessments of the candidate haulage routes. The documentation also nominates likely traffic volumes, both in terms of routine construction traffic, and also the oversize and over mass (RAV) deliveries to the project site. In order to assess and respond to the proposal, it is appropriate to look at these two elements separately.

Routine Construction Traffic:

During the construction phase, routine construction traffic accessing the site has been projected as comprising the following daily trips:

Vehicle Type:	Establishment: Trips Per Day	Peak Construction: Trips Per Day
Light Vehicles	130	210
Buses	12	12
Water Trucks	22	40
Trucks	40	240

In the mornings, between 7:00am and 8:00am, this would look like:

Vehicle Type:	Establishment: Trips Per Hour	Peak Construction: Trips Per Hour
Light Vehicles	65	102
Buses	6	7
Water Trucks	4	4
Trucks	5	28

To put this into context, traffic in Nundle will more than *quadruple* in the mornings between the hours of 7:00am and 8:00am during the period peak construction activity. In traffic engineering terms, increases in queuing lengths and intersection delays would be minimal. However, the townsite will feel significantly busier in terms of traffic noise and general activity compared to the usual baseline.

How does the proponent propose to mitigate this issue during the construction phase? What measures are in place to minimise disruption to the Nundle and its community during the peak construction phase?

The nominated route for this routine traffic is into Nundle via Lindsays Gap Road or Nundle Road, and then to the site via Morrisons Gap Road. This appears to be at odds however with the proposed site configuration which includes establishment phase batching plants and laydown areas at both extremities of the project footprint (i.e. one at the end of Morrisons Gap Road, and another at the end of Kirks Road, off the Head of Peel Road). *Clarity needs to be provided as to whether routine construction traffic is to be split between these two destinations.*

In terms of traffic impact, the projected additional vehicle movements will not push any of the roads or intersections to the point that reasonable levels of service are exceeded. In the case of roads in and around Nundle and Hanging Rock, this is essentially a function of the fact that current traffic volumes are relatively modest. The existing traffic volumes on these roads and intersections are simply a long way from their theoretical capacity. The corollary to this, of course, is that the additional traffic will be quite noticeable when set against the modest ambient levels. There will be a temporary impact on the existing character of these locations.

Another potential impact along access routes that routinely requires management is the generation of dust. The proponents have nominated that they will upgrade and seal Morrisons Gap Road. The other roads along the nominated route are already sealed. However, if Head of Peel Road is to carry a measurable amount of the projected routine construction traffic, consideration will need to be given to sealing part or all of that alignment.

There is potential for accelerated deterioration of roadways and associated infrastructure as a result of the construction phase traffic. This can be managed via a process of dilapidation surveys and agreed management plans, secured by way of performance bonds.

Oversize and Over Mass Traffic Routes:

In addition to the routine construction traffic discussed in the previous section, establishment of the project will also involve transport and delivery of blades, tower sections, nacelles, substation components and cabling, which will involve overlength and over mass vehicles (RAV's).

It is important to note that the preferred route(s) for these vehicles may be significantly different to the preferred route for routine construction traffic.

The blades in particular are very long rigid elements (potentially up to 83m long). As such, manoeuvring these elements along the existing roadways can only be achieved with significant modification to intersections and other geometric constraints along the way. The Development Application includes an assessment of two candidate routes by a transportation company, and a transport planning consultant.

The route includes transport by road from the Port of Newcastle, primarily up the New England Highway to the Tamworth region. The current nominated route involves accessing Nundle from the New England Highway via Lindsays Gap Road. From Nundle, two RAV routes to the project site were assessed, being:

1. Via Barry Road and Morrisons Gap Road, or;
2. Via Crawney Road and Head of Peel Road.

From an engineering perspective, there are some significant gaps in the current analysis, including:

- The assessment carried out by the transportation company provides what appears to be a relatively comprehensive base-line catalogue of modifications that would need to be made at

various intersections, bends, bridges, crests and the like in order to facilitate the passage of the larger elements – especially the blades.

The assessment however appears to be based on *plan-view* geometry and therefore understates the extent of impacted areas where there are *cuttings* and *batters*. The assessment is also confined to identifying the geometric extent of the impact – but does not explore the mechanisms for achieving the extra *clearing, infrastructure relocations, land acquisitions* and the like.

The intrusions into adjoining landholdings will also need to be resolved with the relevant owners, and an accurate geometric extent will need to be defined in order to facilitate these negotiations.

- The two nominated alternative routes both include significant impediments that remain unresolved.
 - In the case of the Barry Road route, the strategy for negotiating the Devils Elbows was previously stated as involving lifting the blades into a vertical position. This no longer appears to be the case. Instead, the stated strategy involves constructing a track straight up from the first hairpin, tying back into Barry Road some 460m further uphill. The practicality of this suggestion is questionable. The engineering associated with stabilising and draining such an extreme formation would be challenging to say the least, and the result would be highly visible (creating a visible vertical scar) as well as being precarious;
 - In the case of the Head of Peel Road route, the existing unsealed road formation wanders in and out of the actual gazetted road boundaries from place to place. The geometry of both the existing formation and the gazetted reserve are such that transporting the blades would involve intrusions into private land holdings, whichever alignment were to be adopted. Council is of the understanding that not all landowners along this route are supportive of the project. In fact, quite the opposite. Securing the necessary third-party agreements associated with transporting the blades along this route would appear to be far from a foregone conclusion.

Whichever route is ultimately selected, road upgrades will be required in order to facilitate the RAV movements. These upgrades will likely include load assessment and resultant augmentation of structures, widening existing narrow bridges and causeways, straightening some of the more extreme horizontal and vertical alignments, and widening certain intersections.

Operational Phase:

Consistent with other wind farm and solar farm proposals, the traffic volumes during the operational phase of the project will be relatively modest. The legacy network improvements will be more than adequate to accommodate the operational traffic, at least in so far as routine traffic is concerned.

The Development Application documentation is silent on the matter of RAV requirements during the operational phase. That is to say, there is no mention of contingency for the event of a blade-throw or other catastrophic failure, and the subsequent need to transport substantial overlength or over mass replacement components. This aspect needs to be clarified, as it has an impact on the timing of reinstatement of “temporary” establishment-phase access alignments.

Decommissioning Phase:

The documentation nominates a typical lifespan for wind turbines of 25 to 35 years, with three main options at that time:

1. Continued use, depending on the condition of the equipment;
2. Replacement of the wind turbine generators (WTG's) with updated technology, or;
3. Decommissioning and removal of the WTG's and associated infrastructure.

Each of these options would require RAV access – to a greater or lesser extent. The documentation does not elaborate on this element. Additional clarity is required in this regard.

Other Development Engineering-Related Matters

The proposed development has an overall footprint of 513ha. Within this footprint, a number of development related issues will need to be managed via the imposition of appropriate conditions. From an engineering perspective these issues require significant and appropriate management of the site to address the potential for erosion generated by vehicle movement, wind and water, so that these impacts can be minimised.

Ancillary Development

More details are necessary to determine the construction impacts associated with the ancillary industrial components within the development site. The following components must be addressed in more detail to ensure the potential environmental impacts (e.g. noise, dust, odour, traffic, contamination, flora and fauna) are minimised and managed appropriately:

- Turbine crane pads and assembly areas – aggregate circa 30ha spread across 70 individual sites
- Internal roads and service corridors – 194ha
- Battery Energy Storage System – 6.38ha
- Switching Station (not in TRC's area of Jurisdiction) – 1.65ha
- Temporary mobile concrete batching plants – 2 x 1.0ha sites
- Temporary site office, carparking and storage – 10.6ha
- Substation – 0.36ha
- Permanent operations and maintenance compound – 1.09ha
- Transmission line with associated access tracks – 135ha

It is Council's opinion that the sensitivity of the site is such that the specific details of these expansive elements needs to be investigated in detail prior to approval of the development, on the basis that understanding these engineering elements is critical, in order to inform other critical assessments upon which the approval will turn, including hydrology, environmental impacts, visual impact and the like.

Management of erosion will be a critical element of the development.

Council requires more information of a significant detail to assure it of the ability of the development to preserve the environment and minimise the development impact. Providing this level of integrity will involve the proponent demonstrating that the development can and will satisfy the following:

- Limiting disturbance, i.e. the development footprint to areas than can be reasonably managed in terms of batter slopes and extents;
- Avoiding large cut and fill on steep areas of the site;
- Avoiding clearing anywhere near established creek lines, and where existing vegetation is essential to maintaining slope stability during rainfall events;
- Capturing and appropriately detaining runoff from disturbed areas, prior to discharge to established water courses;
- Similarly capturing and appropriately detaining runoff from roofed structures, and storing for re-use or discharge to established water courses;
- Adequately designing and managing crossings of lower order water courses, and avoiding crossing higher order water courses wherever possible;

- Managing the interfaces between internal access tracks and public roadways, and;
- Stabilising and re-establishing disturbed areas and management in accordance with the Blue Book guidelines in a timely manner.

