muswellbrook shire council

Enquiries
Please ask for Tracy Ward
Direct 02 6549 3778
Our reference CM 25/28024

30 May 2025

Rita Hatem
Senior Environmental Assessment Officer
Department of Planning, Housing and Infrastructure

Dear Ms Hatem,

Sandy Creek BESS (SSD-83968208) – Muswellbrook Shire Council (Staff) input to the Secretary's Environmental Assessment Requirements

Reference is made to the following:

- '*Sandy Creek BESS Scoping Report'* (Edify, 2025) (Scoping Report);
- Draft Secretary's Environmental Assessment Requirements (Draft SEARs); and
- Request to provide input to the Draft SEARs via the Major Projects Portal.

Edify Energy Pty Ltd (the Proponent) plans to construct a Battery Energy Storage System (BESS) and associated infrastructure (the Project) located on Sandy Creek Road, McCullys Gap.

The Project includes the following key components:

- Construction and operation of a BESS with a capacity of 750 megawatts (MW) / 1,500 megawatts hour (MWh);
- Connection to the existing TransGrid Muswellbrook 330 kilovolts (kV) substation;
- Access to the site from Sandy Creek Road;
- A construction period of approximately 12 months commencing in 2027/28;
- Up to 150 jobs during construction with 3 jobs onsite once operational; and
- An operational life of up to 30 years with an opportunity to extend the life of the Project.

A Scoping Report for the Project was lodged with Department of Planning, Housing and Infrastructure (DPHI) in April 2025.

Muswellbrook Shire Council (Council) Staff appreciate the opportunity to comment on the Scoping Report and comments are provided below. The Environmental Impact Statement (EIS) for the Project should consider and include a discussion on the following:

Planning Agreement

<u>Community Benefit Fund</u>

1. Staff note the following as stated in the Scoping Report:
   - 'The Applicant has begun early consultation with Muswellbrook Council, Edify has acknowledged the need for a Voluntary Planning Agreement for the Project, and will progress these discussions during the EIS phase of the Project' (Section 2.4.1); and
   - 'A Community Benefit Fund (CBF) will be established by Edify and will align with the NSW Benefit-Sharing Guideline (DPHI, 2024) (Section 2.4.2). The CBF can be invested in local infrastructure and services, such as education, healthcare, and road improvements (Section 2.2.3)'.

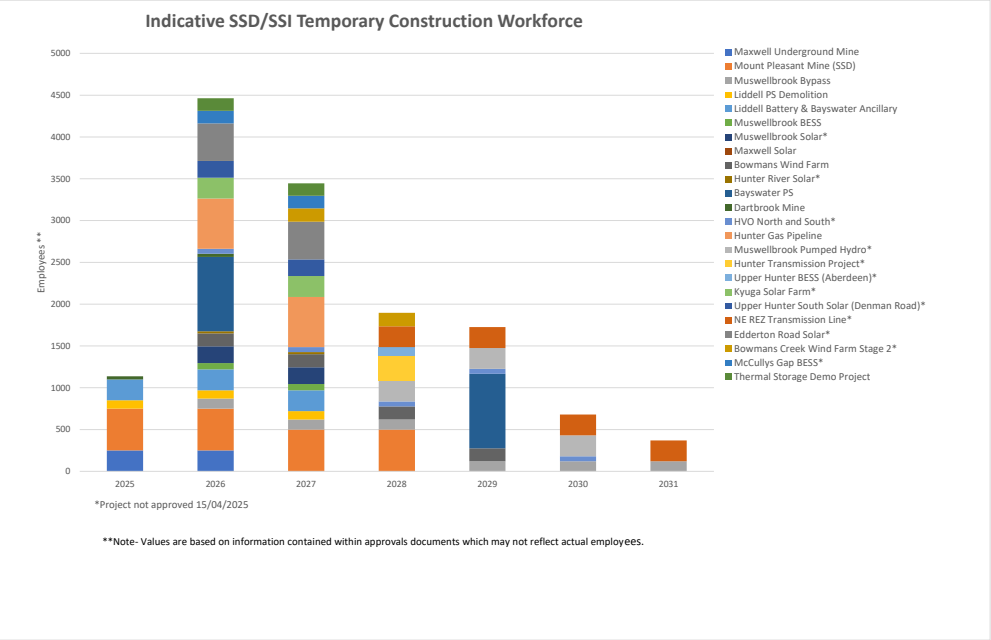
2. In February 2025, Council resolved the following in relation to benefit sharing for battery development:

