Form 43 (version 1)
UCPR 36.11

# ORDER

## COURT DETAILS

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| Court | Land and Environment Court of New South Wales |
| Registry | Sydney |
| Case number | 11216 of 2007 |

## TITLE OF PROCEEDINGS

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| Applicant | **RES Southern Cross Pty Ltd** |
| First Respondent | **Minister for Planning** |
| Second Respondent | **Taralga Landscape Guardians Inc** |

## DATE OF ORDER

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| Date made or given | 20 April 2009 |
| Date entered | 27/4/2009 |

## TERMS OF ORDER

The Orders of the Court are:

1. The Appeal is upheld.

2. Development Consent given by the Court on 23 February 2007 to Development Application 241/04 is modified so as to permit construction and operation of a wind farm consisting of 61 x 1.5 – 3 megawatt turbines each consisting of a tower, nacelle and rotor with 3 fibreglass blades with a maximum overall height of 131.5 metres to the top of the rotor at its apex and a maximum rotor diameter of 103 metres, associated access tracks, transformer units, electrical substation and control building, network of electrical connections linking each turbine to the electrical substation and a TV re-transmitter tower at various locations on properties known as "Circle C", "Greenhills", "Killarney", "Montrose", "Rossville", "Selection", "Summerlea", "The Meadows", "Tyrol" and "Woolbrook" and a parcel of vacant Crown land (totalling about 3,830 hectares and all located between about 3 km and about 7 km east of the village of Taralga) subject to the conditions of consent set out in Annexure A.

The Court notes that the making of these Orders does not affect or extend the term of the Development Consent originally given by the Court on 23 February 2007.

THE SEAL OF THE LAND AND ENVIRONMENT COURT
NEW SOUTH WALES

## SEAL AND SIGNATURE

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| Court seal | |
| Signature | |
| Capacity | ACTING REGISTRAR |
| Date | 27/4/09 |

THE SEAL OF THE LAND AND ENVIRONMENT COURT NEW SOUTH WALES

## PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12

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| Name | **RES Southern Cross Pty Ltd** |
| Legal representative | Timothy John Webster<br>Middletons<br>Level 26, 52 Martin Place<br>Sydney NSW 2000<br>DX 170 Sydney<br>Phone: +61 2 9513 2300<br>Fax: +61 2 9513 2399 |
| Legal representative reference | AMIG:TWEB:10006920 |
| Contact name and telephone | Antoinette Migliorino 9513 2481 |

## PARTY DETAILS

**Applicant**

RES Southern Cross Pty Ltd

**First Respondent**

Minister for Planning

**Second Respondent**

Taralga Landscape Guardians Inc

**ANNEXURE A**

**Conditions of Consent**

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| Approved Development: | Construction and operation of a wind farm consisting of 61 x 1.5 – 3 megawatt turbines each consisting of a tower, nacelle and rotor with 3 fibreglass blades with a maximum overall height of 131.5 metres to the top of the rotor at its apex and a maximum rotor diameter of 103 metres and associated infrastructure, as described in the *Taralga Wind Farm Environmental Impact Statement* Volumes 1 and 2, prepared by Geolyse, dated November 2004 and as amended by the Applicant on 1 March 2005, 30 November 2007 and 7 August 2008, except as amended by these conditions. |

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**KEY TO CONDITIONS**

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## SCHEDULE 1

In this consent, except in so far as the context or subject-matter otherwise indicates or requires, the following terms have the meanings indicated:

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| Act | *Environmental Planning and Assessment Act 1979* |
| Applicant | RES Southern Cross Pty Ltd |
| AHD | Australian Height Datum |
| CASA | Civil Aviation Safety Authority |
| CIP | Community Information Plan |
| Commissioning | commencement of testing and connection of any individual turbine(s) and may include concurrent ongoing construction activities |
| Conditions of Consent | The conditions set out in this Schedule |
| CEMP | Construction Environmental Management Plan |

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| Construction | any activity requiring a Construction Certificate, the laying of a slab or significant excavation work |
| Council | Upper Lachlan Council |
| dB(A) | decibel (A-weighted scale) |
| the Department | NSW Department of Planning |
| Development | the development to which this consent applies, the scope of which is described in the EIS and these conditions of consent |
| DEC | NSW Department of Environment and Conservation (incorporates the former NSW Environment Protection Authority and National Parks and Wildlife Service) |
| Director-General | Director-General of the NSW Department of Planning or delegate |
| DNR | Department of Natural Resources |
| Dust | any solid material that may become suspended in air or deposited |
| EPA | Environment Protection Authority (part of DEC). DEC continues to exercise certain statutory functions and powers in the name of the EPA |
| EIS | Environmental Impact Statement for the development entitled *Taralga Wind Farm Environmental Impact Statement* Volumes 1 and 2, prepared by Geolyse and dated November 2004 |
| $L_{Aeq}$(10-minute) | equivalent average sound pressure level that is measured over a 10 minute period |
| Minister | NSW Minister for Planning, or delegate |
| OEMP | Operational Environmental Management Plan |
| Operation | any activity at the site that results in the production, or intended production of electricity for contribution to the electricity grid, but does not include commissioning |
| Parcel of land | an allotment or a number of adjoining allotments belonging to the same landowner. |
| Publicly Available | Available for inspection by a member of the general public (for example available on an internet site or at a display centre) and including the Crookwell library and the Council's Community Service Centre, Taralga. |
| POEO Act | *Protection of the Environment Operations Act 1997* |
| Principal Certifying Authority | the Minister or an accredited certifier, appointed under section 109E of the Act, to issue a Part 4A Certificate as provided under section 109C of the Act |

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| Reasonable and Feasible | Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements |
| Relevant receiver | has the same meaning as in the SA Guidelines |
| Regulation | *Environmental Planning and Assessment Regulation 2000* |
| Relevant Government Agencies | the Department, Department of Natural Resources, Department of Lands, RTA, SCA, and Upper Lachlan Council |
| RFS | Rural Fire Service |
| RTA | Roads and Traffic Authority |
| SCA | Sydney Catchment Authority |
| Site | the land to which this consent applies |
| SA Guidelines | the South Australian Environmental Protection Authority's *Wind Farms: Environmental Noise Guidelines* (2003) in existence as at the date of the consent of 23 February 2007. |
| Confidential information | Any information in respect of or in relation to: |

(a) warranty details of any windfarm component (including turbines, electrical equipment or cables, monitoring equipment, television re-transmission tower, buildings or any civil works);

(b) contractual or commercial arrangements with any landowners, suppliers, customers or other third parties;

(c) contractual or commercial arrangements with windfarm owners or managers;

(d) Any matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (whether living or deceased); and

(e) The energy performance and/or capacity of any turbine.

## GENERAL CONDITIONS

A. The explanatory notes are provided for the purposes of information only and do not form part of the conditions of consent.

### Deferred Commencement

1. In accordance with section 80(3) of the *Environmental Planning and Assessment Act 1979*, this development consent shall not operate until the Applicant has satisfied the Director-General that it has obtained approvals for the construction of a transmission line and its connection to the electricity grid. For the purpose of this condition, approval means a consent or approval that has been obtained under the Act and/or any relevant determining authority has completed its assessment obligations under Part 5 of the Act for the transmission line.

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| Note: | At the time of lodgement of the Development Application, the Applicant had not determined the final alignment of the transmission line. Details of likely options are known and the Department considers that there are reasonable and likely options where a transmission line could be approved. However, as there are no final approvals, deferred commencement consent has been granted to permit the Applicant to satisfy the Director-General that such approvals have been obtained prior to any commencement of construction works related to the development. |

### Scope of Development

2. This consent permits the construction and operation of the development on the following land: Lots 27, 129, 131, 195, 99, 93, 91, 90, 6 DP 750046; Lots 193, 29, 187, 157, 156, 154, 150, 158 DP 750046; Lots 3, 4, 5 DP 587908; Lots 2, 3 DP 171929; Lot 16, 21 DP 750046 Conveyance No. 994, Book 3335; Folios 216, 217, Vol. 6796; Allocated portion 238 DP 750046; Lots 216, 215, 55, 88, 48, 45 DP 750046; Lots 22, 23, 87, 62, 61, 89, 38 DP 750046; Lots 122, 121, 5, 58, 54 DP 750046; Lot 18 DP 5254; Lot 2 DP 773412; Lot 2 DP 1018120; Lot 2 DP 836457; Lot 4 DP 955581; Lot 7 DP 10897; Lot 6 DP 8040; Lot 1 DP 605482; Lot 21 DP 733863.