Biodiversity

The following concerns are raised in relation to the information provided in the Biodiversity Report provided by the Applicant:

- **Lack of information in relation to impact on fauna (particularly aerial fauna) located in the adjoining Ben's Hall Gap Nature Reserve (2,500 Ha) and Crawney National Park (310 Ha).**

Whilst the Report argues that there is sufficient habitat in the adjoining nature reserve/national park to compensate for any loss of habitat/fauna species in the development footprint, this is not considered to be an adequate response and clearly does not comply with the intent, objectives or requirements of the NSW Biodiversity Offsets Policy for Major Projects.

The Development Application indicates there has been no overall assessment of threatened species in the locations that will be impacted by the proximity of the wind turbines once they are in operation, particularly aerial species. The Report has examined indirect impacts (collision risks for birds and bats, disturbance from noise, light etc.) within a 1.5km buffer around the development footprint but this is considered inadequate.

It is strongly recommended that the indirect impacts from the wind turbines be examined within a 10km buffer from the development footprint.

- **Lack of information in relation to Collision Risk for Bats and Birds**

Appendix D of the Report contains data and modelling in relation to the collision risk for birds but does not include any modelling in relation to bats or nocturnal bird species such as owls. The report states that of the fifty-one (51) species of birds present in the development footprint, all of these have the capacity to fly at the same height as the turbine blades but only eighteen (18) bird species were recorded as doing so. The report goes on to state the risk of collision is estimated as being very low. The report includes little evidence to support this conclusion.

Section 8.3 of the Report does address the potential impact of the wind turbines on threatened bat species within the development footprint and basically concludes that there is limited data on the heights that the bats will fly and forage. It states that the spacing between the turbines (ranging from 300m to 500m) will allow substantial locations for migrating and foraging bats to pass through the landscape.

The report provides insufficient data / modelling to support this conclusion.

- **Bird and Bat Adaptive Management Plan**

Like the Biodiversity Offset Strategy, the BDAR states that a Bird and Bat Adaptive Management Plan will not be developed until after the wind farm is approved. It is completely unacceptable that a project which could significantly impact on threatened species in the region does not provide a plan detailing how the impacts can be avoided, minimised or managed. It is strongly recommended that a Bird and Bat Adaptive Management Strategy be submitted prior to final determination of the project.

It is also recommended that the layout and spacing of the turbines be revised to avoid any further clearing within the development footprint.

- **Land Clearing**

There appears to be an inconsistent approach to the level of assessment and approval processes for land clearing within the development footprint. Clearly, the approvals and permits issued to date for agricultural activities have not been subject to the same level of rigorous assessment as the current wind farm application. In this regard, any clearing of habitat for threatened species or woodland listed as an endangered ecological community should address the potential impact on biodiversity irrespective of the end use.

It is strongly recommended that no further clearing be permitted in the development footprint until such time as the Wind Farm application has been determined.

- **Impact on fauna**

Council officers have noted during site inspections, the presence of wombat holes across the development site. The Development Application appears to provide no assessment of the impact of construction on these mammals or details of the proposed management, protection and preservation of these mammals during the construction phase of the project, noting that extensive excavation across a minimum 200ha area will occur.

In this respect Council requires further expert information outlining the assessment of the impact of construction on these mammals and details of the proposed management, protection and preservation of these mammals during the construction phase of the project.

Heritage

Council is not supportive of the nominated transport route and the strategy for negotiating the Devils Elbows by constructing a new road which directly impacts on the local heritage listed site known as the Black Snake Gold Mine on Lot 440 DP 822503 (Item No. I134 in the Tamworth Regional Local Environmental Plan 2010). This parcel of Crown Land is scattered with Mine Shafts and Tunnels and contributes to the historical character of Nundle and Hanging Rock as a mining heritage locality. The Statement of Significance according to the NSW Heritage Register states:

“The place has both historical and geological significance to Nundle, the Tamworth district and to local and national mining development beginning in this instance from the mid-1800s.”

By decimating the Black Snake Gold Mine heritage site, the proposed Devil’s Elbow strategy does not meet the objectives of Clause 5.10 of the Tamworth Regional Local Environmental Plan which is to conserve the environmental heritage of the Tamworth Regional Council area and to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

Peel Valley Catchment

The catchment area of the dam is 420sq km and based on the area of the catchment that will be affected during construction and operation of the proposed turbines, it is anticipated that any adverse impact on the quality of runoff water reaching Chaffey dam will be very minor.

However, Council is concerned that it is unable to fully understand the extent of potential impact on the catchment in the absence of adequate detail in respect to the ancillary industrial components of the Project. Therefore, Council is also unable to assess the ability of the development, (noting its scale), to appropriately mitigate the potential environmental impacts of those ancillary industrial operations and the consequent impact on the catchment.

As mentioned previously in this submission, further details of the industrial components of the development, the potential environmental impacts of those industrial activities, and the proposed means of mitigating those impacts is required.

Water Supply

The submitted EIS is unclear on the likely source of external water supply required for concrete batching and construction activities. The proponent estimates 55ML of water will be required for construction and will be sourced from either;

- Council water supply, with agreement with the relevant Council(s)
- Extraction from an existing nearby land owner bore
- Extraction from a new groundwater bore
- Extraction from surface water source (Chaffey Dam or Peel River)

It is recommended a water balance report be undertaken to determine the likely impact of the development on water resources and in particular on adjoining landholders. Further investigations/certainty regarding the sources of water is required, as this will need to be considered as part of the water balance and by other external referral agencies.

Visual Impact

Council requests that the proponent be required to consider clustering/reduction of turbines to achieve a reduction in the visual dominance of the towers on the ridgeline and also reduce impact on biodiversity.

Bushfire Prone Land

Council requests further information regarding the mechanisms the proponent intends to put in place to avoid catastrophic bushfire outbreaks. Clarification is requested of the potential of the Wind Towers to impact on the ability to undertake aerial firefighting duties.

This is especially relevant in light of the recent bushfire that went through the area and the required aerial support necessary to save dwellings and property. It is also unclear whether an appropriate assessment has been made in the event of a mechanical failure to a wind turbine generator. Has an appropriate assessment been made that demonstrates an ability to undertake aerial firefighting duties within the Project area?

Community Enhancement Fund

The applicant has proposed that a Community Enhancement Fund (CEF) be established to benefit the local residents around Hanging Rock, Nundle and communities close to the project. The fund charter proposes a contribution from the operator of \$2,500 per wind turbine per year installed and operating. The contribution would be subject to CPI and continue over the life of the project.

The proposed CEF is being sought to be accepted in lieu of voluntary planning agreements with Tamworth Regional Council, Liverpool Plains Shire Council and Upper Hunter Shire Council. This is with the exception of any public roadworks which are committed to directly from the project and outside of any funding from the CEF.

The fund is likely to be auspiced by Tamworth Regional Council as the most affected LGA and with the centres of Nundle and Hanging Rock located therein. The charter proposes a \$5,000 administration allowance to assist with the management the CEF.

The CEF as proposed would be delivered by a committee (S.355 or similar) with a total of 11 members. Bids for projects are proposed to be called twice a year.

The eligibility of projects is focussed on the area near the wind turbines as far as Nundle, Hanging Rock, well into Upper Hunter Shire and Liverpool Plains Shire.

A central principle in this process is that of "additionality". This means projects and services that are additional to those normally delivered by Council. An identified risk is that some projects could still result in infrastructure being developed or upgraded on Council land that will require ongoing maintenance and the expectation of eventual replacement.

The types of organisations supported from other similar funds include community and sports clubs, school P&C, volunteer emergency services and other community groups.

Council has several concerns regarding the CEF Charter as proposed.

- The contribution of \$2,500 per operating turbine is considered to be very modest considering that the proposed Hills of Gold turbines are considerably larger both in physical scale and power generation than existing wind farms.
- The delay in providing funds to the community until the commencement of the operation of the first turbine is questioned. It will be during the construction phase that most disruption is likely to be caused. There appear to be good opportunities for providing sponsorship during the construction phase to various groups such as school sports and activities, community groups and events prior to the activation of the CEF.
- There appears to be an inherent complexity to the operation and administration of the CEF considering the reasonably modest amounts involved. The proposed committee structure of 11 participants from the various towns, localities and Councils seems unwieldy. It is considered that the twice yearly bid processes may be better managed in this case by a once a year process. It seems likely that the burden on the three Councils resources would exceed \$5,000/year.
- It should be considered whether this may be better facilitated by a working group of Council rather than a S.355 committee. The working group might best be convened by an independent person with a legal, accounting or administrative background for the first two years to establish and activate the process.
- The CEF structure seems to have become accepted practice and the potential funds available over 25 years could be significant depending on the agreed payment by the operator. Council acknowledges that this would provide a notable cumulative benefit to the local community if the administrative complexities and costs can be managed.
- Prior to accepting the CEF in lieu of a voluntary planning agreement Tamworth Regional Council, in company with the other affected Councils, requires the opportunity to finalise the details of the CEF regarding potential timing, criteria and process to improve the potential administration of the Fund.