a) A monetary contribution of $200/MWh consistent with the planning agreements with other BESS projects. The monetary contribution will be based on installed capacity, provided every year of operation and indexed annually to CPI.
b) Allocation of annual contribution payments to Council will be spent in the following ratios
   - 10% Specialist staff contribution to respond on behalf of Council for the Project's assessment and implementation; and
   - 90% to community, environment and economic projects managed as part of the Muswellbrook Shire Community Benefit Fund.
c) Neighbourhood Benefits – The preferred mechanism to 'deliver neighbourhood benefits' is as rate rebates to property owners in the direct vicinity of any development. If benefits in the form of projects are proposed on Council land or Crown land managed by Council, they will require a business case that considers the ongoing financial impact on Council.
d) Socio-Economic Commitments
   i. The Proponent is to employ a minimum of four (4) residents of Muswellbrook Shire, as apprentices/trainees on the site during the construction phase.
   ii. The Construction Company and Proponent is to provide a drop-in site with project information and ability to record complaints, in the Muswellbrook Central Business District (CBD), from commencement of the project and for the period of construction.
   iii. The Proponent is to provide a procurement plan to demonstrate how the project will benefit local business through local spend for Council's approval. The minimum target should be for 5% local procurement by project value. Any Procurement Plan should include details of any temporary construction workforce accommodation

Cumulative Impacts

Workforce Accommodation and Housing

3. The start date for construction is estimated to be in 2027/28. There are multiple projects proposed within the Muswellbrook LGA with potential overlapping construction periods over the next five years, as shown in the figure below. These include 500KV transmission lines, solar farms, other battery installations, a wind farm and Muswellbrook Bypass, coal mine expansions and a power station demolition. The Proponent must consider the cumulative temporary construction workforce requirements for all these projects.



*Note: a high-resolution copy of this figure can be provided on request.

It should be noted that a cumulative construction labour force assessment was undertaken in 2023 for the Muswellbrook Solar farm which found:

There will not be enough rooms to accommodate this workforce.

It is noted that there is a level of uncertainty about all these projects progressing post-approval or in the timeframes indicated in the various EIS documents.

Staff would like to see plans to address housing and accommodation for the temporary workforce within the Cumulative Impact Assessment.

4. Consultation with Council should occur during preparation of the EIS to confirm Council's expectations in relation to any Temporary Workforce Accommodation.

5. Staff request a commitment that an Accommodation Strategy be prepared post approval, prepared in accordance with the *'Guidelines for Construction Workers Accommodation'*. At a minimum, any Accommodation Strategy should:
   a) Demonstrate how accommodation demand will be managed during construction in conjunction with local periods of high demand e.g. during key regional events;
   b) Document an approach to informing regional accommodation providers of project workforce accommodation demands including anticipated timing.
   c) Enable the coordinated placement of workforce in short-term accommodation throughout the Shire;
   d) Keep key stakeholders informed of predicted project accommodation demands with six-month lead times preferred; and
   e) Contain a monitoring framework incorporating 'triggers' in decisions and additional accommodation options.

Social and Employment

6. The impact of the cumulative construction labour force on social and community services should be assessed.

   The cumulative effects of the transition will place pressure on local services, infrastructure, and housing. This includes increased demand for water, management of waste, and added strain on emergency services and educational facilities, as highlighted in the report *'Managing the impacts of State Significant Development',* prepared for Mid-Western Regional Council in 2023.

7. The proponent should consider partnering with local organisations to implement an employment program for First Nations people.

Project Description

8. Figure 8 of the Scoping Report shows a new transmission line easement. To avoid further disturbance (and disturbance of PCT 3431), please describe why the existing transmission line easement cannot be utilised.

Visual

9. It is noted that visual guidelines for large scale BESS developments have yet to be developed. Council Staff would prefer that the visual assessment for the Project consider and utilise (where relevant) the methodology for *Large-Scale Solar Energy Guidelines (DPHI)* for the development in the absence of guidelines for large scale BESS.