3. The Applicant must carry out the development generally in accordance with the following documents:

   (a) Development Application No. DA-241/04; lodged with Upper Lachlan Council on 10 November 2004;

   (b) *Taralga Wind Farm Environmental Impact Statement* (two volumes) prepared by Geolyse, dated November 2004;

   (c) *Proposed Taralga Wind Farm: Response to the Department Questions*, RES Southern Cross, dated 28 January 2005, 4 February 2005, 28 February 2005, 11 March 2005;

   (d) *Proposed Taralga Wind Farm: Response to RTA Questions*, RES Southern Cross, dated 31 January 2005;

   (e) *Proposed Taralga Wind Farm: Response to Questions from Department of Lands*, RES Southern Cross, dated 25 January 2005;

   (f) *Proposed Taralga Wind Farm: Response to DEC Questions*, RES Southern Cross, dated 24 January 2005, 17 February 2005, 3 March 2005, 15 March 2005;

   (g) *Proposed Taralga Wind Farm: Amendment to Development Application*, RES Southern Cross, dated 1 March 2005;

(h) *Proposed Taralga Wind Farm: Additional Information on Amendment to Development Application*, RES Southern Cross, dated 15 March 2005, 21 March 2005;

(i) Modification Application lodged with the NSW Land and Environment Court on 30 November 2007 and accompanied by a report prepared by the Applicant titled *Taralga Wind Farm Project: Application for Modification of Development Consent DA 241/04 granted by the NSW Land and Environment Court 23rd February 2007 pursuant to section 96(8) of the EP&A Act* and dated 30 November 2007;

(j) *Taralga Wind Farm Project: Application for Modification of Development Consent DA 241/04 granted by the NSW Land and Environment Court 23rd February 2007 pursuant to section 96(8) of the EP&A Act, Supporting information for hazard lighting and noise assessment*, RES Southern Cross, dated 13 March 2008;

(k) Amended application filed by the Applicant in Court on 7 August 2008; and

(l) the Conditions of this Consent

If there is any inconsistency between the Conditions of this Consent and a document listed above, the Conditions of this Consent must prevail to the extent of the inconsistency. If there is any inconsistency between documents listed above (other than the Conditions of this Consent) then the most recent document must prevail to the extent of the inconsistency.

**Land Acquisition**

4. Following commencement of construction, if requested by the landowners of the land referred to in Schedule 2 of this consent, the Applicant must, within six (6) months of receipt of a written request from the owner of that land, proceed to acquire the property in accordance with the acquisition procedure detailed under conditions 5 to 8 inclusive, of this consent. Any such request by a landowner to have their property acquired must be received by the Applicant within three (3) years of the commencement of Operation.

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| Note: | This condition does not prohibit the landowner of the land referred to in this condition from entering into a negotiated agreement with the Applicant with respect to visual and noise impacts associated with the development. Should an agreement be reached, the Applicant shall forward a copy of the agreement to the Director-General as soon as practicable. |

5. Within three (3) months of receiving a written request from a landowner with acquisition rights (determined by condition 4) of this consent), the Applicant must make a binding written offer to the landowner based on:

   (a) the current market value of the owner's interest in the property at the date of this written request, as if the property was unaffected by the development the subject of this consent, having regard to:

      (i) the existing use and permissible use of the land in accordance with the applicable environmental planning instruments at the date of the written request to purchase the property; and

      (ii) presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date, but excluding any improvements that have resulted from the implementation of any conditions of this consent;

(b) the owner's reasonable compensation for disturbance allowance and, where relevant, relocation costs within the Upper Lachlan or Goulburn local government area, or within such other location as may be determined by the Director-General; and

(c) the owner's reasonable costs for obtaining legal advice and expert witnesses for the purposes of determining the acquisition price of the land and the terms upon which it is to be acquired.

6. In the event that the Applicant and the relevant land owner cannot agree (within six weeks of the binding written offer to the landowner) on the acquisition price referred to under condition 5 of this consent and/or the terms of the acquisition, then either party may refer the matter to the Director-General.

Upon receiving this request, the Director-General shall request that the President of the NSW Division of the Australian Property Institute appoint a qualified, independent valuer, or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

Within 14 days of receiving the independent valuer's determination, the Applicant must make a written offer to purchase the land at a price not less than the independent valuer's determination.

If the landowner refuses to accept the offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land shall cease, unless otherwise agreed by the Director-General.

7. The Applicant shall bear the costs of any valuation or survey assessment required by the independent valuer/Fellow of the Institute, all relevant costs associated with determination of the acquisition price incurred through the processes referred to under condition 5 and condition 6 of this consent.

8. In the event the Applicant and the landowner agree that only part of the property that is subject to an acquisition request under condition 5 of this consent is to be acquired, the Applicant shall bear the reasonable costs associated with obtaining approval for any plan of subdivision and registration of the plan with the Office of the Registrar-General.

8A. Notwithstanding conditions 4 to 8, the owners of the Cushendall Vineyard property and the owners of Lots 145 and 147 DP 750046 may request at any time during the three years and up to six months after the expiry of the period specified in condition 4, landscaping treatment on their property in accordance with the provisions outlined in condition 32 of this consent. If this occurs, and the works are carried out, the Applicant is not required to consider any request for acquisition of the property (or part thereof). This condition only applies where development consent or a complying development certificate has been issued up to three (3) years from commencement of Operation of the development for any dwelling to be constructed on these properties.

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| Note: | Complying development and complying development certificates are described in Division 3 Part 4 of the Act. |

### Provision of Documents

9. The Applicant must make all relevant documents, with the exception of any confidential information, required under this consent, as identified in Schedule 3 of this consent, publicly available following their approval by the Director-General or issuing by the relevant government authority as the case may be, including provision of all documents at the site for inspection by visitors.

**Statutory Requirements**

10. The Applicant must ensure that all necessary licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals.

**Provision and Protection of Public Infrastructure**

11. The Applicant must:

    (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and

    (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

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| Note: | The Applicant must ensure that all works are carried out in accordance with the *Environmental Planning and Assessment Act 1979 and the Local Government Act 1993 (Approvals) Regulations and the Building Code of Australia*. |

**Compliance**

*General*

12. The Applicant must be responsible for environmental impacts resulting from the actions of all persons on site associated with the development, including contractors, subcontractors and visitors.

*Pre-Construction Compliance Report*

13. The Applicant must submit a Pre-Construction Compliance Report to the Director-General at least two weeks prior to the commencement of construction (or within a time agreed to by the Director-General) certifying, to the satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to construction. The Pre-Construction Compliance Report must include:

    (a) details of how the conditions of consent required to be addressed prior to construction have been complied with;

    (b) details of when each relevant condition of consent was complied with, including submission dates of any required report and/or approval dates; and

    (c) details of any approvals or licences required to be issued by Relevant Government Agencies prior to the commencement of construction.

*Pre-Operation Compliance Report*

14. The Applicant must submit a Pre-Operation Compliance Report to the Director-General at least two weeks prior to the commencement of Operation (or within a time agreed to by the Director-General) certifying, to the satisfaction of the Director-General, that it has complied with all conditions of this consent applicable prior to operation. The Pre-Operation Compliance Report must include:

    (a) details of how the conditions of consent required to be addressed prior to commencement of operation have been complied with;

(b) details of when each relevant condition of consent was complied with, including submission dates of any required report and/or approval dates; and

(c) details of any approvals or licences required to be issued by Relevant Government Agencies prior to the commencement of operation.

*Construction Compliance Report*

15. The Applicant must provide the Director-General with a Construction Compliance Report. The Environmental Representative, required under condition 27, must certify the adequacy of the report before it is submitted to the Director-General. The Construction Compliance Report must address the first six months of construction and be submitted within six weeks of the end of that reporting period (or at any other time interval agreed to by the Director-General).

The Construction Compliance Report must include information on:

(a) compliance with the CEMP and the conditions of consent;

(b) compliance with any approvals or licences issued by Relevant Government Agencies for Construction;

(c) the implementation and effectiveness of environmental controls. The assessment of effectiveness should be based on a comparison of actual impacts against performance criteria identified in the EIS and CEMP;

(d) a summary and analysis of environmental monitoring results;

(e) the number and details of any complaints, including a summary of the main areas of complaint, action taken, response given and intended strategies to reduce recurring complaints;

(f) details of any review and amendments to the CEMP resulting from construction during the reporting period; and

(g) any other matter relating to compliance with the conditions of consent or as requested by the Director-General.

The Construction Compliance Report must be made publicly available.

*General Compliance Reporting*

16. The Director-General may require Update Report(s) on compliance with all, or any part, of the conditions of consent. Any such report must meet the requirements of and be to the satisfaction of the Director-General and be submitted within such period as the Director-General may require.

17. The Applicant must meet the requirements of the Director-General in respect of the implementation of any measure necessary to ensure compliance with the conditions of consent, and general consistency with the documents listed under condition 3 of this consent. The Director-General may direct that such a measure be implemented in response to the information contained within any report, plan, correspondence or other document submitted in accordance with the conditions of consent, within such time as the Director-General may require.

**Construction and Part 4A Certification**

18. Prior to the commencement of construction associated with the development, the Applicant must erect at least one sign in a prominent position on the site, including in the vicinity of turbine 43. The sign(s) must indicate:

    (a) the name, address and telephone number of the Principal Certifying Authority;

    (b) the name of the person in charge of the construction site and telephone number at which the person may be contacted outside working hours; and

    (c) a statement that unauthorised entry to the construction site is prohibited.