Whilst the proposal is permissible under the State Environmental Planning Policy (State and Regional Development) 2011 Council has serious concerns regarding the potential environmental and social impacts of the proposed development and is unable to satisfy itself due to the lack of detail regarding construction, operational and ongoing management aspects of the project. It is for these reasons that Tamworth Regional Council cannot support the approval of the Hills of Gold Wind Farm proposal in its current form.

Council requests further involvement with the Proponent and DPIE regarding the matters identified above and should the application be considered for a favourable determination, Council requests the opportunity to prepare recommended conditions of consent.

Should you require any clarification in relation to the matters raised above, please contact Manager, Development Sam Lobsey on the number below.



Director, Planning and Compliance

Contact: Sam Lobsey (02) 67675507 or s.lobsey@tamworth.nsw.gov.au

10 February 2021

Department of Planning and Environment
GPO BOX 39
SYDNEY NSW 2001

Attention: Anthony Ko
Your Reference SSD-9679

<https://www.planningportal.nsw.gov.au/major-projects/project/9701>

Dear Sir/Madam,

**TAMWORTH REGIONAL COUNCIL REPLY TO PROPONENT'S RESPONSE TO SUBMISSIONS
– STATE SIGNIFICANT DEVELOPMENT – HILLS OF GOLD WIND FARM – APPROXIMATELY
FIVE (5) KM SOUTH OF HANGING ROCK AND EIGHT (8) KM SOUTH-EAST OF NUNDLE**

Ref: Ir/SL/GV Document Set 1208082

Thank you for the opportunity to respond to the Hills of Gold Wind Farm *Submissions Report* and *Amendment Report* dated 20 December 2021 and subsequent documentation.

Introduction

At the outset and before commenting on this specific renewable energy proposal Council would reinforce that it is generally supportive of renewable energy initiatives. This is evidenced by a number of state and regionally significant solar farm approvals in the Local Government Area (LGA) and its active engagement with other current renewable energy projects at varying locations such as a Battery Storage Facility (Tamworth outskirts); Bendemeer Solar Farm and Thunderbolt Wind and Solar Farms (Stages 1 and 2) near Kentucky. Council's guiding strategic document on the future of the Tamworth Region also confirms its position on positive renewable energy projects.

The Hills of Gold Windfarm project

In seriously considering this project and its potential impacts on the communities of Nundle and Hanging Rock, as well as the broader public interest outcomes, Council has invested significant resources during the assessment phase of this proposal with staff undertaking multiple assessments and being involved in a number of meetings with the proponent. With only limited staff resources available this process has been challenging particularly as each change to the project required close scrutiny. The elected Council also received formal representations from community, both supporters and opponents as well as from the proponent. It was clearly of some significance to the community that Council properly considers its position.

For those reasons previously stated in Council's letter of objection dated 10 February 2022 and for the further reasons identified in this letter, Tamworth Regional Council cannot support this proposal and maintains its objection to the Hills of Gold Wind Farm Development.

Relevant Issues/ Issues of Concern

1. Devil's Elbow Bypass Road

The proponent's preferred haulage route is via a new private bypass road through Lot 440 DP 822503. This lot is under the management of Tamworth Regional Council. For a number of significant reasons Council will not give its approval for the proponent to utilise this land for that purpose.

It is noted that the proponent makes the following statement in its Submissions Report:

"The Devils Elbow bypass road will be safe, practical, constructible and represents the lowest environmental impact of all route options considered". (Page 45. Submissions Report prepared by ERM)

Council questions the validity of this statement and argues that the proposed bypass road is anything but safe, practical, constructible or representative of the lowest environmental impact of all route options. In order to highlight its concerns Council has broken this statement down into sections, as follows:

"The Devils Elbow bypass road will be safe..."

The nominated bypass involves constructing a track straight up from the first hairpin, which ties back into Barry Road some 460m further uphill. The existing road alignment is already a short series of very steep hairpins which road users are required to carefully navigate frequently in unfavourable conditions, including occurrences of "black ice".

The interaction between the existing road reserve and the proposed bypass road still remains unclear.

Council has been of the understanding that the bypass road was to be used as a private road only, however the report *Recreational Opportunities Analysis for Devils Elbow* prepared for the proponent by *Tourism Recreation Conservation*, dated March 2022, which identifies potential tourism strategies for the subject reserve, suggests it would be open to the public in some capacity.

The proponent's tourism strategy suggests that the new road could also be accessible to recreational traffic such as pedestrian, bicycles and horses. This suggestion is totally implausible, noting the gradients mentioned in the proponent's own documentation (in excess of 25% in parts). Should the bypass road be publicly available Council holds significant safety concerns for users due to the steep nature of the site, particularly tourists who may base their decision to visit the area on the statements made in the proponent's tourism strategy.

There is also a serious safety risk in the event of an accident, for any user of the reserve or road. The existing road condition, and steep terrain has potential to compromise existing as well as new users.

"The Devils Elbow bypass road will be ... practical"

The practicality of the proposed route remains highly questionable. The engineering associated with stabilising and draining such an extreme formation would be challenging.

It remains unclear how the bypass road will be managed for the duration of the construction, as well as the operational and decommissioning stages of the project. The proponent has failed to provide certainty as to whether the road will be closed or remain open and how either of these options will be appropriately managed. If the road is to remain open, there is no detail explaining how the road

will be practically managed both during construction, and after the initial construction activities are completed.

The ongoing operational management of Barry Road during haulage operations and risks associated with it are considered to be significant and not acceptable to Council. Barry Road accommodates a high number of road users with the logging industry, tourists and locals using this road daily to meet their own needs. Council fears the functionality of this road will be seriously compromised for a sustained period of time, particularly during the construction phase.

If the proposed bypass road is to be closed to the public, there are inherent risks in constructing the road and requiring each end to be completely closed off to public access each time the road is opened for haulage purposes.

Council is not satisfied that the risks have been or can be adequately managed at any point in the process. What mechanisms will be in place to ensure other road users do not “accidentally” go up or down this road? Who will be liable should an accident occur as a result of poorly visible signage or barricades resulting in road users ending up on the bypass track?

Council understands the bypass road will likely have a gradient up to **30%** for part of its length, which is significantly steep. The proponent’s own tourism strategy also indicates that the site will be challenging for any users.

The report states *“the haul road will have a maximum gradient in short sections of 25%. Trails for walking or mountain bike are preferably limited to 10%... trails for horses should also be generally limited to 10% with a maximum of 15%. Beyond this most riders would need to dismount”* (Recreational Opportunities Analysis for Devils Elbow prepared by Tourism Recreation Conservation, dated March 2022 - page 15). This is clearly an admission that the potential for any tourism benefits will be limited.

“The Devils Elbow bypass road will beconstructible”.

Council understands that road formations on wind farm sites throughout Australia and the world often navigate difficult terrain and do so successfully through expert engineering design. Council would also agree that an engineering design could also be formulated to negotiate the steep terrain at the Devils Elbow site. However, whilst this may be the case, at what cost would this be to the existing character, amenity, and natural environment in the vicinity. Details of the constructable elements remain unclear and the full extent of the road and extent of the physical impacts of the road are still not fully evident despite the considerable period of time the project has been in the development phase.

The fact that the project has morphed so many times with on-going changes to engineering solutions suggests that the project is seriously challenged by the poor site selection, which will create a legacy of issues for Council and the communities of Nundle and Hanging Rock.

“The Devil’s Elbow bypass road represents the lowest environmental impact of all route options considered”.

Heritage impacts

The proponent’s Amendment Report states *“that the road works will have no impacts on the listed heritage values of the former Black Snake Gold Mine”* (page 19). Council does not hold this view and considers the proposed bypass road will cause irreversible damage to the heritage listed mine site and the surrounding natural environment.

The Black Snake Gold Mine on Lot 440 DP 822503 is a local heritage listed site (Item No. 1134 in the Tamworth Regional Local Environmental Plan 2010). This parcel of Crown Land is scattered with mine shafts and tunnels and contributes to the historical character of Nundle and Hanging Rock as a mining heritage locality. The Statement of Significance recorded in the NSW Heritage Register states:

“The place has both historical and geological significance to Nundle, the Tamworth district and to local and national mining development beginning in this instance from the mid-1800s.”

