

11 December 2023

Professor Alice Clark  
Panel Chair – Independent Planning Commission  
Suite 15.02  
135 King Street  
Sydney NSW 2000

Dear Professor Clark

**Independent Planning Commission - Request for Advice – Bowmans Creek Wind Farm - SSD 10315**

The Bowmans Creek Wind Farm (the **Project**) is a State Significant Development Project located within the Upper Hunter, Muswellbrook and Singleton local government areas. The Project proposes to install 54 turbines, 12 of which are proposed for the Singleton Local Government Area (LGA).

Since 2021, the three councils have been working collaboratively together to identify and resolve issues of concern regarding the Project. These issues have included:

- Impacts to the local road network
- Impacts to local road users
- Voluntary Planning Agreement
- Transmission lines

Singleton Council has provided input into the assessment process of this application on 11 May 2021, 5 November 2021, 22 April 2022, 28 February 2023 and 28 September 2023 (**Attachment 1**). Consistently throughout this correspondence, Singleton Council has raised concerns regarding the impact of the Project on the local road network and the installation of transmission lines within the road reserve.

In response to Council's latest correspondence of 28 September 2023, the Applicant provided further information in correspondence dated 5 October 2023. It is the council's understanding that this letter will form part of the EIS, which the development is required to be carried out in accordance with.

The council remains concerned about the impacts of this development on its assets as well as local road users, some of whom are also heavy vehicles. These concerns have not been alleviated through draft conditions of consent, or the applicant's letter of 5 October 2023.

Given the timing of the referral to the Independent Planning Commission for determination, council's submission is preliminary in nature until a meeting of Council

formally endorses the submission. The earliest Council meeting with which to seek endorsement will be February 2024. Council reserves its right to defer the submission to the meeting in March 2024, if required, to provide Councillors with adequate time for review of the staff submission. It should be noted that amendments to council's submission, or a subsequent submission, may occur as a result of this process.

The ability of council let alone the community, to review and provide meaningful submissions into a significant Project in our region in such a short timeframe over the Christmas period, is not only limited, it creates unnecessary stress for communities.

### **Impacts to the Local Road Network**

The Department's Assessment Report (Section 6.3) acknowledges the concerns expressed through submission about the impacts of heavy vehicle traffic on the local road network. The Project proposes to access the site via the New England Highway, Hebden Road and Scrumlo Road. Construction traffic would span an 18-month construction period, and require 560 heavy vehicle movements.

Local road upgrades or improvements are required at 75 distinct points along Hebden Road, Scrumlo Road and Bowmans Creek Road (within the Singleton LGA) and Albano Road (within the Muswellbrook LGA). Draft conditions of consent have been prepared by the Department of Planning and Environment and include the following provisions:

- Condition B1: specific transport routes for heavy vehicles.
- Condition B2: specific road upgrade requirements as set out in Table 1-1 of Appendix D of the Response to the Department's Request for Information dated 1 September 2023. A note to this condition requires the applicant to obtain a s138 approval under the Road Act 1993 from the relevant road authority for these works, prior to the commencement of works.
- Condition B3: requirement to obtain necessary approval for the use of heavy vehicles requiring escort.
- Condition B4: specifies the road maintenance requirements during operation of the Project.
- Condition B5: specifies the operating conditions for the use of heavy vehicles. Council notes that this includes conditions requiring the Applicant to avoid peak periods, however does not include avoiding school bus times.
- Condition B6: requires the Applicant to prepare a traffic management plan that includes, amongst other things, notification to the local community about traffic impacts, minimizing potential cumulative traffic impacts with other road users and minimizing conflicts with rail services, stock movements, school buses and other road uses as far as practicable.

The road upgrades required to allow for heavy vehicle transportation of turbine components are significant. Council currently maintains these roads to a rural road standard, with narrow widths, often not capable of supporting two lane traffic, unformed shoulders, gravel surfaces, steep grades and rudimentary drainage structures. To upgrade the local road network to allow for heavy vehicle transportation requires significant work. These upgrades, once completed, will place downward pressure on

Council to maintain the standard, not just for the life of the Project, but in perpetuity. The consequences of this on Council's resources has not been considered for both operational and decommissioning phases of the Project.

To that end, Council has requested that a condition of consent be imposed that requires the Applicant to enter into a Deed of Agreement for works within the road reserve and that the Deed of Agreement include an annual fee/decommissioning payment to provide for the long term, post project maintenance of the upgraded road network.

Historically, these requirements have been documented within Voluntary Planning Agreements, however, Council believes it is more appropriate to apply a condition of consent that requires financial compensation for the maintenance of the upgraded road network after the Project has ceased. Council has applied a similar condition of consent against the Hebden Quarry (DA8.1997.236.6) which has been in place since 1997.