    The sign(s) must be maintained for the duration of construction works, and must be removed as soon as practicable after the conclusion of the construction works.

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| Note: | Turbine 43 is located as identified in Attachment 1. The Applicant must ensure that all works are carried out in accordance with the *Environmental Planning and Assessment Act 1979 (the Act) and the Local Government Act 1993 (Approvals) Regulations and the Building Code of Australia.* |

**Environmental Monitoring**

*General Monitoring Requirements*

19. The Applicant must undertake all monitoring, including recording and reporting of monitoring results, as required under this consent and as may be specified in an Environment Protection Licence for the development.

20. The results of any monitoring required under this consent must be recorded and maintained, as set out below. All records kept must be:

    (a) in a legible form, or in a form which can be readily reduced to a legible form;

    (b) kept for at least 4 years after the monitoring or event to which they relate took place; and

    (c) produced in a legible form to any authorised officer of the DEC or the Department who asks to see them.

21. The following records must be kept in respect of any samples required to be collected:

    (a) the date(s) on which the sample was taken;

    (b) the time(s) at which the sample was collected;

    (c) the location at which the sample was taken (including a description of the DEC identification point); and

    (d) the name of the person who collected the sample.

**Environmental Impact Audits**

*Environmental Impact Audit Report – Construction*

22. A Construction Environmental Impact Audit Report must be prepared and submitted to the Director-General within three months of construction completion, or at any other time interval agreed to by the Director-General. If requested, the Environmental Impact Audit Report – Construction must be provided to other Relevant Government Agencies.

The Construction Environmental Impact Audit Report must:

(a) identify the major environmental controls used during construction and assess their effectiveness;

(b) summarise the main environmental management plans and processes implemented during construction and assess their effectiveness;

(c) identify any innovations in construction methods used to improve environmental management; and

(d) discuss the lessons learnt during construction, including recommendations for future wind farm developments.

*Environmental Impact Audit Report – Operation*

23. An Operation Environmental Impact Audit Report must be prepared and submitted to the Director-General within six (6) weeks after a 12 month period of Operation and then at any additional periods requested by the Director-General. If requested, the report must be provided to other Relevant Government Agencies.

The Operation Environmental Impact Audit Report must:

(a) be certified by an independent person at the Applicant's expense. The certifier must be approved by the Director-General prior to the preparation of the audit report;

(b) compare the operation impact predictions made in the EIS and documents identified in condition 3;

(c) assess the effectiveness of implemented mitigation measures and safeguards;

(d) assess compliance with the systems for operation maintenance and monitoring; and

(e) discuss the results of consultation with the local community particularly any feedback or complaints and how any such complaints were addressed and resolved.

The Director-General may, having considered the findings of the Report, require the Applicant to undertake works to address the findings or recommendations presented in the Report. The result of the audit report must also be used to update the OEMP where necessary. The need or otherwise to update the OEMP must be certified by the Environmental Representative, required under condition 27. The Applicant must notify the Director-General and Relevant Government Agencies of any updates to the OEMP and provide a copy on request.

24. Deleted

## ENVIRONMENTAL MANAGEMENT

### Construction Environmental Management Plan

25. The Applicant must prepare and implement a Construction Environmental Management Plan (CEMP) in accordance with the Department's publication entitled *Guideline for the Preparation of Environmental Management Plans* (2004) or its latest revision. The Applicant must ensure that the mitigation and monitoring measures identified in the EIS and in these conditions of consent are incorporated into the CEMP.

The CEMP must be prepared in consultation with the Relevant Government Agencies and certified by the Environmental Representative, required under condition 27, as being in accordance with the conditions of consent.

The CEMP must be submitted for the approval of the Director-General at least one month prior to the commencement of Construction, or within such a period otherwise agreed by the Director-General. Site preparation and construction associated with the development must not commence until written approval for the CEMP has been received from the Director-General. Upon receipt of the Director-General's approval, the Applicant must supply a copy of the CEMP to the DEC and Council as soon as practicable.

The CEMP is to be made Publicly Available following its approval.

**Operational Environmental Management Plan**

26. The Applicant must prepare and implement an Operational Environmental Management Plan (OEMP) in accordance with the Department's publication entitled *Guideline for the Preparation of Environmental Management Plans* (2004) or its latest revision. The Applicant must ensure that the mitigation and monitoring measures identified in the EIS and in these conditions of consent are incorporated into the OEMP.

The OEMP must be prepared in consultation with the Relevant Government Agencies and certified by the Environmental Representative, required under condition 27, as being in accordance with the conditions of consent.

The OEMP is to be submitted for the approval of the Director-General no later than one month prior to the commencement of operation, or within such period otherwise agreed to by the Director-General. Operation must not commence until written approval has been received from the Director-General. Upon receipt of the Director-General's approval, the Applicant must supply a copy of the OEMP to the DEC and Council as soon as practicable.

The OEMP is to be made Publicly Available following its approval.

**Environmental Representative**

27. Prior to the commencement of Construction, and in consultation with Council, the Applicant must nominate a suitably qualified and experienced Environmental Representative(s) whose appointment requires the approval of the Director-General. The Applicant must employ the Environmental Representative(s) on a full-time basis, or as otherwise agreed by the Director-General, throughout the life of the development. The proponent must make the identity of the approved Environmental Representative publicly available. The Environmental Representative must be:

(a) the primary contact point in relation to the environmental performance of the development;

(b) responsible for all management plans and monitoring programs required under this consent;

(c) responsible for considering and advising on matters specified in the conditions of this consent, and all other licences and approvals related to the environmental performance and impacts of the development;

(d) responsible for receiving and responding to complaints in accordance with this consent; and

(e) given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

The Applicant must obtain approval from the Director-General for any changes to the appointment of the Environmental Representative that may occur from time to time over the life of the development. Any changes to the appointment or responsibilities of the Environmental Representative approved by the Director General are to be made publicly available.

## COMMUNICATION AND CONSULTATION

### Complaints Management System

28. Prior to the commencement of construction of the development, the Applicant must ensure that the following are available for the community for the life of the development:

    (a) a telephone number on which complaints about operations associated with the development on the site may be registered;

    (b) a postal address to which written complaints may be sent; and

    (c) an email address to which electronic complaints may be transmitted.

    The telephone number, the postal address and the email address must be advertised in a newspaper circulating in the locality prior to the commencement of construction and at quarterly intervals thereafter until construction is completed. This information must also be published on the Applicant's internet site, should one exist, and on a permanent notice board at an appropriately visible location in Taralga Village.

29. The Applicant must keep a legible record of all complaints received in an up-to-date Complaints Register. The Register must record, but not necessarily be limited to:

    (a) the date and time, where relevant, of the complaint;

    (b) the means by which the complaint was made (eg. telephone, in person, mail or email);

    (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;

    (d) the nature of the complaint;

    (e) any action(s) taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and

    (f) if no action was taken by the Applicant in relation to the complaint, the reason(s) why no action was taken.

    The Complaints Register must be made available for inspection on request of the Director-General or an authorised officer of the DEC. The record of a complaint must be kept for at least seven years after the complaint was made.

    Subject to confidentiality, the information in sub-paragraphs (a), (d), (e) and (f) above is to be made publicly available.

### Community Information Plan (CIP)

30. A Community Information Plan (CIP) must be prepared prior to the commencement of Construction. The CIP must set out the community communications and consultation processes to be undertaken during the construction period of the development. The Plan must include but not be limited to:

    (a) procedures to inform the local community of planned investigations and construction activities, including planned construction activities outside standard construction hours;

    (b) procedures to inform the relevant community of construction traffic routes and any likely disruptions to traffic flows and amenity impacts;

    (c) procedures to consult with local landowners in regards to construction traffic to ensure safety of livestock and limited disruption to livestock movements;

    (d) procedures to inform and consult with impacted residences subject to the Off-Site Landscape Plan; and

    (e) procedures to notify relevant properties of the processes available to review potential impacts on television and radio transmission.

    The CIP must be made publicly available prior to commencement of construction.

## VISUAL AMENITY

### Landscaping Requirements

31. As part of the OEMP for the development, the Applicant must prepare, implement and maintain an On-site Landscape Plan. The On-Site Landscape Plan is to address the visual impacts of the development, including the turbines, site access roads, the substation, and the control and facilities building, as far as is reasonable and feasible. The On-Site Landscape Plan is to include, but not be limited to:

    (a) identification of locations for planting and landscaping;

    (b) identification of species to be planted; and

    (c) details of the maintenance program for on-site landscaping associated with the development.

    The On-Site Landscape Plan is to be implemented within six months of commencement of Operation.

32. Prior to the commencement of Operation, the Applicant must notify in writing: all owners of existing or approved residential dwellings with views of a turbine(s) that is located within two (2) kilometres of their dwellings; the owners of the St Ives dwelling; the owners of the dwelling at "Melrose", Barrett's Rd, Taralga – Lot 2 DP No 828288; and the owners of the dwelling at 48 Barretts Road, Taralga that they are eligible to have landscaping treatment on their property in order to minimise the visual impact of the development on their property. Any such owner may request the Applicant, no later than six (6) months after commencement of Operation, to investigate such ways of minimising the visual impact of the development on their property. The Applicant must:

    (a) within fourteen (14) days of receiving the request, commission a suitably qualified person whose appointment has been approved by the Director-General, to investigate reasonable and feasible measures to minimise the visual impacts of the development on the landowners' property using landscape measures; and

(b) give the landowner a copy of the visual impact mitigation report within fourteen (14) days of receiving the report.