Council maintains that there is simply not enough evidence to suggest that the construction of the proposed road will not impact in any way upon the mine site. Council remains unaware of the location of all the tunnels and shafts. The proponent has failed to provide this information; therefore, Council is at a loss to understand how the company can claim that the road will not impact the mine. Where is the evidence to support this conclusion?

Council is also of the view that the proponent’s suggestion that the development will enable enhanced tourism opportunities in respect of the mine is a furphy for the reason that the bypass road, if constructed, will in fact destroy the very heritage value that it purports to enhance. Therefore, any proposed tourism enhancement will be achieved at the expense of the subject of the heritage listing, thereby negating any possible enhanced value.

Non-compliance with Tamworth Local Environmental Plan 2010

Council maintains that the proposed Devil’s Elbow bypass road does not meet the objectives of Clause 5.10 of the Tamworth Regional Local Environmental Plan which are to conserve the environmental heritage of the Tamworth LGA and to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views. The potential for partial demolition of archaeological evidence associated with the heritage listed mine site for the purpose of a private bypass road, creating a visible scar on the landscape is inconsistent with the Tamworth Local Environmental Plan and is not acceptable to Council.

Crown Land Reserves

The subject lot is Crown Land under the management of Council for the purpose of public recreation. There is a further reserve purpose of soil conservation over the same area, which is managed directly by the Crown. Major earthworks are required for the construction of the proposed bypass road within the reserve which has the potential to disrupt natural land formations and geological conditions. It may also cause unacceptable soil erosion and modification to the natural water courses throughout the site. The management of the additional run off caused by the bypass road formation has also not been adequately addressed by the proponents. The construction of a bypass road for private purposes is not consistent with either reserve purpose and is therefore not acceptable to Council. Consequently, it is Council’s understanding that consent from the Minister would be required for these works, upon provision of advice from both Council and the Crown.

The works are also inconsistent with the provisions of consent to works under the Native Title Act, so the proponent would need to obtain advice as to whether there is a mechanism to allow the works to be done in accordance with that Act. It would seem that the only way for the works to be authorised under the Act would be for the proponent to negotiate an ILUA with the relevant Native Title claimants.

Council does not believe that the proponent has adequately addressed the previous questions raised by the Department of Planning and Environment regarding issues surrounding the private bypass road through Crown Reserve for Public Recreation.

Furthermore, Council is aware that there remain unresolved issues associated with landownership agreements via potential alternative routes. This situation whereby the proponent has been unable to negotiate agreement is not sufficient reason for the Devil's Elbow option to be considered by the proponent to be the *preferred* route. The fact of that inability to secure those land agreements does not translate to the Devil's Elbow being the most suitable route.

2. Road Infrastructure

Council remains of the opinion that manoeuvring the lengthy blade elements along the existing roadways can only be achieved with significant modification to intersections, other geometric constraints and of course, further vegetation removal along the way (which has not been appropriately addressed in the biodiversity assessment). These physical impacts will then create potential environmental, cultural and visual related impacts specifically along Barry Road and Morrisons's Gap Road. The result will be that the character of these roads will be completely and irreversibly altered from an idyllic tourist mountain drive to an industrial (tunnel-like, in parts) concrete road. Council considers this to be unacceptable.

The proposed infrastructure works along Morrisons Gap Road in particular will likely result in ongoing maintenance and liability risks to Council. There is the potential for disruptive and dangerous "catastrophic" pavement failures and Council is not willing to take ownership and management of assets such as the proposed five (5) metre high (in parts) retaining walls on Morrisons Gap Road. Council therefore, is not willing to give consent for any suggested infrastructure works to Morrisons Gap Road or Barry Road by way of a Section 138 Permit under the Roads Act 1993.

3. Biodiversity Impacts

Council is seriously concerned with the proximity of the development to the high biodiversity values of the adjoining Ben Hall's Gap Nature Reserve and Crawney Pass National Park. The significance of this means that the ability of the proponent to mitigate blade strike which is already a significant challenge, is exacerbated given the high levels of species diversity and densities; and the physical difficulty to apply appropriately sized buffers to turbines as a consequence of existing landform constraints.

The proponent's inability to mitigate this issue goes to the crux of the failure of this development – the unsuitability of the site for the type of development proposed.

Council is of the view that the proponent's Biodiversity Assessment Report (BDAR) focuses predominately on biodiversity impacts **within** the development site but fails to adequately assess the impact of wildlife movements between the development site and the adjoining Ben Hall's Gap Nature Reserve which is physically separated by only a farm fence.

Many of the issues raised by the NSW Biodiversity Conservation Division and Council appear to have been addressed in an updated Biodiversity Development Assessment Report by the proponent, however Council remains of the view that aspects of the proposal will continue to have a significant impact on Biodiversity, as follows:

Buffer distances

The proponent has indicated that it will reduce the impact on the National Park by stating that "An appropriate buffer will be maintained to National Park estate where practicable" (Page 53, Amendment Report).

Provision of an *appropriate* buffer **only** where *practicable* provides no confidence that biodiversity will be protected or respected and is unacceptable taking into account the broad range of species in

the vicinity. Such a buffer will not provide any protection for fauna and in some cases, the turbines or associated site works are proposed to be located only metres from the adjoining National Park.

Habitat displacement

The potential remains for displacement of home ranges and the sterilisation of suitable habitat through fauna avoiding the turbines and thereby disrupting movement patterns. This means that the breeding patterns and ability to breed of some species will be adversely affected. The proponent's BDAR does not appear to sufficiently mitigate or offset these impacts.

Bird and Bat Adaptive Management Plan

It has been suggested by the proponent that a comprehensive Bird and Bat Adaptive Management Plan (BBAMP) will not be required prior to final determination of the project. Council considers it to be essential that full details of trigger points and mitigation measures must be addressed in a BBAMP **prior** to final determination of the project and not post consent.

Understanding the full implications of the development on these species and the ability or otherwise of the proponent to address these impacts to support conservation of these species is too late if left to after the issue of consent.

Land Clearing

Council maintains that there is an inconsistent approach to the level of assessment and approval processes for land clearing within the development footprint. The clearing approvals and permits issued to date for agricultural activities have not been subject to the same level of rigorous assessment required for the current wind farm application. The proposed development has therefore benefitted from the recent clearing in terms of site layout and selection of turbine locations. The impact on habitat for threatened species or woodland listed as an endangered ecological community has already occurred as a result of the previous activities. Council is therefore sympathetic to community opponents calling for those areas already cleared to be subject to mitigation and environmental offsets.

4. Community Enhancement Fund

Council is aware of how significant and divisive this project has been and the damage it has caused to the social cohesion of the Nundle and Hanging Rock communities. For this reason, it will be vitally important to Council that regardless of the decision made by the Independent Planning Commission, significant measures are enacted to help restore community pride to the Nundle and Hanging Rock communities.

The proponent has proposed that a Community Enhancement Fund (CEF) be established to benefit the local residents of Hanging Rock, Nundle and communities close to the project. The fund charter now proposes a contribution from the operator of \$3,000 per wind turbine per year installed and operating. A \$10,000 administration allocation to Council (first year) and \$5,000 in following years is proposed and the proponent has also offered a \$100,000.00 pre-operation fund for local projects.

The contribution would be subject to CPI and continue over the 25- year life of the project. Upon full operation of 55 turbines in the Tamworth LGA this could make available a maximum total of \$165,000.00 per year to eligible projects and activities in the Nundle and Hanging Rock region.

Council maintains that there appears to an inherent complexity to the operation and administration of the CEF, which means that at the least, the administration allocation will be seriously inadequate. However, should the project be approved, Council requests the determination require the proponent

to enter into a voluntary planning agreement with Council to ensure the most appropriate funding arrangement is available to benefit the community.

5. Visual Impact

Council has received representation from a number of community members expressing concern regarding the visual impact the development will have on the local community. Council maintains that as a minimum, the proponent be required to consider clustering/reduction of turbines to achieve a reduction in the visual dominance of the towers the on the ridgeline.

6. Bushfire Prone Land

Council continues to hold considerable concerns regarding bushfire risk. In summary, Council is not satisfied that:

- The steep terrain which will result in fast moving bushfires will be able to be controlled;
- There will be certainty that safe access for firefighting crews (ground and aerial) will be available and can be maintained.

These concerns are supported by Rural Fire Service (RFS) advice that the turbines would be treated like any other potential hazard and therefore would by necessity be avoided, resulting in greater risk to the sensitive natural environment below.