Riparian Buffer Zones

10. Staff are concerned that the BESS appears to be alongside ephemeral watercourses and in the event of chemical leaks this could result in contamination of the nearby Sandy Creek and subsequently, the Hunter River.

11. The site is in a landscape that has experienced large scale clearing for over two hundred years, including most riparian areas. Council prefers a "nature positive" outcome be delivered for this project, where riparian vegetation is restored in the landscape at the project site.

Traffic

12. It is noted that the proposed construction access to the site is via Sandy Creek Road off the New England Highway and that a Traffic Impact Assessment will be completed during the EIS stage.

13. The following needs to be included in the EIS:

    a) The use of 19-m B-doubles is approved along a 2-kilometre length of Sandy Creek Road, directly east of New England Highway, provided movements occur outside of the hours of 7.30am to 8.30am and 3.45pm to 4.45pm on school days as school buses use the road during this time;
    b) Based on the assessment report and recommended conditions of consent of the Muswellbrook Solar Farm, the Sandy Creek Road – New England Highway intersection is constrained under existing conditions, and queuing at the rail-level crossing is a safety concern that needs to be carefully considered.

14. Any upgrades required to access the site should be undertaken in accordance with AusRoad standards.

15. On 14 May 2024, Council resolved:

    As there will be heavy vehicles along Sandy Creek Road for simultaneous multiple projects (Muswellbrook Battery Energy Storage System, Muswellbrook Pumped Hydro, Muswellbrook Bypass, and Muswellbrook Solar Farm, New England REZ 500KV transmission line), the pavement damage for any specific project will need to be accurately calculated. As such, a proper methodology for contribution will need to be developed by Council and part funded by the Proponent through the Planning Agreement.

    Staff are progressing the Road Maintenance Contributions Plan and it will also apply to this Project.

16. Staff note that the SEARs include a requirement for the EIS to include details to mitigate and / or manage potential impacts including road maintenance contributions, and any other traffic controls.

17. It is expected that a Traffic Management Plan (TMP) will be developed in consultation with Council prior to commencement of construction. High level details of the TMP should be outlined in the EIS.

18. Dilapidation surveys may be required on the existing road and following construction and decommissioning. The dilapidation surveys should record the condition of the road pavement, drainage structures, and other road related infrastructure. The Proponent must repair and/or make good any Project related damage.

19. Staff may require the Proponent to prepare a Maintenance Management Plan in respect of Sandy Creek Road if the Road Maintenance Contributions Plan is not finalised prior to commencement of this project.

Property Values

20. Impact on property values is consistently raised in submissions by the community. Please include a detailed discussion on this issue (using relevant and contemporary examples) in the E.I.S.

Waste

21. Muswellbrook Shire Council operates the Muswellbrook Waste & Recycling Facility located on Coal Road, Muswellbrook. Environment Protection Licence 5980 applies to the site and specifies the nature and classification of materials that may be landfilled.

    The landfill is licenced to accept the following classifications of waste:
    a) General Solid Waste (putrescible)
    b) General Solid Waste (non-putrescible)
    c) Asbestos, safely delivered as per legislated requirements.

    No other waste types are permitted for landfill disposal. The site licence specifically excludes disposal of liquid waste, chemical waste, dangerous or hazardous substances in the landfill.

22. It is understood that lithium-ion batteries are currently being stockpiled in Australia while recycling programs and process are being developed. Stockpiling of batteries can create a serious fire risk. The Waste Management Plan for the Project should outline details of where batteries are intended to be stored if they are unable to be immediately recycled.

Water

23. Table 6 of the Scoping Report states that 'a water access licence may be required for extraction of water required for the Project'. Table 12 states that 'the EIS will include consideration of water use during construction and operation, including identifying available water sources'.

24. It should be noted there is not reticulated water supply in the vicinity of the site. Council engineers have raised concerns regarding the capacity of the Council managed water treatment facilities, that generate potable water, to support the cumulative demands of the temporary construction workforce and project delivery. Consultation should be undertaken with Council during preparation of the EIS to confirm water availability (if required).