If both parties agree on the measures that should be implemented to minimise the visual impact of the development, then a copy of the agreed measures is to be forwarded to the Director-General for approval within one month of agreement being reached.

If the Applicant and the landowner disagree on the landscape works, then either party may refer the matter to the Director-General for resolution.

Following the Director-General's approval, the Applicant must implement those measures with all landscaping being completed within three (3) months.

33. Prior to the commencement of Operation, the Applicant must consult with Council on the need to provide landscaping measures along public road reserves to minimise as far as is Reasonable and Feasible, the visual impact of the development on neighbouring residential dwellings and shadow flicker impacting on public roads and to report to the Director-General on the outcome of the consultation. The Applicant must then implement landscaping measures that are to the satisfaction of the Director-General with all landscaping permitted under this condition being completed within eighteen (18) months from the commencement of Operation of the development.

34. The wind turbines must be painted matt off-white/grey. The blades are to be finished with a surface treatment that minimises any potential for glare or reflection.

35. No advertising, signs or logos are to be mounted on the turbines, except where required for safety purposes.

### Lighting

36. The Applicant must take all practicable means to ensure that all external lighting associated with the development during construction is mounted, screened and directed in such a manner so as not to create a nuisance to surrounding residential dwellings or roadways.

36A. No external lighting at night of any infrastructure associated with the operation of the project, including wind turbine generators, is permitted other than low intensity security lighting.

### Shadow-flicker

37. Shadow flicker from the development must not exceed 30 hours/annum at any residence not associated with the development.

## NOISE AND VIBRATION

### Construction Noise and Vibration Management Sub Plan

38. As part of the CEMP for the development, the Applicant must prepare and implement a Construction Noise and Vibration Management Sub Plan. The Plan must include, but not be limited to:

    (a) details of construction activities, including timing, duration and predicted noise levels (including likely consistency with the EPA's Environmental Noise Control Manual goals);

(b) best management practices to minimise noise resulting from construction activities;

(c) reasonable and feasible noise mitigation measures including consideration of the need for structural measures such as acoustic shielding;

(d) compliance monitoring methods and program;

(e) examination of construction traffic noise impacts to dwellings situated close to local roads east of Taralga including reasonable and feasible methods of mitigating any adverse impacts;

(f) community consultation and a community information program to inform residents when they are likely to affected by construction noise. This must include consideration of traffic noise impacts. In particular, residences adjoining site access routes east of Taralga Road must be notified in writing at least two weeks in advance of concrete pour activities and the details of such activities;

(g) a complaints handling and complaints monitoring program, including details of a contact person to follow up complaints; and

(h) contingency measures to deal with incidents when noise complaints have been received, including feedback on appropriate noise amelioration processes put in place in response to complaints and the timeframe for the introduction of these measures. The feedback must be provided to the complainant.

**Operation Noise and Vibration Management Sub Plan**

39. As part of the OEMP for the development, the Applicant must prepare and implement an Operation Noise and Vibration Management Sub Plan to outline measures to minimise noise emissions associated with the operation of the development. The Plan must address the requirements of the EPA, should there be any and must include, but not be limited to:

(a) identification of all major sources of noise that may be emitted as a result of the operation of the development;

(b) specification of the noise criteria as it applies to each of the relevant receiver locations specified in condition 42 having regard to the results of the monitoring program required under condition 41 and any revised noise prediction modelling;

(c) identification and implementation of best practice management techniques for minimisation of noise emissions from the development;

(d) procedures for the monitoring of noise emissions in accordance with the conditions of this consent; and

(e) a description of the procedures to be undertaken if any non-compliance is detected.

**Construction**

40. Construction activities associated with the development, including heavy vehicles entering and exiting the site, may only be carried out between 7:00 am and 6:00 pm, Monday to Friday inclusive, and between 8:00 am and 1:00 pm on Saturdays. No work is to be carried out on Sundays and public holidays. The following activities may be carried out in association with construction outside of these hours:

(a) any works that do not cause noise emissions to be audible at any nearby residences not located on the site;

(b) the delivery of materials as requested by Police or other authorities for safety reasons; and

(c) emergency work to avoid the loss of lives, property and/or to prevent environmental harm.

Any work undertaken outside the specified construction hours, other than those specified in (a) – (c) of this condition, must not be undertaken without prior consent of the DEC.

**Operation**

41. Prior to the commencement of construction, the Applicant must implement a monitoring program to determine the pre-existing background noise level ($L_{A90,\ 10\ minute}$) at each relevant receiver location specified in condition 42. The monitoring program is to be undertaken in accordance with the requirements of the SA Guidelines.

    A report prepared by a qualified acoustic consultant, who is to receive the prior approval of the Director-General, must be submitted to the Director-General and EPA and contain the results of the survey and analysis.

42. The Applicant must design, operate and maintain the development to ensure that for the relevant receiver locations of H1, H5, H7, H12 and 'The Farm', while they continue to be not associated with the development, the equivalent noise level ($L_{Aeq,\ (10\ minute)}$) from the development at each of these receiver locations does not exceed:

    (a) 35 dB(A); or

    (b) the pre-existing background noise level ($L_{A90,\ (10\ minute)}$) at each receiver location (as determined under condition 41), respectively, by more than 5 dB(A),

    whichever is the greater, for each integer wind speed (measured at 10m height) during operation of the development, measured in accordance with the SA Guidelines.

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| Note: | The residential receivers H1, H5, H7 and H12 are located as identified in Attachment 1. 'The Farm' is located as identified in a letter to the EPA from the Department (dated 6 June, 2005). If any of these residences become associated with the development, they will be exempted from this condition. |

43. Notwithstanding condition 42, where the Applicant's noise modelling predicts that the equivalent noise level from the development at the relevant receiver locations specified in that condition would be: below the limit specified in condition 42(b) but above 35 dB(A), the predicted equivalent noise level must be met at the relevant receiver location.

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| Note: | The Applicant has provided noise predictions for the development in the documents listed under condition 3 with 62 turbines operating. |

44. At all other relevant receiver locations, noise from the development, at any given integer wind speed, must not exceed a level of $L_{Aeq,\ (10\ minute)}$ 35dB(A) at any time, measured in accordance with the SA Guidelines.

45. Noise from the development is to be measured at the most affected point within the residential boundary, or at the most affected point within 20 metres of the dwelling, where the dwelling is more than 20 metres from the boundary, to determine compliance with the noise level limits in conditions 42, 43 and 44.

46. All noise measurements taken for the purposes of this development consent must be undertaken using microphones fitted with a special purpose wind shield such that noise

generated by wind on the wind shield is, to the extent practicable, at least 10 dB(A) below the noise being measured and which does not influence the noise level being measured.

47. The noise limits specified in conditions 42, 43 and 44 do not apply to on-site residences H2, H3, H4, H6, H8, H9, H10, H11, H15, H20 and any additional residences whilst agreements are in place between the Applicant and the respective owners of the residences. For this condition to take effect, the agreements must satisfy the requirements of Section 2.3 of the SA Guidelines.

48. For the purposes of conditions 42, 43 and 44, a positive adjustment of 5dB(A) must be applied to the measured noise levels where audible tones are present. The presence of audible tones must be determined using the methodology in the document *"Wind Turbine Generator Systems – Part 11: Acoustic noise measurement techniques"* (IEC 61400-11:2002).

49. At the relevant receiver locations of H1, H5, H7, H12 and 'The Farm', while they continue to be not associated with the development, the Applicant must, at the owner's request, provide Reasonable and Feasible ameliorative measures such that the acoustic suppression of the façade would increase the noise mitigation of the façade of that dwelling by 5dB(A), beyond that existing at the date of the owner's request, to a maximum façade suppression effect of 15dB(A). Any such request from an owner must be made to the Applicant no later than two (2) years after commencement of operation.

    If the Applicant and the landowner disagree on the ameliorative measures, then either party may refer the matter to the Director-General for resolution, in which case, the Applicant must carry out such ameliorative measures required by the Director-General.

50. The Applicant must establish an anemometer at 10 metres height on a permanent monitoring tower. The permanent monitoring tower is to be installed at a location representative of one of the relevant receiver locations identified in condition 42 and that is to the satisfaction of the Director-General, in consultation with the EPA. The anemometer must be capable of measuring 10 minute wind speed and direction data which is to be transferred electronically to the development's control building via modem, or equivalent.