The proponent's own documentation also indicates that due to the proximity of the turbines to Ben Halls Gap Nature Reserve (BHGNR) boundary "*Aircraft may not be able to manoeuvre with the same freedom available now*" (*Aviation Projects - Page 5*).

Currently there is relatively unrestricted air space available for aerial water bombers. The presence of turbines will impact on operational aerial movements during a bushfire and thereby potentially lead to irreversible damage to highly significant, already vulnerable, flora and fauna which will become inaccessible as a result of the turbines.

The proponent's proposed solution to develop procedures with the National Parks and Wildlife Service and RFS will not remove the risk and is therefore not an acceptable solution.

7. Site Suitability

As previously noted, the crux of Council's objection to this development can be summarised by Council's contention that the subject site is not suitable for a large industrial scale wind farm operation. The unsuitable nature of the site for the type of development proposed is clearly evidenced by the following:

- Significant access constraints to enable delivery of wind turbine components resulting in irreversible damage to flora as well as a heritage listed site;
- Inappropriate and in places extreme infrastructure upgrades required to Morrisons Gap Road, necessitating further vegetation removal and resulting in ongoing maintenance costs and liability risks for Council;
- The proximity of the wind turbines immediately adjacent to the Ben Hall's Gap Nature Reserve and Crawney Pass National Park potentially resulting in displacement of species' home ranges, disruption to movement patterns and the sterilisation of habitat;
- An unknown/unquantified impact on the Bird and Bat population in the absence of a Bird and Bat Adaptive Management Plan; and
- The potential loss of highly significant vegetation in the event of a bushfire with aerial water bombing opportunities constrained due to the presence of turbines and the steep terrain.
- The negative and unquantified impacts of clearing that will be required for the transmission lines.

The matters raised in this letter have highlighted the significant constraints associated with the proposed location of the Hills of Gold Wind Farm, none more so than the extremely challenging haulage route.

In addressing the overall suitability of the site, Council has also considered whether or not the proposed development has satisfactorily achieved the *Objects* of the NSW Environmental Planning and Assessment Act 1979. The following *Objects* are considered to be particularly relevant to the proposed development:

1.3 Objects of Act (cf previous s 5)

The objects of this Act are as follows—

- (a) *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) *to promote the orderly and economic use and development of land,*
- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*

Due to the inability of the proponent to satisfactorily address the majority of the many issues raised in public submissions, including Council's initial letter of objection. Council is unable to be satisfied that the proposal is consistent with the above Objects of the Act. The above Objects are particularly pertinent to the type of development that the proponent purports to develop, i.e., a renewable energy project that would enhance the natural environment by assisting in the phasing out/replacement of fossil fuels.

Unfortunately, the inappropriate nature of the site selected has instead rendered the objective of a development that enhances "*ecologically sustainable development*", promotes the "*social and economic welfare*" of the Nundle and Hanging Rock communities and promotes "*the sustainable management of built and cultural heritage*" totally unachievable. This would likely not be the result if the development had been proposed on a site suitable for the large industrial-scale windfarm proposed.

8. Public Interest

Council has received representation from both supporters and opponents of this project, many of whom live in the Nundle / Hanging Rock community. Council is of the view that this proposal is of significant public interest, with the outcome likely to impact the broader public interest.

It could be argued that this project will have some level of positive economic benefit to the community by creating jobs, attracting tourists and being supported by an annual community enhancement fund and confidential financial neighbour agreements. However, due to the number of concerns, issues, and risks raised that remain unresolved and are in fact unable to be resolved, it is difficult for Council to hold this view.

The Nundle / Hanging Rock locality is in many ways an idyllic natural environment enhanced by a small, proud community. Council considers that this very existence is under threat due to the potential of a lengthy construction phase, resident “winners” and “losers”, environmental degradation and increased bushfire risk.

Conclusion

Council’s conclusion is that this development will have an overwhelming negative impact on the communities of Nundle and Hanging Rock and that the overall cost to the broader Tamworth Region from an environmental, financial and social perspective outweighs the potential renewable energy benefits. The development is therefore not in the public interest.

Whilst Tamworth Regional Council’s Blueprint 100 vision and the New England North West Regional Plan acknowledge that renewable energy projects will be supported, both documents emphasise that this is subject to the development being situated in *appropriate* locations. The fact that the proponent has made and been required by Agencies to make so many modifications to the proposal is clear evidence that the development will not work on the selected site.

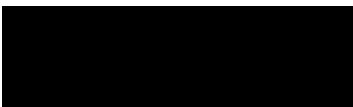
In Council’s opinion the number of changes and effort expended on trying to make this project acceptable on this site has meant wasted time, resources and undue strain on the small communities, with significant associated stress and social division.

Acknowledging the precautionary principle and the inconsistency with the Objects of the Environmental Planning and Assessment Act, the selected site is unsuitable, the development proposed unachievable on the site and the application should be refused on that basis.

Tamworth Regional Council maintains its objection to the proposed development based on the serious environmental, engineering, risk and social concerns identified in this letter and its initial letter objecting to the proposal dated 10 February 2022.

Should you require any clarification in relation to the matters raised above, please contact Manager, Development Sam Lobsey on the number below.

Yours faithfully,



Gina Vereker

Director – Liveable Communities

Tamworth Regional Council

Contact: Sam Lobsey 

25 May 2022

Department of Planning and Environment
GPO BOX 39
SYDNEY NSW 2001

Attention: Anthony Ko
Your Reference: SSD-9679

<https://www.planningportal.nsw.gov.au/major-projects/project/9701>

Dear Sir/Madam,

TAMWORTH REGIONAL COUNCIL REPLY TO AMENDED PROPOSAL – DECEMBER 2022 – STATE SIGNIFICANT DEVELOPMENT – HILLS OF GOLD WIND FARM

The following correspondence is in relation to the exhibition of the amended proposal for the Hills of Gold Wind Farm Development Application (SSD-9679), which was open for comment from Wednesday 16 November 2022 until Tuesday 13 December 2022.

The Hills of Gold Windfarm Project – Amended Proposal

It is noted that the amended proposal includes the following general changes:

- Reducing wind farm layout to no more than 64 turbines;
- Two new options for oversize overmass (OSOM) vehicle movements through the township of Nundle;
- New site access points at Crawney Road for oversize overmass (OSOM) vehicles;
- The expansion and potential use of an existing quarry within Nundle State Forest; and
- Other general site layout changes.

Council would like to state that the amended proposal does not alleviate any of the concerns previously raised in its letters of objection dated 10 February 2021 and 25 May 2022 with the exception of the comments made regarding the *Devil's Elbow* bypass road. Tamworth Regional Council maintains its strong objection to the Hills of Gold Wind Farm Development.

The contents of this letter are in response to the amended proposal and should be read in conjunction the previous objections made by Council.

Impacts on Nundle Village Character

Whilst Council acknowledges the sensible decision to remove the *Devil's Elbow* (Barry Road) bypass proposal for OSOM vehicles, Council is not convinced that this resolves the impacts associated with manoeuvring OSOM vehicles along the existing narrow local roadways. Despite the efforts to present new route options, there remains a very real environmental, cultural and visual negative impact on the existing local road network. This includes Barry Road, Morrisons's Gap Road, and now, as a result of the amended proposal, Happy Valley Road, Crawney Road and Jenkins Street (Nundle's main street).

The two new OSOM vehicle route options to access the site via Crawney Road will negatively impact on the character of the Nundle Village and will transform the important idyllic tourist locality into an industrial area. The presence of OSOM vehicles within the village precinct, significant vegetation removal and under pruning and construction of “temporary” roads will have lasting impacts.

Impacts on Biodiversity

The vegetation loss includes stands of White Box trees with understorey where road alignments are adjusted, especially at intersections where the OSOM vehicles would be turning. The ‘loop’ through Nundle option includes roads that abut Forested Wetlands, Grassy Woodlands and Candidate Grasslands as identified on the NSW State Vegetation Map. Any modifications that impact these communities is considered to be very grave and need to be avoided.

Existing street trees within the village will likely be removed, including those along Jenkins Street to assist the OSOM traffic volumes and the proposed new road through private property will also negatively impact on the entrance to Nundle from the west.

Council’s continued concern with the proximity of the wind turbines immediately adjacent to the Ben Hall’s Gap Nature Reserve and Crawney Pass National Park has been recently heightened with the Ben Halls Gap Sphagnum Moss Cool Temperate Rainforest Legal Status being listed as Critically Endangered under the Environment Protection and Biodiversity Conservation Act 1999, effective 5th October 2022.

Council maintains that the impact on habitat for threatened species or woodland listed as an endangered/critical ecological community which has already occurred is unacceptable and the amended transport routes are likely to result in further land clearing adjoining road reserves and on private property.