### ***Annual contribution for road maintenance costs***

*Commencing within 3 months of construction within the road reserve, and annually thereafter, the Applicant will make an annual payment to Singleton Council of a contribution towards the upgrading of Hebden Road, Scrumlo Road and Bowmans Creek Road as identified in Appendix 5. This contribution will be for the costs incurred by Council in maintaining the upgraded road network identified that was created because of the Project (Appendix 5). This contribution will be 10% of the total costs of construction works undertaken as determined by a qualified quantity surveyor and shall be payable annually (as adjusted for CPI) for the duration of the Project.*

### **Impacts to Local Road Users**

It is important to note that the existing users of Hebden Road include local residential traffic, school buses and industrial users at both local mining operations and the Hebden Quarry. Whilst condition B6 requires the traffic management plan to include interaction management with other road users, council considers that the risks to school children from heavy vehicles on the road network is significant enough to require that condition B5 include a restriction on heavy vehicle traffic movements during school bus operations.

### **Voluntary Planning Agreement**

Council acknowledges that an in-principle agreement has been accepted in relation to the proposed Planning Agreement at condition A18 and Appendix 3. As noted in our meeting with the Commission on the 28 November 2023, Council has recently adopted an amendment to its Planning Agreement Policy that provides for a minimum 1.5% of the Capital Investment Value for all State Significant Development planning agreements. The amended Policy was adopted by Council in November 2023 following a 28-day exhibition period.

## **Transmission Lines in the Road Reserve**

In March 2021, the Applicant wrote to Council with a proposal to install approximately 2.6 kilometres of high voltage powerlines underground within the existing road reserve of Hebden Road, within the Singleton and Muswellbrook local government areas. The voltage of this underground transmission line will be up to 330kV.

The proposal is to install the powerline within a trench to a depth of 1.2 metres, within the road pavement. The Applicant acknowledges that a section 138 from the relevant road authority (council) is required prior to commencement of these works and is likely to seek an easement to enable the works to take place.

To date, consultation with council regarding the use of its asset for the provision of infrastructure have not taken place. Council remains resolute that the application should not be determined until council is fully aware of the potential legal and safety consequences for such a proposal, and the interrelationships between the two councils in relation to any required Deed of Agreement. Council supports a Deed of Agreement that includes:

1. *Any changes/upgrades required to the Hebden Road pavements as a result of construction-allied activity will need to be at the Applicant's expense;*
2. *An upfront payment for the creation of an easement within the public road, along with an annual fee will be payable to Council for use of Hebden Rd for transmission purposes (values to be determined);*
3. *The transmission infrastructure is to be removed as part of the decommissioning process so that Council is not exposed to future expenses; and*
4. *Provision of a Bond for the decommissioning and rehab costs of removing electricity transmission infrastructure from within the road reserve.*

However, the legal basis for using a road reserve for the installation of private infrastructure has not been addressed by the Applicant, or the Department in its Assessment Report. There is no condition of consent proposed to avoid, mitigate or manage the impact of high voltage transmissions lines within the road reserve.

The Applicant has committed to consulting with council during the development of detailed powerline design. The Applicant, in its correspondence of 5 October 2023, states that *'The intent is to align the underground powerline in the road reserve to avoid direct impacts to the formed road, although some crossing of the formed road will be required. The proponent also acknowledges that s138 or another type of deed of agreement will be required for the terms of the powerline easement including annual easement payments, liability for road maintenance and powerline maintenance'*.

Council does not consider this to be adequate. Council acknowledges that the Applicant had provided a Draft Deed of Agreement for council's consideration, however, the Applicant has had over two years to engage with council on the detailed powerline design, seek legal advice as to the mechanism for establishing any easements and undertake detailed risk assessments on the legal and safety consequences to council and other road users.

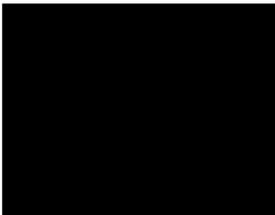
Should the Independent Planning Commission be of a mind to approve the development, a condition of consent addressing this matter is essential to:

- Ensure the requirements of the *Roads Act 1993* are met, in particular a requirement for the Applicant to obtain consent from the road authority (Council), prior to commencement of the project;
- Ensure the proposed underground infrastructure does not impact on existing and/or other future users of the subject public road reserves;
- Ensure management of the underground infrastructure is undertaken in a transparent, safe and responsible manner, at no cost to council or other road users;
- Address the impacts and risks associated with the design, construction, maintenance and decommissioning of the transmission lines;
- Ensure road use remains functional and the installation considers all viable options ahead of within the formed road;
- The financial responsibilities of the Applicant in relation to legal costs, bond, restoration, liabilities and indemnities, compliance, compensation for easements and long term maintenance of the road reserve;
- Outline the legal framework and requirements for installation of high voltage transmission lines in the road reserve; and
- Establish a framework for communication, emergency response, maintenance and compliance.

### **Conclusion**

I would like to thank the Independent Planning Commission for the opportunity to provide a submission into the determination of the Bowmans Creek Wind Farm. Please do not hesitate to contact Mary-Anne Crawford Manager Development and Environmental Services should you have any questions regarding our submissions to the Project on 02 6578 7290 or at [council@singleton.nsw.gov.au](mailto:council@singleton.nsw.gov.au)

Yours sincerely



Mary-Anne Crawford  
**Manager Development and Environmental Services**