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| Note: | The purpose of this condition is to provide a mechanism for collection and recording of wind data for use in noise impact modelling and assessment. |

**Noise Compliance**

51. Within six months of operation, the Applicant must engage an independent acoustic consultant(s), who is to receive the prior approval of the Director-General, and to undertake a program of noise monitoring to test the noise emission performance of the development at the locations identified in condition 42 at times without notice to the Applicant (but only where the consent of the landowner has been provided to undertake the program). The program must include, but not necessarily be limited to:

    (a) noise monitoring and assessment generally in accordance with procedures outlined in the SA Guidelines;

    (b) assessment of the noise performance of the development against the noise limits specified in conditions 42 and where relevant, condition 43;

    (c) details of any complaints received during monitoring and assessment in relation to noise generated by the proposal; and

(d) recommendations and a timetable for implementation for any Reasonable and Feasible additional measures necessary to ensure compliance with the relevant noise-related conditions of this consent.

52. Within 28 days of undertaking the noise compliance programs referred to under condition 51 of this consent, the Applicant shall provide the Director-General, each landowner on which the program was carried out and make publicly available a report prepared by the acoustic consultant(s) on the results of the program. If the noise monitoring report identifies any non-compliance with the noise limits specified under this consent, the Applicant shall detail what additional mitigation measures would be implemented to ensure compliance, clearly indicating who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and reported to the Director-General.

Additional mitigation measures shall include, in the first instance, all Reasonable and Feasible source control measures to reduce noise emissions from the development (such as sector management). Once all Reasonable and Feasible source controls are exhausted, mitigation measures may include offering building acoustic treatments and/ or noise screening to affected residents, but may only be used to address noise limit exceedances at the absolute discretion of the relevant landowner. The Applicant shall also demonstrate that the relevant landowner has been made fully aware of the noise levels and other implications of making any agreement

53. Following consideration of the outcomes of the noise compliance program referred to under condition 51 of this consent, the Director-General may require the Applicant to implement additional noise mitigation, monitoring or management measures to address noise associated with the development. The Director-General may require any or all of the measures proposed by the Applicant in the noise compliance report(s), or other measures considered appropriate by the Director-General to be implemented having regard to the SA Guidelines (2003). The Applicant shall implement the measures required by the Director-General within such period as the Director-General may specify.

53A. In the event of:

(a) any complaint from any resident at a relevant receiver about noise of operating turbines being received which the Director-General considers, after investigation, to be a valid complaint, or

(b) after any alteration to the noise operating strategy of the development,

the noise compliance testing procedure in condition 51 is to be repeated for any relevant receiver.

**Noise Mitigation – Vacant Lots**

54. Where reasonable and feasible, physical noise mitigation measures are to be provided by the Applicant for no more than one new dwelling, built on any vacant parcel of land legally existing at the date of this consent (not part of an associated landholding at that date), and upon which a residential dwelling would be permissible at the same date. Noise mitigation is to be provided if the noise levels from the development at the approved location of the new residential dwelling would, without mitigation, exceed the noise limits recommended in the SA Guidelines. The mitigation measures are to achieve a noise level of $L_{Aeq\ 30\ dB(A)}$ inside the habitable rooms of such a dwelling.

This condition only applies to new dwellings for which a development application is lodged with the Council within five (5) years of the date of commencement of commissioning and where a copy of the development application is provided to RES Southern Cross (or any successor in title to RES Southern Cross during such five year period) within 28 days of its lodgement with the Council.

**Blasting and Vibration**

55. The overpressure level from blasting operations associated with the development must not:

(a) exceed 115dB (Lin Peak) for more than five per cent of the total number of blasts over the period of any relevant DEC licence; and

(b) exceed 120dB (Lin Peak) at any time.

The above values apply when the measurements are performed with equipment of a lower cut-off frequency of 2Hz or less. If the instrumentation has a higher cut-off frequency, then a correction of 5dB should be added to the measured value. Equipment with a lower cut-off frequency exceeding 10 Hz should not be used for the purpose of measuring overpressure.

56. Ground vibration (peak vector sum) from the blasting operations associated with the development must not:

(a) exceed 5mm/s for more than five percent of the total number of blasts during construction; and

(b) exceed 10 mm/s at any time.

when measured at any point within 1 metre of any affected residential boundary or any other noise sensitive location such as a school or hospital.

57. Blasting operations associated with the development may only take place:

(a) between 9.00am and 5.00pm Monday to Friday;

(b) between 9.00am to 12.00pm Saturday; and

(c) at such other times or frequency as may be approved by the DEC.

**TRAFFIC**

**Traffic Management**

58. As part of the CEMP, a Construction Traffic Management Plan must be prepared in consultation with Upper Lachlan Council, the RTA and NSW Police, to manage traffic related issues associated with the development during Construction. The Plan must identify:

(a) designated transport routes for heavy vehicles to the site associated with the development;

(b) heavy vehicle movements at the junction of Lagoon Street (MR676) and Union Street (MR256), including demonstration that junction accommodates turning movements in accordance with AUSTROADS standards.

(c) details of procedures to minimise traffic disruption;

(d) procedures to minimise disturbance from traffic noise, particularly during night periods;

(e) procedures to manage construction traffic to ensure the safety of:

(i) livestock and limit disruption to livestock movement;

(ii) school children and limit disruption to school bus timetables;

(f) a community information program to inform the community of traffic disruptions resulting from the construction program; and

(g) details of complaints management procedures for traffic impacts.

59. Should any vehicle accessing the site during Construction or Operation of the development exceed the road limit for length or mass on any road, the applicant must apply for Specific Oversized/Over Mass Permit from the RTA.

60. No advertising signs or structures within Taralga Road (MR256) road reserve are to be erected.

61. A Section 138 Approval from Council with RTA concurrence within the Classified Road Reserve must be obtained.

62. All large construction vehicles associated with the development must only utilise the transport routes identified in Figure 5.16 of the EIS.

**Road Occupancy**

63. The Applicant must apply for a Road Occupancy Licence (ROL) from the RTA Traffic Operations Unit (TOU) before commencing work within the classified road reserve. Should the Traffic Management Plan, identified in condition 58, require a reduction of the speed limit, a Direction to Restrict must be obtained from the TOU at least two weeks prior to using the road reserve.

**Road Dilapidation**

64. Prior to the commencement of Construction, the Applicant must undertake a 'before' road dilapidation report utilising the ARRB (Australian Road Research Board Limited) 'laser car', to assess the existing condition of Taralga Road (MR256), Bannaby Road and Old Showground Road. The report is required for the respective lengths of road that are to be utilised for heavy vehicle access. It must be undertaken in consultation with Council's Director of Works.

65. Following completion of Construction, and prior to the commencement of Operation, an 'after' road dilapidation report utilising the ARRB 'laser car' and road video images (i.e. RTA "gypsy"cam car) must be prepared in consultation with Council to determine the works required by the Applicant to restore the road to at least its pre-development condition.

66. The Applicant must restore the roads to a standard not less than recorded in the initial dilapidation report, unless the damage can be reasonably attributed to influences other than the development. The Applicant must restore the road to at least its pre-development condition, to the satisfaction of Council within three (3) months of the commencement of operation, unless otherwise agreed by Council.

**Road Upgrades**

67. In the event that the turning movements of heavy vehicles at the junction of Lagoon Street (MR676) and Union Street (MR256) cannot be achieved, the Applicant must upgrade the junction in accordance with the RTA Road Design Guide.

68. Prior to the commencement of any transport to the site associated with the development from Taralga Road involving heavy vehicles, the Applicant must construct site access points

along Taralga Road to a minimum 'BAL', 'BAR' treatment, to the satisfaction of Council and RTA. Detailed drawings of the access points along Taralga Road must be approved by the RTA prior to the commencement of these works.

69. Prior to heavy vehicle movements to and from the site associated with the development, the Applicant must complete the following works along the designated route, to the satisfaction of Council:

(a) a condition survey of all bridges and drainage structures along the proposed access roads for construction heavy vehicles by a competent and qualified person, to determine the adequacy of the bridges and drainage structures to withstand the proposed loads;

(b) implement a program of works as necessary to reinforce and strengthen bridges and drainage structures identified in (a) above to permit heavy vehicles to pass without causing damage;

(c) construction of site access points and turning bay along the Bannaby Road with a minimum of 180m stopping sight distance for approaching traffic;

(d) construction of site access points and turning bay along the Alders and Crees Road with a minimum of 160m stopping sight distance for approaching traffic;

(e) road improvements and realignment of roads as identified by Council to permit the safe passage of over length and overweight vehicles;

(f) strengthening of a major twin cell culvert at Bannaby Road (chainage 0.87km) by additional temporary supports for the duration of the construction period, if this culvert is identified to be on the route used by Construction vehicles.

70. All roadwork is to be designed and constructed to Upper Lachlan Council's version of AUS-SPEC Design and Construction specification or alternative specifications that meet the minimum requirements of AUS-SPEC. Detailed drawings of the access points along Bannaby Road must be approved by the Council prior to the commencement of these road works.

71. Prior to the commencement of Construction, site road work design and specifications shall be completed and certified by an appropriately qualified person that all roads within the site associated with the development are of an acceptable standard for traffic generating requirements of the development.