Impacts on Heritage

There is also the potential for the OSOM vehicles to cause vibration damage to a number of significant buildings within the village where there are 14 heritage listed properties. The proposed route option through Lots 1 and 2, DP 997480 is locally heritage listed, being associated with the Peel Inn at 89 Jenkins Street.

Peel Inn - Statement of Significance

The Peel Inn is important in the course of the cultural history of the area in that it was (and continues to be) a place for social outings. It is a supporting feature in the heritage streetscape of Nundle and representative of high-quality hotel construction.

The heritage assessment for the route option which dissects the above-mentioned property states that the impacts will only be “temporary” which is assumed to be during the construction period and that future rehabilitation of the site is recommended. However, it is understood that there is likely to be an ongoing requirement to transport material to site for the life of the operation period. Therefore, Council does not agree with the “temporary” proposition, with the more likely scenario being the retainment of a road (for delivery purposes) which will therefore continue to have a negative impact on the heritage curtilage of the Peel Inn.

The proposed route option through the heritage listed site does not meet the objectives of Clause 5.10 of the *Tamworth Regional Local Environmental Plan 2010* which seeks to conserve the environmental heritage of the Tamworth Local Government Area (LGA). The proposal conflicts with the goals of Clause 5.10 by devaluing the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.

Impacts on Council Infrastructure

This route would cross two water mains that would likely need reconstruction or protection from the impact to the weight of the vehicles. Neither main is new and the 100mm main identified as being constructed with Asbestos Cement in the 1970's is of particular concern.

The diversion will also cross the cycleway on Innes Street. It is assumed that this will not be available effectively for the construction phase and would need to be reinstated following construction. It would need to be considered whether the cycleway is physically viable if the diversion is to be used periodically in the decades to come.

Impacts from Flooding

The entirety of this diversion is subject to the Flood Planning Area as identified by the Nundle Flood Study. The Nundle Floodplain Risk Management Plan (FRMP) identifies all of that land as being subject flood hazard including approximately half as being subject to 'High' hazard. The Nundle FRMP also identified the depth of the potential flood as high as 1.5m in some sections. Consequently, there is clear risk that the road will be inundated and require reinstatement at some point to provide for any future use. Additionally, the impact of the road on the flood behaviour needs to be carefully assessed to avoid increased damage to property and risk to human life.

Bushfire Prone Land

Council continues to hold considerable concerns regarding bushfire risk. Council is not satisfied that the steep terrain which will result in fast moving bushfires will be able to be controlled. Or, that there will be certainty that safe access for firefighting crews (ground and aerial) will be available and can be maintained.

These concerns are supported by Rural Fire Service (RFS) advice that the turbines would be treated like any other potential hazard and therefore would by necessity be avoided, resulting in greater risk to the sensitive natural environment.

Site Suitability

Council maintains its contention that the subject site is not suitable for a large industrial scale wind farm operation. The proposal remains inconsistent with the Objects of the NSW Environmental Planning and Assessment Act 1979 which was raised in our letter dated 25 May 2022.

Council maintains the site selected to be completely inappropriate on the grounds that there is no evidence to support it can achieve "*ecologically sustainable development*", promote "*social and economic welfare*" of the Nundle and Hanging Rock communities or promote "*the sustainable management of built and cultural heritage*".

Conclusion

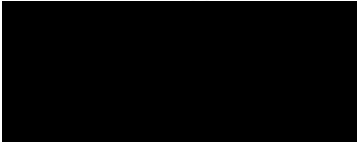
Once again, Council and the community have been asked to review thousands of pages of documents for a proposed development that has already proven to be a failure in terms of addressing fundamental deficiencies. With this latest amendment, the proponents have been given another opportunity to resolve those deficiencies raised by community members and Council and have not delivered.

The site selected and operational logistics required to construct and operate a development of this nature in the proposed location is highly impractical and would be at a significant cost to the community and its natural environment.

Acknowledging the precautionary principle and the inconsistency with the Objects of the Environmental Planning and Assessment Act, the selected site is unsuitable. The development proposed is unachievable on the site without having long lasting community and environmental impacts and the application should be refused on that basis.

Should you require any clarification in relation to the matters raised above, please contact Council on the detail below.

Yours faithfully,



Sam Lobsey
(Acting) Director, Liveable Communities
Tamworth Regional Council

Contact: 

Date: 13/12/2022

Department of Planning and Environment
GPO BOX 39
SYDNEY NSW 2001

Attention: Anthony Ko
Your Reference: SSD-9679

<https://www.planningportal.nsw.gov.au/major-projects/project/9701>

Dear Sir/Madam,

TAMWORTH REGIONAL COUNCIL REPLY TO THE APPLICANT'S RESPONSE TO SUBMISSIONS AND COUNCIL'S RESPONSE TO THE DEPARTMENT'S ADDITIONAL INFORMATION LETTER – STATE SIGNIFICANT DEVELOPMENT – HILLS OF GOLD WIND FARM

The purpose of this letter is to respond (in the main) to the three issues raised by the Department of Planning and Environment in its letter to the Applicant on the 2 March 2023. Council would like to state that the comments in this letter should be read in conjunction with the concerns previously raised in its letters of objection dated 10 February 2021, 25 May 2022 and 13 December 2022. Tamworth Regional Council maintains its strong objection to the Hills of Gold Wind Farm Development and reiterates that the development fails the site suitability test and is not in the public interest.

Schedule of Road Upgrades

Council has reviewed the consolidated table provided by the Applicant of the proposed road upgrades on all roads along the identified heavy vehicle haulage route (include start point, chainage, intersection treatments and timing) and provides the following comments:

- The proposed access routes have morphed several times throughout the history of this application. The current proposal can be summarised as follows:
 - The nominated Over Sized Over Mass (OSOM) route is along Lindsays Gap Road, Nundle Road, through Nundle town centre (two options still in play), and then down Crawney Road and into the site via one of three potential access options.
 - Other construction traffic will utilise this route, or Barry Road / Morrisons Gap Road. (it is noted the contentious “straight up the hill” Devils Elbow bypass is no longer on the table).
 - There are several laybys proposed along the route to allow for traffic management.
 - The impacts of the OSOM swept paths are extensive, and will require significant modification to numerous structures, bends and intersections. In some instances, entirely new stretches of private pavement are being proposed (most notably below the Peel Inn in Nundle town centre, and into the site itself off Crawney Road).

- The schedule provided by the applicant extends from Newcastle Port right through to the development site, so the chainage references do not correlate to Tamworth Regional Council asset chainages. As a consequence of the long overall haulage route, the submitted mapping is very “high level” and the exact locations of some of the nominated upgrades are difficult to decipher. The coarseness of the mapping means that a number of less obvious assets (and some obvious ones) have not been captured in the schedule. It is important therefore that any conditions around asset preservation / upgrade / dilapidation / rehabilitation be flexible enough to allow for the detailed capture of all required works prior to and during the establishment, operation and decommissioning of the project – should it be approved.

The nominated upgrades – in so far as they have been presented – are not unreasonable. However:

- The various references to “minor widening” needs to include any resultant extensions to existing drainage culverts. There are numerous such culverts along the route.
- The Lindsays Gap Road crossing over Sandy Creek has not been captured in the schedule. This structure is too substantial to simply be covered in the above statement around minor culverts, and it should have its own discrete entry on the schedule.

The scope of the tabulation as presented is limited to obvious structural and geometric deficiencies. The scope does not canvas current pavement condition or potential dilapidation. The list of proposed works should not be construed as definitive or exhaustive, and Tamworth Regional Council would reserve the right to nominate additional works based on more detailed inspections / investigation, should the project ultimately be approved and proceed. All structures on the route should have at a minimum Level 2 bridge inspection and appropriate bridge loading assessment prior to commencement and a Level 2 inspection at the completion of the project and provided to Council. A pre-commencement inspection will act as the baseline for determining the impact of the project on pavement, bridges and other structures.

Works within existing roadways, (should the project proceed), will be subject to conditional approval under Section 138 of the Roads Act. Any such approval would include a requirement for comprehensive dilapidation surveys, both prior to, during and post establishment of the project. We can also foreshadow that the interests of the community would be secured via a substantial bond, supported by a deed or other instrument to the effect that there will be a cessation of haulage until any defects are corrected, and any drawdown of the bonded amount is replenished. It should be noted that Tamworth Regional Council will act on its right *not* to approve any Section 138 Application that is deemed to be inadequate.