25. Staff are developing a strategy to enable project proponents to use recycled water for construction activities where potable water is not required. Consultation should be undertaken with Council during preparation of the EIS to determine the availability, capacity, and suitability of recycled water sources.

26. No earthworks should be permitted that would divert, channelise or otherwise adversely impact the stormwater overland flows from or into neighbouring properties. Staff request that the EIS adequately describes erosion and sediment controls during construction and includes inspection regimes during operation.

Offsets

27. Staff welcome the commitment to performing a BDAR and undertaking extra flora and fauna surveys.

28. Staff note that potential biodiversity offset sites, to replace disturbed threatened vegetation, often falls outside the Muswellbrook LGA, which inadequately addresses local ecological impacts. Staff request that the Proponent conduct revegetation and habitat restoration within the project area, aligning with responsible environmental stewardship in the Muswellbrook Shire.

29. Section 6.2.3 of the Scoping Report identifies one Plant Community Type (PCT) within the project boundary. PCT3431, (Central Hunter Ironbark Grassy Woodland). This would be a suitable PCT for revegetation.

30. River Red Gum PCT 4086 is also significant to the LGA and would benefit from additional habitat planted at the Project site.

31. Staff note Section 6.2A of the *Biodiversity Conservation Act 2016* which aims to transition the biodiversity offset scheme to net positive.

Post-decommissioning land use

32. A post-decommissioning land use plan should be prepared a minimum of five years before the end of the approval, to determine the most appropriate mix of land uses for the site. The plan should be prepared in consultation with Council, the local business community, local environmental experts and Aboriginal representatives.

Rehabilitation and Decommissioning

33. A Decommissioning Plan should be prepared that includes details in relation to the following:

    a) A program for the decommissioning of all Project elements, above and any below ground infrastructure, redundant buildings and other infrastructure related to the approved development.
    b) A strategy for the rehabilitation of the site to an agreed post-decommissioning land use plan.
    c) Establish a timeline for the completion of decommissioning and rehabilitation works within 12 months of the conclusion of the premises operational lifetime.

34. At the conclusion of the development's operational lifetime, decommissioning of the site should be carried out in accordance with the Decommissioning Plan. Documentary evidence should be provided to Council, from a suitably qualified person, to confirm that the development has been successfully decommissioned and rehabilitated.

35. Any post decommissioning vegetation establishment should be undertaken in consultation with local environmental experts and Aboriginal representatives (to ensure relevant species are re-established).

36. Staff acknowledge and support the statement in Section 3.3.3 that 'at decommissioning, all infrastructure shall be removed from the site, including buried (cable, infrastructure)'.

Hazard

37. Staff request that the EIS include a discussion on the relevant findings of the investigation reports on the Victorian Big Battery (VBB) Fire that occurred on 31 July 2021 and ensure that the BESS supplier's requirements on equipment clearances, installation, commissioning, operations and maintenance, and emergency response are met.

38. Considering the potential cumulative number of renewable energy projects being constructed in the Upper Hunter, the EIS should discuss the capacity of the volunteer Rural Fire brigades to manage fires on the site (e.g. chemical and electrical fires) and whether a rapid response group

(preferably a salaried workforce) is required in the REZ to manage the initial response to fire events.

Other

Subdivision

39. Section 3.5 of the Scoping Report states that 'subdivision for the purpose of the internal substation and battery facility may be required'. Where any land is leased or subdivided to provide sites for sub-stations and other infrastructure, and creates lots below the minimum lot size, the registration of a restrictive covenant against the title of each newly created lot will be required. This covenant will prohibit the construction of additional dwellings on these lots and serve as a notification that these lots do not possess dwelling entitlements.

Impacts to Adjoining Land

40. Any land that will require planning controls/restrictions on new or existing uses to avoid a hazard (e.g proximity to batteries due to noise and run-away fire), must be communicated to Council so issues are adequately identified on planning certificates and in development assessment.

Council Staff appreciates the opportunity to provide input into the Draft SEARS and would be pleased to provide additional information if requested. Should you need to discuss the above, please contact Tracy Ward, Sustainability Officer on 02 6549 3778 or email tracy.ward@muswellbrook.nsw.gov.au.

Yours faithfully

Sharon Pope
Director Environment and Planning