**Road Maintenance**

72. During Construction, designated gravel access roads shall be maintained in a safe and satisfactory condition at all times by the provision of regular maintenance and grading. The maintenance can be undertaken by the Applicant as a work in kind and/ or by Council at agreed rates.

73. During Construction, designated bitumen road access shall be maintained in a safe and satisfactory condition. Should any of the roads fail due to construction traffic, immediate maintenance must be undertaken by the Applicant as work in kind and/ or by Council at agreed rates to maintain the road in a safe trafficable condition.

74. Should Construction materials, such as road-base, be sourced locally, the access route must be jointly inspected with Council's officers to determine the suitability of the route and the extent of improvement works required prior to Construction. Should the route be approved for use, maintenance of the route during Construction shall be undertaken in accordance with conditions 72 and 73.

**Crown Roads**

75. The Applicant must indemnify and keep indemnified the Crown and the Minister for Lands against all claims arising out of the use and occupation of the Crown Public Roads in relation to works associated with this development.

76. No works must be undertaken on any Crown roads until any necessary authorities, easements, licences or approvals, as required by the Department of Lands, have been obtained.

77. In the event of a transfer of ownership, the terms and conditions imposed by approval from the Department of Lands shall also apply to future owners of the development. Following a change of ownership, any existing tenures will be terminated and new tenures granted. The Department of Lands reserves the right to vary the terms and conditions of a new tenure or any authority or consent previously granted.

78. Public access along Crown roads must not be denied, impeded or obstructed when the development is completed. Alternative access is to be provided, if required, during the construction period.

79. The Applicant and any subsequent owner of the development must be responsible for the maintenance and rehabilitation of Crown roads used for access, construction and installation of works throughout the term of the occupancy.

80. Upon decommissioning of the project, or parts thereof, all structures and works on Crown roads must be removed to the satisfaction of the Department of Lands. A maintenance period of two years shall apply for the rehabilitation work after the works have been removed and the site associated with the development rehabilitated.

**Operational Traffic**

81. Prior to commencement of Operation, all works relating to permanent vehicle access to the site associated with the development must be completed. In the case of Bannaby Road, permanent access must be completed to the satisfaction of Council and comply with the following requirements:

    (a) access points must have an adequate sight stopping distance (180 metres minimum) available in both directions;

    (b) any gate must be located so that there is sufficient distance for a vehicle (rigid truck) to stand clear of the road; and

    (c) the access shall be sealed for a minimum distance of 50m measured from the edge of Bannaby Road pavement.

82. The Applicant must, in consultation with the RTA and Council, identify any road safety changes along the Taralga Road, Bannaby Road, Old Showground Road, Alders and Crees Road that may have arisen during the first 12 months of Operation. Road safety changes must include, but not be limited to, any significant change in motor vehicle accident rates since the previous survey was undertaken. The Applicant must implement any reasonable and feasible mitigation measures as required by Council and the RTA, to address the road safety impacts that could be attributed to the development.

## HERITAGE

### Indigenous Heritage Management

83. In the event that an Aboriginal object (as described in the *National Parks and Wildlife Act, 1974*) or a relic is uncovered during the Construction, all work in the vicinity of the object must cease and the Applicant must contact the DEC as soon as practicable. The Applicant must meet the requirements of the DEC with respect to the treatment, management, and/or preservation of any such object.

### Historical Relics

84. In the event that a non-indigenous heritage item is uncovered during Construction, all work in the vicinity of the object must cease and the Applicant must contact the NSW Heritage Council to determine an appropriate course of action prior to the recommencement of work in the vicinity of the item.

## FLORA AND FAUNA

### Construction

85. A Construction Flora and Fauna Management Sub Plan must be prepared as part of the CEMP. The Sub Plan must be prepared in consultation with the Department and must include but not be limited to:

    (a) detailed plans identifying:

        (i) terrestrial vegetation communities; important flora and fauna habitat areas; habitat trees, locations where threatened species, populations or ecological communities were recorded; and areas to be cleared. The plans must also identify vegetation adjoining the development where this contains important habitat areas and/or threatened species, populations or ecological communities;

    (b) methods to manage impacts on flora and fauna species (terrestrial and aquatic) and their habitat which may be directly or indirectly affected by the development. These must include:

        (i) procedures for vegetation clearing, soil management and managing other habitat damage (terrestrial and aquatic) during construction;

        (ii) methods to protect vegetation both retained within, and also adjoining, the development from damage during construction;

        (iii) methods to protect rocky outcrops and other potential reptile habitat both retained within, and also adjoining, turbines and ancillary development from damage during construction;

        (iv) a habitat tree management program including fauna recovery procedures and habitat maintenance (e.g. relocating hollows or installing nesting boxes); and

        (v) performance criteria against which to measure the success of the methods;

    (c) details of how structures associated with the development will be designed to reduce the risk of bird and bat strike;

(d) rehabilitation details including:

(i) identification of locally native species to be used in rehabilitation and landscaping works, including flora species suitable as a food resource for threatened fauna species;

(ii) the source of all seed or tube stock to be used in rehabilitation and landscaping works including the identification of seed sources within the site. Seed of locally native species should be collected before construction commences; and

(iii) methods to re-use topsoil (and where relevant, subsoils), surface rocks and cleared vegetation;

(e) a Weed Management Strategy including:

(i) identification of weeds within the site and adjoining areas;

(ii) weed eradication methods and protocols for the use of herbicides;

(iii) strategies to control the spread of weeds during construction, including ensuring that machinery brought on site is weed and pathogen free;

(f) a program for reporting on the effectiveness of terrestrial and aquatic flora and fauna management measures against the identified performance criteria. Management methods must be reviewed and revised where found to be ineffective; and

(g) a program to ensure that all staff and contractors associated with the development are aware of the location of all protected areas.

86. The Applicant must design, construct, operate and maintain the development in a manner that avoids damage to or loss of suitable habitat for Natural Temperate Grassland and the orchid, *Diurus aequalis*.

To ensure compliance with this condition, the Applicant must engage a suitably qualified person(s) who is to receive the prior approval of the Director-General, to undertake a detailed botanical survey, prior to the commencement of construction, of:

- turbine rows 4,5,6, 7 and10; and

- all access roads requiring construction or upgrading,

during the appropriate season (that is, November to December).

Where Natural Temperate Grassland or *Diurus aequalis* is found to occur either on, or adjacent to these locations, the area must be fenced during construction and that component of the development (including construction components) must be relocated at least 50 metres from the grassland or orchid population but no more than 250 metres from the original location of that component.

A report detailing the results of this survey, including details of any proposed relocation of infrastructure associated with the development is to be submitted to the Director-General within one month of completion of the survey. Construction must not commence until the Director-General has confirmed the results of the survey and approved the position of any relocated infrastructure (inclusive of any construction-related components).

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| Note: | The Natural Temperate Grassland of the Southern Tablelands of NSW and the Australian Capital Territory Endangered Ecological Community "Natural Temperate Grassland" is defined under the Commonwealth |

*Environment Protection and Biodiversity Conservation Act, 1999*. The location of the turbine rows and the access tracks is as described in the EIS.

Where any component of the development is proposed to be relocated greater than 250 metres from its original position on the grant of consent, modification of the consent or further consent under the Act will be required.

86A. The Applicant must design, construct, operate and maintain the development in a manner that either avoids damage to and/or loss of the Tablelands Basalt Forest Endangered Ecological Community or provides suitable compensation for its loss.

To ensure compliance with this condition, the Applicant must engage a suitably qualified person(s) who must receive prior approval of the Director-General, to undertake a detailed survey of:

- all turbine rows other than row 8; and
- all access roads required during construction or upgrading,

to determine the presence of this community so as to enable the Applicant, in consultation with the DEC and the Department, to:

(a) relocate that component of the development (including construction components) at least 50 metres from important stands of this community, but no more than 250 metres from the original location of that component; or

(b) provide suitable compensation for the loss of the community where the Applicant is unable to avoid damage to and/or loss of the community.

Construction of the relevant component(s) of the development must not commence until the Director-General has confirmed the results of the survey and approved the position of any relocated development component or compensation works, as relevant.

Note: The *Tableland Basalt Forest in the Sydney Basin and South Eastern Highlands Bioregions Endangered Ecological Community* "Tableland Basalt Forest" is defined under the *Threatened Species Conservation Act, 1995.*

87. The Applicant must design, construct, operate and maintain the development in a manner that avoids damage to and/ or loss of suitable habitat for the Striped Legless Lizard and the Grassland Earless Dragon.

To ensure compliance with this condition, the Applicant must engage a suitably qualified person(s) that is to receive the prior approval of the Department, to undertake a detailed survey of the site to determine the presence of such suitable habitat, so as to enable the Applicant, in consultation with the DEC and the Department, to locate infrastructure (including turbines, underground cables and power poles) and other elements associated with the development (such as access tracks and construction lay-down areas) at least 50 metres from these areas, but no more than 250 metres from the original location of that infrastructure or element.

Note: Where any component of the development is proposed to be relocated greater than 250 metres from its original position on the grant of consent, modification of the consent or further consent under the Act will be required.