Other Local Government authorities along the combined haul route face the problem of managing impacts from multiple renewable projects, including the issues associated with determining and apportioning costs associated with cumulative dilapidation. In so far as the Hills of Gold proposal is concerned, transport routes through Tamworth Regional Council's jurisdiction are “last mile”, and so any impacts can reasonably be apportioned to this project in an uncomplicated way. Council notes however, that there are a number of other potential projects (mostly solar) in the general vicinity of Nundle that may well elect to include Lindsays Gap Road as a part of their transport strategies. If that situation eventuates, apportionment and dispute resolution will become exponentially more complicated. Council therefore foreshadows that any approvals and associated deeds will need to include robust dispute resolution mechanisms, including third party adjudication.

Biodiversity

Council notes a further request by the Department for the Applicant to specify and justify trigger parameters (such as wind speed, time period, and other relevant climatic conditions) for the ‘smart turbine curtailments’ strategy proposed for all wind turbines posing a moderate collision risk to bird and bat species. Council has undertaken further reviews of the documentation submitted and raises the following additional concerns:

1. The proposed location of the windfarm is simply not suited to the type of development proposed.

The site is basically separated from 2.54 million hectares of highly significant biodiversity habitat by **only** a farm fence. The updated BDAR states (p949) that only 132.43 Ha of native vegetation occurs within the development footprint and that only 37.92 Ha of this vegetation is identified as 'high condition' and will be modified as a result of the project. This statement is "smoke and mirrors" as it ignores the extent and diversity of native species immediately adjoining the development footprint. The issue is far greater than "only" 37.92 Ha of native vegetation will be impacted by the proposal.

Instead, there is potential for a significant environmental impact as a direct consequence of the proposed development on the land located on the **other side** of the farm fence. The proposed location of the development footprint in close proximity to such a high value conservation area is a recipe for land use conflict and obvious biodiversity loss. The proposed mitigation and biodiversity offset measures only apply to the development footprint and do not address the potential serious and irreversible impacts within the broader ecological footprint arising from the proposed development. This is a clear failure of the proposal and any offset strategies proposed by the applicant.

The proponent has failed to demonstrate that suitable alternate sites have been investigated. The proposed windfarm essentially represents a high impact industrial development located within 100 metres of a nationally significant ecological community.

It should be noted that the extent and condition of native vegetation within the development footprint has already been severely comprised by historical clearing of vegetation associated with ongoing agricultural practices. Council has previously raised concern regarding the indirect impact of the proposed windfarm on the adjoining nature reserve and requested that a buffer area of 10km be considered.

The proponent responded that a buffer of this magnitude is not required under current legislative requirements. In actual fact, the proposed development footprint together with adjoining lands exhibiting similar ecological characteristics should be 'preserved and protected' within a high value conservation zone under the Council's Local Environmental Plan.

Acknowledging the above, it is relevant to note that, as part of its current review of the *Tamworth Regional LEP 2010*, Council is considering planning provisions to address strategically important rural land of various types including lands of high biodiversity value.

2. The potential for serious and irreversible impact to native species.

The project has been continuously modified and re-designed in an attempt to address significant impacts on biodiversity. The recent modifications include reducing the number of wind turbines from 97 to 64, increasing the spacing between the turbines in key areas such as adjacent to Ben Halls Gap Nature Reserve to minimise bird and bat collision, revising the layout of the turbines to maximise their separation from sensitive habitats such as microbat roosts, prioritising the use of existing internal roads to reduce the amount of vegetation clearance and revising the alignment of the transmission line to reduce its ecological impact.

The necessity for these modifications arises primarily from the fact that the development site is located within a highly sensitive ecological footprint containing numerous vulnerable species and is clear evidence that the development site is unsuitable for the proposed development. The mere fact that the project warrants an assessment of the 'serious and irreversible' impact on native species reflects the potential for significant biodiversity loss associated with the proposed development. The Biodiversity Conservation Act (and Biodiversity Conservation Regulation) provide a framework for these types of assessments in accordance with the four (4) principles espoused in Section 6.5 of the Act. These principles include evidence of rapid decline of the species, evidence of a small population size, evidence of a limited geographic range and evidence that the species is unlikely to respond to management.

There is an obligation on decision-makers to 'protect' biodiversity values that are at risk of residual impact even after 'avoidance' or 'mitigation' measures have been employed. There are three wildlife species identified in Appendix E of the updated BDAR that are potentially at risk of serious and irreversible impact (SAII) as a consequence of the project. These include the Large Bent-Winged Bat, the Little Bent-Winged Bat and the Large-Eared Pied Bat.

The Large Bent-Winged Bat is a small cave-dwelling, insectivorous bat which is listed as a 'vulnerable' species under the Biodiversity Conservation Act. The updated BDAR states that the local population of this species is estimated to represent less than 2% of the NSW population. The report concludes that their potential impact with wind turbines is likely to equate to a very small percentage of the NSW population. The report further states that that whilst the project may result in direct mortality to a small number of individuals, it is unlikely to cause significant impact to the subpopulation such that they would be eliminated.

It is difficult to accept these statements when the 'size' of the local population is only based upon six (6) seasonal surveys within the development footprint and the exact size of the local population within the wider ecological footprint is unknown. It is also contended that there is insufficient data relating to bat collisions on windfarms adjoining a nature reserve/national park to make any comparative assessment. Finally, Council submits that SAII Principle 4 of the Act cannot be met because the bat's preferred roosting habitat of caves is unlikely to be successfully replicated on a stewardship site i.e., the caves are naturally occurring and cannot be replaced by/substituted with man-made caves.

The Little Bent-Winged Bat is also a small cave-dwelling bat which is listed as a 'vulnerable' species under the Biodiversity Conservation Act. The primary threat to this species is habitat disturbance to their maternity and roosting sites. There are bat roosting caves within close proximity to the proposed windfarm which makes this species extremely vulnerable to any impacts associated with the development. Unlike the Large Bent-Winged Bat, during winter, the Little Bent-Winged Bat spends larger periods of 'torpor' in smaller, dispersed colonies. Disturbance during hibernation over winter is acknowledged as a major threat to this species. The updated BDAR also concludes that 'there is a moderate risk that the repeated loss of individuals as a result of collision mortality may see a change to the local abundance of the species in the short term'. The report further states that it is difficult to quantify the number of individuals likely to be impacted but suggests that the linear 'layout' of the wind turbines (as opposed to a cluster of turbines) will limit interaction and lower the probability of encountering multiple turbines. Council strongly argues that there is insufficient data to support this theory as the majority of scientific studies have been undertaken in relation to the more common 'clustered' turbine layouts.

The Large-Eared Pied Bat is listed as a 'vulnerable' species under both the Biodiversity Conservation Act and the Environment Protection and Biodiversity Conservation Act. It is believed that their population size is less than 250 individual mature adults in NSW. Appendix E of the BDAR (p960) claims that the maximum acoustic call within the development footprint attributable to this species was 19 in one night. The report further states that a total 'mean' acoustic call of only 1 Large-Eared Pied Bat per night was recorded during 2019 and 2020, and that this represents a low level of activity within the development footprint on an infrequent basis. The report concludes that it is considered unlikely that the project would result in direct mortality to individuals of this species. No scientific evidence has been provided to support this statement. This particular bat species was only formally recognised in 1966 and little is known about its population size and geographic distribution. Given the limited data available Council contends that decision-makers should exercise extreme caution due to the potential risk of 'serious and irreversible impact' to such a highly vulnerable species.

In summary, Council argues that the potential serious and irreversible impacts on the above bat species, and the lack of evidence to support the proponents' claims, should be assessed on the basis of the precautionary principle, i.e., that because the impacts of the development are not fully understood, then the decision makers should err on the side of caution, by not approving the development.

3. Biodiversity impacts from ongoing agricultural activities.

The updated BDAR appears to be 'silent' on any biodiversity impacts arising from ongoing agricultural activities within the development footprint. It is unclear whether the grazing of cattle will continue to co-exist with the windfarm if it is approved. Should the agricultural activities continue, they will likely result in ongoing vegetation removal (via land clearing permits), management of 'invasive' species, feral animal control and other practices associated with farm management. It is highly likely that these practices will exacerbate the loss of biodiversity within the development footprint.

Voluntary Planning Agreement (VPA):

Council notes the Department's request of the Applicant to confirm the terms of the Voluntary Planning Agreements with relevant Councils. In this regard, Tamworth Regional Council provides the following comments:

Reference is made to the offer of Community Benefit Sharing for the Hills of Gold Wind Farm at Nundle. Council understands that Engie has been requested to provide additional information to the Department of Planning and Environment relating to several matters including any agreed matters relevant to a potential voluntary planning agreement (VPA) between Engie and Tamworth Regional Council.

Council wishes to make it clear that any agreed matters regarding community benefit sharing does not represent support for the overall project but should an approval be forthcoming, Council will seek to provide the best possible outcomes for its community.

