



17 July 2026

The Department of Planning, Housing
and Infrastructure

Contact: Chris Dwyer
Our Ref: 52/2025/7/2
Your Ref: SSD-85939708

Attention: Gracie Jackel

Dear Gracie

**Request for Comment – State Significant Development
Rothbury Battery Energy Storage System – SSD-85939708**

Thank you for the opportunity to comment on an Environmental Impact Statement (EIS) lodged for the Rothbury Battery Energy Storage System (BESS) by Ausgrid at 1309 Wine Country Drive, Rothbury NSW 2304.

Council has reviewed the EIS by Aecom Australia Pty Ltd dated 20 April 2026, Job No: 60757361. I also refer to our previous comments on draft SEARs for the project dated 25 June 2025 (Our Ref: 52/2025/7/1).

The project involves the construction, operation and maintenance of a BESS with a capacity of up to 135 Megawatts (MW) and storage of up to 540 Megawatt hours (MWh). The Project includes 148 battery containers (approximately 8.8m x 1.7m x 2.8m) and associated infrastructure.

Council Resolution

The project was considered by Council at its meeting of 15 July 2026. The following resolution was made:

1. *That Council formally notes that State Significant Development Application SSD-85939708 for the Rothbury Battery Energy Storage System at 1309 Wine Country Drive, Rothbury, is currently on public exhibition with a submission deadline of 17 July 2026.*
2. *That Council resolves to prepare a formal submission objecting to the proposal based on planning concerns. On the grounds that it raises significant concern within a highly sensitive rural tourism landscape, and poses risk to local infrastructure, biodiversity, road safety and emergency services.*
3. *That Council direct the General Manager to urgently prepare and lodge a comprehensive, formal submission of objection on behalf of Cessnock City Council via the New South Wales Planning portal prior to the closing date of 17 July 2026.*

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4. *That Council request that the formal submission specifically detail, but not be limited to the critical local planning constraints such as visual amenity and zoning, bushfire and safety risk, traffic and road infrastructure and matters of national environmental significance.*
5. *That Council forward a copy of Council's formal objection to this resolution to the New South Wales Minister of Planning and Public Spaces, the Honourable Paul Scully MP, and the State Member for Cessnock Clayton Barr, MP.*

Accordingly, this submission should be considered as an **objection** to the proposal. Council also requests that the following additional matters be considered.

Strategic Planning Framework

Council supports energy storage and firming capacity proposals that would increase stability of the electricity network, and assist in the transition from fossil fuel to renewable energy, but only where the environmental impacts of the proposal are acceptable.

The site selection adjacent to existing energy infrastructure is noted, however the site is also located in a highly visual rural locality, is adjacent to Cessnock's Vineyard District, and is located on a key tourism thoroughfare.

The discussion of strategic planning in the EIS considers policies as they relate to renewable energy, however very limited consideration of Council's Local Strategic Planning Statement (LSPS) has been undertaken particularly associated with cumulative impacts, maintaining and enhancing rural character including impacts on the Vineyard area and tourism, and the suitability of the site from a strategic perspective.

These and other issues are expanded upon below.

Local Planning

The Cessnock Local Environmental Plan 2011 (CLEP) applies to the site. There are mandatory matters for consideration in the CLEP that have not been addressed in the EIS.

The land is zoned RU2 Rural Landscape. The EIS does not adequately address the project's consistency with the zone objectives which are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To enable other compatible forms of development that are associated with rural activity and require an isolated location or support recreation.*
- *To ensure the type and intensity of development is appropriate in relation to the rural capability and suitability of the land.*
- *To maintain and enhance the scenic character of the land.*
- *To minimise disturbance to the landscape from development caused by vegetation clearing, earthworks, access roads and construction of buildings.*
- *To ensure development does not intrude into the skyline when viewed from a road or other public place.*

Without justification in the alternative, the development is not considered to be consistent with most zone objectives, but in particular those that seek to 'maintain the rural landscape

character of the land', 'ensure the type and intensity of development is appropriate in relation to the rural capability and suitability of the land' and 'maintain and enhance the scenic character of the land'.

Special flood considerations

The land is flood prone and the proposed flood mitigation addresses the risks for a 1% Annual Exceedance Probability (AEP) flood event. However the development is located between the flood planning level and the Probable Maximum Flood (PMF) and as such Clause 5.22 of CLEP is to be addressed, requiring the avoidance of adverse effects of hazardous development on the environment during flood events.

Clause 7.1 – Essential Services

The EIS does not include detailed discussion of the considerations outlined in this clause.

The site is not serviced by reticulated sewer, and the proposal seeks to rely on connection to an existing sewage pump-out system. Reliance on ongoing sewage pump-out is not generally supported and preference should be given to a sustainable on-site wastewater system that treats and disposes of wastewater generated entirely within the lot it is generated.

As post determination approvals would likely be required by Council for any such system if it were to proceed on this basis, assessment of the property's suitability for an on-site wastewater treatment and disposal system is still recommended to identify the most suitable and sustainable solution over the life of the proposal.

Clause 7.15 - Groundwater vulnerability

The EIS addresses groundwater vulnerability during construction and operation at section 6.9.4, however additional consideration of this clause is recommended, in relation to any potential contamination of groundwater from operation of the facility.

Impacts to Vineyard Area and Tourism

The Hunter Valley vineyard area, including the Cessnock Vineyard District has a unique combination of land uses, native vegetation, topography and waterways, which combine to create a landscape setting which is the main reason for people visiting the vineyards.

It is recommended that more emphasis be placed on the assessment of impacts to the vineyard areas in relation to issues including visual impacts, land use conflict, economic impacts and environmental risk management.

