

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)

Ref: Ir/SL/GV Document Set ID 2252834

Introduction

I write to you in relation to the proposed Hills of Gold Wind Farm development, in response to which Tamworth Regional Council has now lodged six extensive written submissions objecting to a proposal that in Council's view remains fundamentally inadequate with respect to site suitability constraints, constructability and its impact on a significantly important biodiverse environment. In addition, it should by now be entirely apparent that the project has failed to achieve any measure of social license, with its impact on the Nundle community unacceptable.

In respect to the latest information and changes to the Department of Planning, Housing and infrastructure's (the Department) recommendation for approval, Council considers the consultation period insufficient to properly consider the impacts. However, the components of change that we do understand are extremely concerning.

This is Council's latest letter of objection in response to the IPC's request for submissions on additional material provided by the Applicant and the Department received on the 27 June 2024.

Latest Information

Based on the latest information, Council now understands that:

Number of turbines and feasibility

- The Department has backflipped on its original decision to remove certain turbines from the Project and will now allow up to 62 turbines (an additional 15 turbines, a not insignificant number). It is understood that the Department has accepted a case put forward by the applicant that indicates that without the reinstatement of certain turbines the project would be unfeasible. It is noted that the Department sought advice from the Independent Expert Advisory Panel for Energy Transition to consider the feasibility argument.
- Surely feasibility (if it is valid) is not the only criteria for determining whether a development is appropriate. It appears that the Department has failed to consider the requirements of its own legislation to determine site suitability and the public interest in accordance with the Environmental Planning and Assessment Act. The development fails on both of these counts.
- Council's position remains that this Development **should not proceed**. In the Department's own words, this Applicant is not a "Model Wind Farm Applicant", it has not adequately addressed the significant issues (raised time and time again), it has not achieved important landowner agreements, it has not laid to rest valid community concerns, it has not achieved social license. This is not a good development.

Public interest

- Public interest assessment by the Department does not consider the thousands of turbines in the Planning system either awaiting approval or ready for construction across NSW and Australia. The absence of the turbines proposed by the applicant will not significantly affect the state's progression to a reliance on renewable energy. Council is aware of at least 18 renewable energy projects in various stages of development within this region alone. The absence of the Hills of Gold project will make little difference, taking into account its overwhelming negative impacts. There are far better projects with minimal environmental impacts and greater social licence underway or in development phase.
- Council therefore cannot agree with the Department's assessment, that this development is in the public interest, nor that it has to be approved at all cost.

Voluntary land acquisition

- The inclusion of a voluntary land acquisition condition which puts the onus on an adjoining land owner (Lot 47 DP 753722) to initiate an uncertain acquisition process will set a precedent for future developers and is considered to provide an unjustifiable commercial advantage to the Applicant. It also places the land owner in an untenable position and basically leaves them with no alternative.

Constructability

- There still does not appear to be any additional information regarding the constructability requirements or impacts on the environment in relation to the onsite Western Access Haulage route (from Crawney Road to the Top of the Ridge). This is a serious omission. (See more detailed discussion below).

Applicant delays

- The Department has been highly critical of the Applicant in respect of the number of delays. Council agrees with this sentiment, noting the Department's comment "...the project, as it was proposed in the EIS, had substantial issues that would have likely led to a recommendation for refusal". In Council's view there has been little to no change in the project to alleviate the original concerns with the development and substantial issues remain. In fact, as a result of this "new information" lodged by the applicant, the development will now have a greater impact than its previous version. Therefore, the Department's recommendation for approval has even less validity. Noting the Department's criticism of the applicant's behaviour and of the original proposal, Council finds it extremely concerning that the Department has put aside all of its own concerns to recommend approval.

Summary

- Council calls on the IPC to consider the bigger picture, recognise the failings of the Applicant, acknowledge that there will be lasting negative impacts and make a determination by way of a refusal.

Uncertainty around Road Upgrades

It is noted that the opinion Council offered (via its legal advisers) in respect of the uncertainty of the road upgrade conditions has been rejected by the Department, and the associated conditions (B23 and B33) stand. It is therefore likely that Council may find itself at loggerheads with the developers / its construction contractors around certain upgrades, maintenance obligations and bonding arrangements (via the S138 process). In that case the Planning Secretary will be adjudicating. This is extremely disappointing in that it basically removes Council's ability to control and manage the roads for which it is responsible using its own community's money.

Overhang on Gazetted Roads

It is noted with concern that the Department removed Condition B46 which called for a safety management plan around blade throw and the like. Council understands that the condition was removed on the grounds that the underlying reference for the condition was the Department's dangerous goods policies (which do not technically apply to wind turbines and BESS elements). That leaves the Section 138 process as Council's only option should it wish to refuse any turbines that overhang its gazetted roadways. In the case of a disagreement, once again the Planning Secretary will be the adjudicator. Council originally and has consistently requested a minimum setback of 200m from gazetted roadways, with that distance being recommended by the **Australian Energy Infrastructure Commissioner** (2022) as an absolute minimum. The Department has effectively ruled that no setback is required. It is unclear however if the Department considers actual overhangs to be acceptable.

Council is firmly of the opinion that 200m setbacks are appropriate, and that actual overhangs are absolutely out of the question. Council is concerned that the Department has significantly underestimated the potential safety implications of its (the Department's) position. Council would question therefore, should there be an accident, who would be held accountable, and is the risk a reasonable one if based simply on assisting the developer. Council reiterates its request that if the development is to be approved, that the Department includes wording (perhaps in the "micro-siting" condition) to the effect that "under no circumstances shall any part of any turbine or blade overhang a gazetted roadway or a track in use upon which the public can travel".

The Last Mile Transport Route

Council would reinforce its concerns regarding the "last mile" transport route which remains 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 (western access from Crawney Road) through extreme terrain and highly unstable soil profiles;
- As mentioned earlier, the absence of information regarding the constructability requirements and impacts on the environment in relation to the onsite Western Access Haulage route (from Crawney Road to the Top of the Ridge);
- 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 lack of clarity and the applicant's silence on the above matters which are intrinsic to the practical implementation of the development totally supports Council's argument that this development will be undeliverable without massive long term environmental damage.

Further, the Department's decision to put aside these constraints to the project's viability and the resultant impacts, to post the development consent is extremely concerning. Based on this lack of clarity alone Council would argue that it would be impossible to conclude that in its current form the project is either suitable for the site or in the public interest. Therefore, the only option available to the consent authority is a refusal.

Yours faithfully



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