Ultimately, Council is not completely satisfied with the proposed community benefit sharing arrangement put forward by Engie.

Remaining significant areas of concern.

1. The cost to Council to manage the committee remains a point of contention. The cost of administration and reporting is almost certain to exceed the proposed administration remuneration offered (\$10,000 first year and \$5,000 subsequent years) to Council. Council does not currently have a robust framework available to adequately resource / manage the level of responsibility for the management of the fund process.

Tamworth Regional Council is aware of other models for fund administration that appear far more suitable. An example is the Community Benefit Fund™ being administered through an independent NGO which exist in Australia and specialises in community benefit fund administration.

2. Council retains concerns regarding the lack of transparency in respect of the Neighbour Benefit-sharing program. Council is aware that some other proposals have provided clear details on how neighbour agreements are worked out and the monetary figure is assigned to the program. While not part of a VPA this aspect is recognised as being a significant and valuable part of the project's overall benefit-sharing approach.
3. Should the Community Benefit Fund be established, Council would expect to have a role in the committee considering and dispersing funds to community projects. Council would expect the ability to exercise a 'veto' vote primarily to protect the community from unacceptable ongoing maintenance obligations.
4. Tamworth Regional Council had previously indicated that entering into a Voluntary Planning Agreement (VPA) with Engie may not be required. This position is based on Council's consideration that once constructed the impact on Council infrastructure from the ongoing operation of the development may be limited.

Council's position has now shifted somewhat due to the lack of transparency in relation to some aspects of the benefit sharing arrangements, as well as the significant adverse impacts on the town of Nundle, impacts on biodiversity, infrastructure and on the visual amenity of the locality. Due to these factors and the long timeframe of the project the implementation of a formal VPA may be necessary to give confidence to Council and the community that the public interest will be protected.

If an NGO was to manage the Community Enhancement Fund such a requirement may not be as necessary.

5. Council confirms its understanding that benefits will be directed to community groups. However, Council is also of the opinion that the option should remain available for works on Council facilities where justified. Council does not want to see a community group denied support solely on the basis that their facility is located on Council owned land.
6. Council confirms that consideration should be given to including the communities along the construction transport route for the Community Benefit Sharing.
7. Council confirms that a maintenance component should be included in a grant where appropriate and that this be considered when co-designing the Terms of Reference.
8. Council reaffirms the desirability of 'during construction' benefit sharing via sponsorship of community events or other means.
9. Finally, Council is of the opinion that that the concept of sponsoring students through higher education is of particular interest.

CONCLUSION

Council maintains the strongest objection to this proposed development and strongly recommends that the application be refused.

The fact that the assessment process has been so lengthy requiring on-going and substantial changes to the project by the proponent, none of which have resolved the original major issues, clearly indicates that the selected site is completely unsuitable for the development.

If approved the development will have long lasting devastating impacts on the Nundle village as a direct consequence of the environmental and social impacts resulting from significant road upgrades and transformations, visual and physical (vibration) impacts on its heritage character, as well as Council's infrastructure, flooding and bushfire risk.

Council is aware that whilst development applications under Part 4 of the EPA Act must be refused if '*serious and irreversible impacts*' are identified, State Significant developments are allowable as long as '*serious and irreversible impacts*' are '*taken into consideration*'. It should be noted that this distinction would not be accepted by Council or the community in relation to this development.

Acknowledging the precautionary principles and the inconsistency of this development with the Objects of the Environmental Planning and Assessment Act, the selected site is both unsuitable and not in the public interest. This is evidenced by the fact that the proposed development is unachievable on the site without long lasting negative community and environmental impacts. The threat to the natural environment as a consequence of this proposal should in itself lead to the refusal of the project. In this respect Council strongly recommends that the following reasons for refusal relating to biodiversity impacts be considered:

Biodiversity

1. Inability to provide an adequate buffer from the proposed development footprint to the adjoining nature reserve and national park which are classified as an 'Area of Outstanding Biodiversity'.
2. Failure to quantify and therefore adequately address the indirect impact of the proposed development on the adjoining nature reserve and national park.
3. Insufficient evidence to support the claim that there will not be '*serious and irreversible impact*' to native species, especially the large-eared pied bat.
4. Insufficient evidence to support the claim that a 'linear' alignment of the wind turbines will result in less bird and bat mortalities.
5. Failure to adequately identify the current population threshold of the local bird and bat population in the vicinity of the proposed development.
6. Inability to deliver any practical 'biodiversity offset' outcomes in terms of the local bat population affected by the proposed development.

Should you require any clarification in relation to the matters raised above, please contact Council on the detail below.

Yours faithfully,



Gina Vereker

Director - Liveable Communities

Contact: 

10 July 2023

Criteria	Units	Hills of Gold	Gullen Range	Boco Rock	White Rock	Sapphire	Bodangora	Biala	Crudine Ridge	Collector	Flyers Creek	Crookwell 3	Bango	Uungula	Liverpool Range	Yanco Delta	Rye Park	Spicers Creek	Thunderbolt		
		2024	2009	2010	2012	2013	2013	2016	2015	2013	2013	2013	2019	2018	2021	2018	2023	2017	2024	2024	
Date																					
Status		Assessment	Constructed	Constructed	Constructed	Constructed	Constructed	Constructed	Constructed	Constructed	Under Construction	Under Construction	Constructed	Constructed	Approved	Approved	Under Construction	Assessment	Assessment		
Turbines	No.	47	73	122	119	159	33	31	77	63	43	23	75	97	267	208	109	117	32		
Size	MW	282	241	270	238	319	120	78	135	214	132	83	255	400	960	1500	482	700	192		
Height	m	230	135	152	150	157	150	185	160	150	150	157	200	250	165	270	157	256	260		
Elevation	m	1410	900	1100	1350	1100	650	910	1000	900	950	750	705	1000	110		540	1140			
Output Capacity	GWh	723	510	786	830	999	333	242	420	600	342	275	730	1245	2760	5532	1056				
Capacity factor	%	29.3	24.1	33.2	39.8	35.8	31.7	35.4	35.5	32.0	29.6	37.8	32.7	35.5	32.8	42.1	25.0				
Battery OH	MW/MWh	100/400										150/150					800/800		400/1800		
Transmission	km	28.5	13	29	16	10	5.8	0	15	0	26		5.5	27	81.9	90	35	50			
Public Submissions - Total	No.	562	59	9	5	10	151	39	108	128	120	95	89	33	35	8	349	67	118		
Public Submissions - Against	No.	387	52	4	3	5	142	38	98	68	81	35	51	13	20	2	228	57	98		
Against Non-associated dwellings	%	69%	88%	44%	60%	50%	94%	97%	91%	53%	68%	37%	57%	39%	57%	25%	65%	85%	83%		
within 5km		56	250	17	38	70	15	13	56	115	132	76	37	10	7	9	205	25	27		
Local road length	km	64		22.7	0	18.4	11.2						0	63.5					0		
Internal tracks	km	48.7	49.6	70		78	39	27	50	42			56	90	274		143.4	165	50		
Max. hill slope	%	50	30	32	40	25	12	20	30				30	30		<5%	30		30		
tracks in >30% side slope	%	17																			
Track slope (along)	%	25	17			17	12	17	20				20			<5%	20		20		
Erosion potential		very high		moderate-high					high				high				high	high	high		
R-Factor (rainfall erosivity)		1980							1375				1175	1500							
Max.cut/fill	m	24																			
Disturbance area	Ha	447	91.5	200	1361	288	254.07	42	106	74	55	30	138	637	744.9	238	254	1520	215		
Biodiversity (flora)	Credit liability	5770											2203	26020	30532	8631	9729	7927	4470		
Biodiversity (Fauna)	Credit liability	9362											1245	18123	3799	2337	5728	2282	4814		
Native vegetation clearing	Ha	183.6		174.3	22	288.77	1.32	3.4	105	34.81	1.1	2.34	126.5	626	401.5	174.2	50.2	267.8	211.5		
Water Demand	ML	55				28.8		33	20.6				60		65	417.9	90	120	100		
Dist. to formed public road	m	68	650	65	900	200	95	690	770	100			1000	600	<100	<200	550		100		
National Park/Nature Res	m	130	17800	10200	15900	3900	13700	29100	20860	3100			15700	21300	1870		620	200	14100		
BSAL	Ha	34												0	93		620	0	0		
Jobs - operation	No.	28	15	15	20	8	4	7	15	10	5	6		12	47	30	12	12	9		

Ice throw	m	473	250	100	100				
Local traffic noise criteria	dB	60	55	55	55	55	55	55	55
						N/A			N/A

Notes

1 Distance to public roads is turbine centre to edge of road reserve.