88. Notwithstanding condition 87, where the Applicant is unable to avoid damage to and/ or loss of such suitable habitat in respect of the Striped Legless Lizard, the Applicant may seek the approval of the Director-General to damage and/ or destroy this habitat however, this loss

must be suitably compensated. Any such compensatory works are to be implemented, in consultation with and to the satisfaction of the Department and DEC.

89. Prior to the commencement of construction, all vegetation and fauna habitat to be protected under this consent is to be fenced off with clearly visible, durable and appropriately signposted exclusion fencing to prevent uncontrolled or inadvertent access by vehicles or construction personnel.

90. To compensate for the loss of the existing forest/ woodland resulting from the construction of the wind turbine generators and access tracks on Row 6, the Applicant must reforest a similar-sized area to that which is lost, at a location not immediately adjacent to any turbine.

To ensure compliance with this condition, the Applicant must prepare and submit for the approval of the Director General, details of the habitat compensation plan. Construction activities at Row 6 must not commence until the Director-General has approved the plan. Following approval by the Director-General, the Applicant must implement the compensatory measures within such period as the Director-General may direct.

90A. Turbines at row 6 and any turbines located within the vicinity of any Tableland Basalt Forest EEC that have the potential to impact upon this community, must be constructed using the modified technique described in section 2.5.5 of the EIS to minimise disturbance or damage to vegetation. Details of the modified technique are to be described in the CEMP.

**Operation**

91. An Operation Flora and Fauna Management Sub Plan must be prepared as part of the OEMP. The Sub Plan must be prepared in consultation with the Department and include:

(a) plans showing terrestrial vegetation communities, important flora and fauna habitat areas, areas to be protected, and areas to be planted;

(b) methods to be adopted on the site to manage impacts on flora and fauna species (terrestrial and aquatic) and their habitats which may be directly or indirectly affected by the development. These must include:

(i) habitat management procedures including rehabilitation requirements and active re-planting of windrows;

(ii) operation stage measures to minimise bird and bat disturbance, in particular reducing the incidence of bird/bat strike. Management measures that must be considered for areas near the turbines include:

i. minimising the availability of raptor perches;

ii. modifying structures to prevent perching;

iii. management of lambing;

iv. swift carcass removal;

v. pest control, including rabbits;

vi. management of stock (grain) feeding;

vii. filling in of small dams on the site that might attract insects and birds;

viii. use of deterrents (eg. flags, marker balls);

ix. minimising external lighting;

x. turbine management, that might include the turning off of turbines that are predicted to cause unacceptable bird/bat mortality at identified times;

xi. measures identified from research undertaken at other wind farms to reduce the incidence of bird/bat strike;

(c) performance criteria against which to measure the success of the methods; and a programme for reporting on the effectiveness of management measures against the identified performance criteria. Management methods must be reviewed where found to be ineffective; and

(d) a program to ensure that all staff and contractors associated with the development are aware of the location of all protected areas.

92. The Proponent must make a financial contribution of $1500.00 to the NSW Wildlife Information and Rescue Service (WIRES) for each death of a wedge-tailed eagle that has reasonably been attributed to the carrying out of the development. The financial contribution must be paid by the Proponent within one month of the Proponent becoming aware of the death. The contribution must be adjusted to take account of any increase in the Consumer Price Index over time, commencing at the March 2007 quarter.

93. Prior to the commencement of Construction, the Applicant must prepare and submit for the approval of the Director-General, a Bird and Bat Adaptive Management Program must be prepared and undertaken, which takes account of bird/bat monitoring methods identified in the current editions of AusWEA *Wind Farms and Birds: Interim Standards for Risk Assessment (July 2005)*. The Program must be undertaken by a suitably qualified expert, approved by the Director-General.

The Program must incorporate Monitoring, and a Decision Matrix that clearly sets out how the Applicant will respond to the outcomes of monitoring. It must:

(a) incorporate an ongoing role for the suitably qualified expert;

(b) set out monitoring requirements. The requirements must account for natural and human changes to the surrounding environment that might influence bird and/or bat behaviour such as changes in land use practices, and significant changes in water levels in nearby water bodies;

(c) incorporate a decision making framework that sets out specific actions and when it may be required to reduce identified impacts on birds and bats;

(d) set out available mitigation measures;

(e) incorporate reporting requirements on the outcomes of monitoring, including details on all mortalities, on the application of the decision making framework, the need for mitigation measures, progress with implementation of such measures, and their success and details of all payments made to WIRES (as required under condition 92) that have been made during each reporting period. Reports must be prepared on an annual basis, from the commencement of operation, and must be prepared within 2 months of the end of the reporting period and be provided to the Director-General. The Director-General may vary the reporting requirement or period by notice in writing to the Applicant; and

(f) identify any necessary mitigation measures and implementation strategy including, but not limited to, those referred in condition 91.

The Applicant is required to implement reasonable and feasible mitigation measures, to the satisfaction of the Director-General, where the need for further action is identified through the Bird and Bat Adaptive Management Program.

## PHYSICAL ISSUES

### Soil, Water and Riparian Management

94. The Applicant must not commence any works within 40 metres of a watercourse until a Permit under Part 3A of the *Rivers & Foreshores Improvement Act* is obtained from DNR.

95. As part of the CEMP, a Riparian Vegetation Management Sub Plan must be prepared and developed in consultation with DNR. This Sub Plan is to outline details of the protected riparian zone(s) including, but not limited to:

    (a) requirements of the Permit under Part 3A of the *Rivers & Foreshores Improvement Act, 1948*;

    (b) drawings demonstrating the locations and extent of the zone(s), remnant vegetation, and where areas will be revegetated/regenerated;

    (c) plant species list to be utilised for revegetation; and

    (d) maintenance and performance monitoring.

96. As part of the CEMP and OEMP, Soil and Water Management Sub Plans must be prepared in consultation with relevant government agencies. The Sub Plans must:

    (a) be prepared by a person or persons with the experience, skills and training in the development and implementation of such plans;

    (b) where relevant, be in accordance with Landcom's "Managing Urban Stormwater" (2004), and other relevant guidelines including the RTA's "Guidelines for the Control of Erosion and Sedimentation in Roadworks" and the Department's "Constructed Wetlands Manual";

    (c) identify the activities that could cause soil erosion or discharge sediment or water pollutants from the site associated with the development;

    (d) describe management methods to minimise soil erosion or discharge of sediment or water pollutants from the site associated with the development including strategies to minimise the area of bare surfaces and to achieve nil or minimal harm to aquatic and riparian environments;

    (e) describe the location and capacity of erosion and sediment control measures;

    (f) identify the timing and conditions under which controls will be decommissioned;

    (g) include contingency plans to be implemented for events such as fuel spills; and

    (h) identify how the effectiveness of the sediment and erosion control system will be monitored, reviewed and updated.

97. The turbines, substation and access tracks in high erosion hazard areas must be fenced off from livestock. The location of fencing and high erosion hazard areas must be identified in the OEMP.

98. Design and construction of any crossings over protected waters and riparian zones must be consistent with the Department's *Draft Guidelines – Watercourse Crossing Design & Construction* and NSW Fisheries' *Why do Fish Need to Cross the Road? – Fish Passage Requirements for Waterway Crossings (2004) and Policy and Guidelines for Fish Friendly Waterway Crossings (2004).*

99. Except as may be expressly provided by a licence under the POEO Act in relation to the development, the Applicant must comply with Section 120 of the POEO Act (prohibition of the pollution of waters), which prohibits pollution of waters.

**Air Quality**

100. The Applicant must design, construct, operate and maintain the development in a manner that minimises dust emissions from the site associated with the development.

101. The Applicant must take all practicable measures to ensure that all vehicles associated with the development entering or leaving the site and carrying a load that may generate dust, are covered at all times, except during loading and unloading. Any such vehicles must be covered or enclosed in a manner that prevents emissions from the vehicle at all times.

**Spoil and Fill Management**

102. For the purposes of the development, imported fill must be Virgin Excavated Natural Material as defined in the EPA's publication *Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes.*

**MISCELLANEOUS REQUIREMENTS**

**Aviation**

103. Prior to the commencement of operation, the following details are to be submitted to CASA, Department of Defence, and the Australian Aerial Agricultural Association:

    (a) 'as constructed' coordinates of the wind turbines in latitude and longitude;

    (b) final height of the wind turbines as per AHD;

    (c) ground level at the base of each of the wind turbines as per AHD; and

    must comply with any reasonable requirements of CASA and Department of Defence.

104. In the event that required aerial weed control and/or fertiliser application is restricted on any property surrounding the site due to the location of turbines, the Applicant must fully fund the cost difference between aerial weed spraying/fertiliser application and a reasonable alternative weed control/fertiliser application method in the restricted area, unless otherwise agreed to by the Director-General.

**Hazards**

*Bush Fire Fighting*

105. As part of the CEMP, the Applicant must provide details of measures to prevent fires igniting during construction activities. These measures must include, but not be limited to:

    (a) prohibition of work involving risk of ignition during total fire bans;

    (b) availability of fire suppression equipment; and

(c) storage and maintenance of fuels and other flammable materials.