It is also recommended that the EIS include a more robust consideration of potential land use conflicts arising from the project. The following additional matters warrant further consideration:

- Visual impacts - The need for a 8 metre fence to mitigate acoustic impacts suggests that the impacts of the proposal are beyond that which is appropriate for the site, and accordingly is creating a significant land use conflict that cannot be reasonably addressed.
- A finer grain consideration of the viticulture industry, noting it is a specialist agricultural use that directly relates to tourist economies. The land use conflict assessment included in the EIS contains limited discussion of impacts to viticulture.

- Environmental Management of Hazard or Fire Events, including impacts on water quality from contaminated BESS fire fighting water and air quality.

Visual Impacts

It is reiterated that the need for an 8 metre fence to mitigate acoustic impacts suggests that the impacts of the proposal are beyond that which is appropriate for the site.

Due to the importance of the scenic qualities of the area to the tourism industry, it is not considered that the current extent of the visual impact assessment is sufficient.

It is recommended that additional viewpoints be prepared along Wine Country Drive and Old North Road, to enable a more comprehensive analysis of the impacts to the scenic qualities of the area.

Consideration of the following is requested, which may have potential visual impacts:

- Sunshine Estate BESS (SSD- 92914712), which has also been recently lodged with DPHI, should be added to the montages, to enable a cumulative impact assessment.
- Location and appropriateness any proposed chain mesh fencing. The current EIS does not detail location and heights of any required fencing, however it is anticipated that fencing could create an unsympathetic appearance to the surrounds.
- Details of the O&M Building and Substation, including maximum heights, materials and setback to roads. Due to the visually sensitive nature of the site, it is not considered that example and/or indicative details enable an adequate assessment.
- Details on width and materials proposed for access roads and driveway access, where visible to Wine Country Drive.
- Details of night lighting should be more clearly outlined.
- Landscape species selection should align with Council's Vineyards DCP, where possible.
- Confirmation of whether upgrade works proposed in the road reserve will result in the removal of vegetation, and whether this has implications to visibility of the Project.

Ecological impacts

Council agrees with the assessment and conclusion that the proposal would result in a relatively small impact footprint, however the threatened species assessment has not fully characterised the biodiversity values of the site due to the omission of the Hunter Valley Delma.

The species is not discussed within the Biodiversity Development Assessment Report (BDAR), nor is any justification provided for its exclusion from further consideration. This issue is especially significant as detections of the Hunter Valley Delma have been confirmed through targeted surveys undertaken on adjoining land (1337 Wine Country Drive) as part of a BDAR prepared for the proposed Sunshine Estate BESS.

Targeted surveys for the Hunter Valley Delma need to be undertaken for this proposal and the supporting BDAR and ecological reports are to be updated accordingly.

It is requested that DPHI ensure that a robust assessment of ecological impacts, including any matters of national environmental significance.

Local Developer Contributions – Benefit Sharing

The EIS states that “Ausgrid will provide benefit sharing in accordance with the *Benefit Sharing Guideline (DPHI, 2024)* and in consultation with Cessnock City Council. It is anticipated that a voluntary planning agreement would be negotiated with Council.”

The Department’s Benefit Sharing Guideline sets out the following benefit-sharing rates when determining the total funding value for community benefits for a given renewable energy project (see relevant item highlighted).

Benefit-sharing rate

Total funding for benefit-sharing should be:

- \$850 per megawatt per annum for solar energy development, or
- \$1,050 per megawatt per annum for wind energy development, or
- \$150 per megawatt hour per annum for stand-alone battery energy storage systems located in a rural zone (i.e. RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry, RU4 Primary Production Small Lots),

based on installed capacity and paid over the life of the development and indexed to the Consumer Price Index³.

Importantly, it is noted that in accordance with the DPHI’s Benefit Sharing Guideline, the community benefit contribution negotiated with Council is to be paid **over the life of the development**. Therefore any planning agreement entered into in relation to community benefits will need to be sufficiently open-ended to ensure contributions are collected for each year of the life of the development.

Council is yet to receive a draft Planning Agreement in relation to the project.

Cumulative Impacts

It is requested that DPHI ensures the EIS meets the requirements of the Cumulative Impact Assessment Guidelines for State Significant Projects.

The Rothbury BESS directly adjoins the Sunshine BESS (SSD-92914712), which has also been recently lodged with DPHI.

It is unclear if is the intention for both BESS’s to progress to construction and operate concurrently, however it must be assumed that this will occur. In this regard, cumulative impact is a key concern which is not currently addressed in detail in the submitted EIS and supporting technical studies.

Currently there are significant uncertainties of the potential impacts to the community. It is appreciated that the close lodgement dates for each project may have prevented detailed consideration, however details are now available to enable the technical studies to consider the cumulative impacts.

A detailed consideration of the following is warranted:

- Acoustics
- Visual Impacts
- Land Use Conflict
- Aboriginal Cultural Heritage

- Ecological assessment
- Traffic
- Hazard and Risk assessment
- Impacts to agricultural land, including viticulture
- Flooding

It is requested that DPHI ensure that a robust assessment of ecological impacts, including any matters of national environmental significance. It is further requested that it is ensured that the EIS and the supporting technical studies include an adequate assessment of bushfire and safety risk, in addition to traffic and road infrastructure.

Conclusion

Cessnock City Council **objects** to the Rothbury BESS as noted by Council resolution of 15 July 2026. The project is also not supported by Council staff at this stage as in the absence of a comprehensive assessment, the proposal will result in significant adverse impacts on the rural, visual and tourism character of the site and locality and impact on the environment generally.

If you require any further information, please do not hesitate to contact me on telephone 02 4993 4254 or via email chris.dwyer@cessnock.nsw.gov.au.

Yours faithfully

A handwritten signature in dark ink, appearing to be 'CD' followed by a long, sweeping horizontal line.

Chris Dwyer
A/Development Services Manager