106. During Construction, the Applicant is to consult with the local RFS in periods of high fire danger, to verify that proposed activities to be undertaken during this period, will not adversely increase the risk of bushfire. The Applicant must comply with any reasonable request of the local RFS.

107. The Applicant must consult with the RFS after the commencement of operation and any other time thereafter as required by the RFS, to ensure that the local RFS is familiar with the development, including location and identification of wind turbines for the purpose of fast access in emergencies.

*Safety Management System*

108. At least two months prior to the commencement of commissioning, the Applicant must prepare a report outlining a comprehensive Safety Management System, covering all on-site systems related to ensuring the safe operation of the development. The report must clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records must be kept on-site and must be available for inspection by the Department upon request. The Safety Management System must be developed in accordance with the Department's Hazardous *Industry Planning Advisory Paper No. 9, 'Safety Management'*, and should include:

(a) procedures and programs for the maintenance and testing of the safety related equipment to ensure its integrity over the life of the wind farm;

(b) an outline of a documented procedure for the management of change;

(c) procedures and programs for liaison and regular drills with the local RFS; and

(d) procedures for regular fire prevention inspections by the local RFS and implementation of recommendations.

**Telecommunications**

109. Prior to the erection of any wind turbine(s) on site, the Applicant must undertake an assessment of the existing quality of the television transmission available at a representative sample of residential dwellings located within five kilometres of a wind turbine.

110. The Applicant must undertake any Reasonable and Feasible mitigation measures to rectify any television transmission problems reasonably attributable to the development, including but not limited to:

(a) installation and maintenance of a parasitic antenna system;

(b) provision of a land line between the affected receiver and an antenna located in an areas of favourable reception; or

(c) other feasible measures.

In the event of interference reasonably attributable to the development not being able to be overcome by measures outlined in (a) to (c), the Applicant must, if required by the impacted landowner, install and maintain a satellite receiving antenna. If a dispute arises between the landowner and the Applicant as to these works, the matter may be referred by either party to the Director-General, whose determination must be final and binding on all parties.

Any requested works must be completed within three months of the completion of the relevant television and/or radio reception assessment, unless otherwise agreed by the landowner. The Applicant must be responsible for all costs associated with undertaking any mitigation measures.

**Wastewater Management**

111. The human wastewater management system is to be designed in consultation with the SCA, in accordance with the principles contained within the guidelines *On-site Sewage Management for Single Households*, and the *AS/NZS 1547-2000 On-site Domestic Wastewater Management*. The system, including any effluent management areas, is to be located at least 100 metres from watercourses and 40 metres from drainage depressions.

112. AAA-rated water conservation devices are to be installed in the site control room/facilities building to minimise the volume of wastewater produced.

113. All stormwater is to be diverted away from any effluent management area associated with the development.

**Decommissioning**

114. Prior to the commencement of Construction, the Applicant must provide written evidence to the satisfaction of the Director-General, that the lease agreements with the site landowners have adequate provisions to require that decommissioning occurs in accordance with this Consent.

115. If any wind turbine(s) is not used for the generation of electricity for a continuous period of 12 months, it must be decommissioned unless otherwise agreed to by the Director-General. The Applicant must keep independently verified annual records of the use of turbines for electricity generation. These records must be provided to the Director-General upon request. The relevant wind turbine and any associated infrastructure is to be dismantled and removed from the site within 18 months from the date that the turbine was last used to generate electricity.

116. Within one year of decommissioning, the site must be returned, as far as practicable, to its condition prior to the Construction. All turbines and associated above ground structures including but not limited to, the substation, the control and facilities building and electrical infrastructure, including associated transmission lines, must be removed from the site unless otherwise agreed by the Director-General. All other elements associated with the development, including site roads, must be removed unless otherwise agreed to by the site owner(s). The cost of such decommissioning works is to be borne by the Applicant.

## SCHEDULE 2

For the purposes of any property acquisition required under this consent, the following properties are identified as being affected landowners:

1. Rosvale (H12), described as Lots 35, 36, 118 and 125 in Deposited Plan 750046, Lots 2 and 3 in Deposited Plan 605482 and Lot 1 in Deposited Plan 1011714; and

2. Cloverlee, described as Lots 17, 18, 19, 20, 26 and 28 in Deposited Plan 750046

3. Cushendall Vineyard property, described as Lot 1 in Deposited Plan 773412

4. Sassine property, described as Lots 145 and 147 in Deposited Plan 750046

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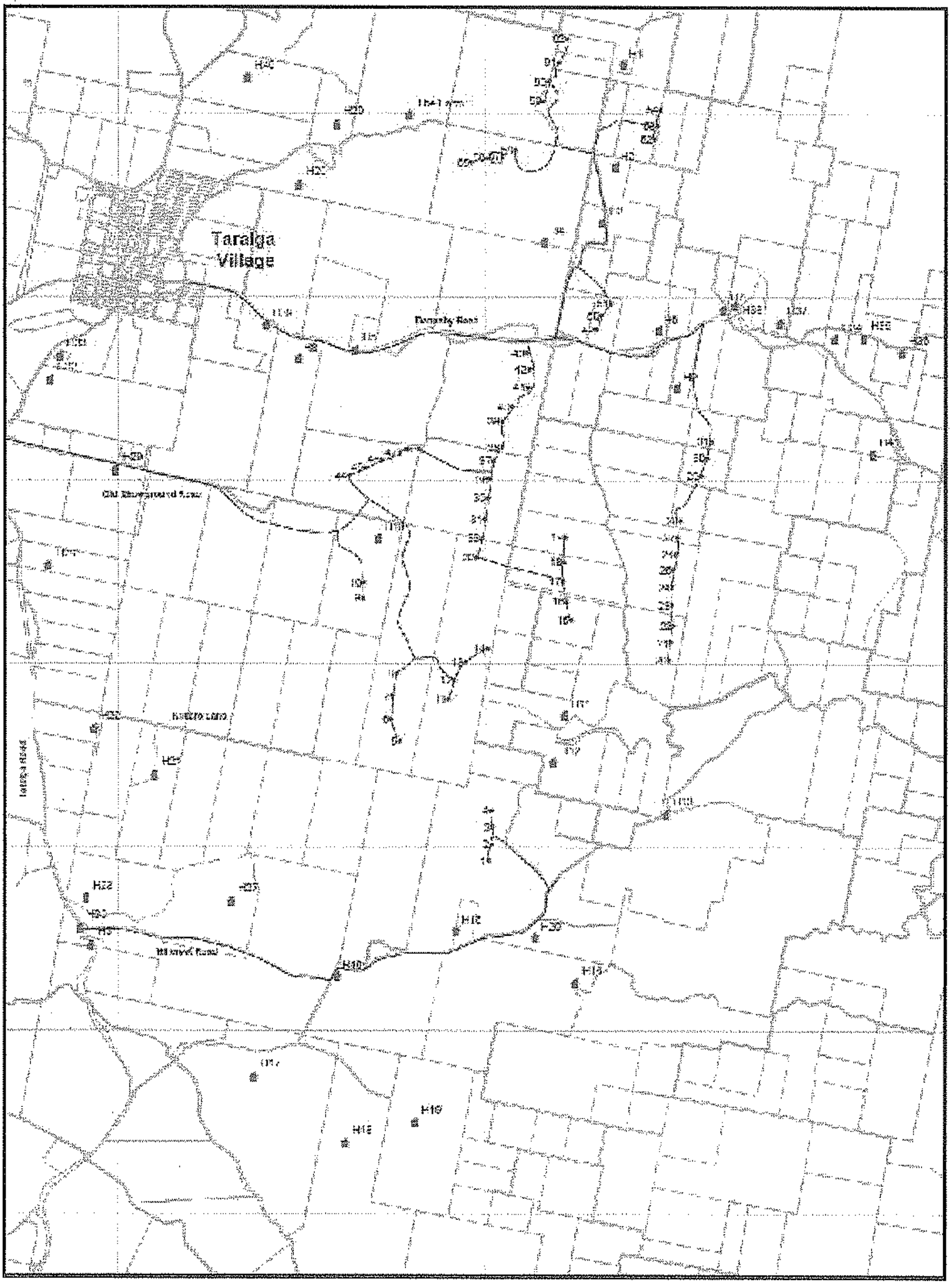
## SCHEDULE 3

In accordance with the provisions of condition 9 of this consent, the documents referred to within the following conditions of consent are to be made publicly available:

1. condition 10
2. condition 13
3. condition 14
4. condition 15
5. condition 22
6. condition 23
7. condition 25
8. condition 26
9. condition 27
10. condition 29(a), (d), (e) and (f)
11. condition 30
12. condition 38
13. condition 39
14. condition 52
15. condition 53
16. condition 58
17. condition 85
18. condition 86
19. condition 86A
20. condition 87
21. condition 90
22. condition 91
23. condition 93
24. condition 95
25. condition 96

## ATTACHMENT 1 TO CONDITIONS




Wind Turbines
Houses

Figure 1 Taralga windfarm layout and house locations