

Development Consent

Section 4.38 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise and/or offset any adverse environmental impacts of the development;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing environmental management of the development.



Iwan Davies
Director
Energy Assessments

Sydney

7 July 2023

SCHEDULE 1

Application Number:	SSD 29704663
Applicant:	Muswellbrook BESS Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Land:	See Appendix 2
Development:	Muswellbrook Battery Energy Storage System

TABLE OF CONTENTS

SCHEDULE 1	1
DEFINITIONS	3
SCHEDULE 2	5
PART A ADMINISTRATIVE CONDITIONS.....	5
Obligation To Minimise Harm To The Environment	5
Terms Of Consent	5
Battery Storage Restriction.....	5
Upgrading Of Battery Storage And Ancillary Infrastructure	5
Structural Adequacy	5
Demolition	5
Protection Of Public Infrastructure	6
Operation Of Plant And Equipment.....	6
Applicability Of Guidelines	6
Compliance	6
Evidence Of Consultation	6
Community Enhancement	6
PART B ENVIRONMENTAL CONDITIONS – GENERAL.....	7
Transport.....	7
Biodiversity	8
Amenity	9
Heritage	11
Soil And Water	11
Hazards.....	12
Waste.....	13
Decommissioning And Rehabilitation	13
PART C ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING.....	14
Environmental Management.....	14
Notifications.....	15
Independent Environmental Audit.....	15
Access To Information.....	16
APPENDIX 1: GENERAL DEVELOPMENT LAYOUT	17
APPENDIX 2: SCHEDULE OF LANDS.....	18
APPENDIX 3: ROAD UPGRADES.....	19
APPENDIX 4: SITE ACCESS.....	20
APPENDIX 5: GENERAL TERMS OF THE APPLICANT’S VPA OFFER	21
APPENDIX 6: ABORIGINAL HERITAGE ITEMS	22
APPENDIX 7: INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS.....	23

DEFINITIONS

Aboriginal stakeholders	Aboriginal stakeholders registered for cultural heritage consultation for the development
Ancillary infrastructure	All project infrastructure with the exception of battery storage, including but not limited to switching rooms, permanent offices, site compounds, electricity transmission lines and internal roads
Applicant	Muswellbrook BESS Pty Ltd, or any person who seeks to carry out the development approved under this consent
Battery storage	Large scale energy storage system
BCS	Biodiversity Conservation and Science Directorate within the Department
Cessation of operations	Operation of the development has ceased for a continuous period of 12 months
Commissioning	The testing of the components, equipment and systems of the development following completion of construction, prior to operations commencing
Conditions of this consent	Conditions contained in Schedule 2
Construction	The construction of the development, including but not limited to, the carrying out of any earthworks on site and the construction of the battery storage and any ancillary infrastructure (but excludes road upgrades or maintenance works to the public road network, building/road dilapidation surveys, installation of fencing, artefact survey and/or salvage, overhead line safety marking and geotechnical drilling and/or surveying)
Council	Muswellbrook Shire Council
Decommissioning	The removal of battery storage infrastructure and ancillary infrastructure and/or rehabilitation of the site
Department	Department of Planning and Environment
Development	The development as described in the EIS
Development footprint	The area within the site on which the components of the project will be constructed (shown in Appendix 1)
DPE Water	Water Group within the Department
EIS	The Environmental Impact Statement for Muswellbrook Battery Energy Storage System, dated 25 August 2022, Submissions Report dated 3 February 2023 and the additional information dated 25 May and 14 June 2023
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>
EPA	Environment Protection Authority
Feasible	Feasible relates to engineering considerations and what is practical to build or implement
FRNSW	Fire and Rescue NSW
Heavy vehicle	As defined by the <i>Heavy Vehicle National Regulator</i> under the <i>Heavy Vehicle National Law (NSW)</i>
Heavy vehicle requiring escort	Any vehicle that requires a pilot vehicle and/or escort vehicle, as defined by the National Heavy Vehicle Regulator's NSW Class 1 Load Carrying Vehicle Operator's Guide
Heritage NSW	Heritage NSW division within the Environment and Heritage Group of the Department
Heritage item	An item as defined under the <i>Heritage Act 1977</i> and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i>
Incident	A set of circumstances that causes or threatens to cause material harm to the environment
Material harm	Is harm that: <ul style="list-style-type: none"> involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
MW	Megawatt
Minister	Minister for Planning and Public Spaces, or delegate
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
Non-associated residence	A dwelling in existence at the date of this consent which is not associated with the development
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent but is not an incident

Operation	The operation of the development, but does not include commissioning, trials of equipment or the use of temporary facilities
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Planning Secretary	Secretary of the Department, or nominee
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, irrigation channels, drainage channels
Reasonable	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
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
RFS	Rural Fire Service
Site	As indicated by the red line on the figure in Appendix 1 and listed in Appendix 2
Temporary facilities	Temporary facilities used for the construction, upgrading and/or decommissioning of the development, including but not limited to temporary site offices and compounds, materials storage compounds, maintenance workshops, material stockpiles, laydown areas and parking spaces
TfNSW	Transport for New South Wales
Upgrading	The replacement of battery storage and ancillary infrastructure on site (excluding maintenance) in accordance with the conditions of this consent
Vehicle movement	One vehicle entering and leaving the site
VPA	Voluntary Planning Agreement

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction, operation, rehabilitation or decommissioning of the development.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) generally in accordance with the EIS; and
 - (d) generally in accordance with the Development Layout in Appendix 1.
- A3. The Applicant must comply with any requirement/s of the Planning Secretary arising from the Department's assessment of:
- (a) any strategies, plans or correspondence that are submitted in accordance with this consent;
 - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
 - (c) the implementation of any actions or measures contained in these documents.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) or A2(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

BATTERY STORAGE RESTRICTION

- A5. The battery storage associated with the development must not exceed a total delivery capacity of 150 MW.

Note: This condition does not prevent the Applicant from seeking to lodge a separate development application or modify this consent to increase the capacity of the battery storage in the future.

UPGRADING OF BATTERY STORAGE AND ANCILLARY INFRASTRUCTURE

- A6. The Applicant may upgrade the battery storage and ancillary infrastructure on site provided these upgrades remain within the approved development footprint of the site. Prior to carrying out any such upgrades, the Applicant must provide revised layout plans and project details of the development to the Planning Secretary incorporating the proposed upgrades.

STRUCTURAL ADEQUACY

- A7. The Applicant must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the *Building Code of Australia*.

Notes:

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the development.*
- *The EP&A Regulation sets out the requirements for the certification of the development.*

DEMOLITION

- A8. The Applicant must ensure that all demolition work on site is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

PROTECTION OF PUBLIC INFRASTRUCTURE

A9. Unless the Applicant and the applicable authority agree otherwise, 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.

Note: This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

OPERATION OF PLANT AND EQUIPMENT

A10. All plant and equipment used on site, or in connection with the development, must be:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

APPLICABILITY OF GUIDELINES

A11. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

COMPLIANCE

A12. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

EVIDENCE OF CONSULTATION

A13. Where conditions of this consent require consultation with an identified party, the Applicant must:

- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
- (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMMUNITY ENHANCEMENT

A14. Prior to commencing construction, or other timeframe agreed by the Planning Secretary, the Applicant must enter into a VPA with Council in accordance with:

- (a) Division 7.1 of Part 7 of the EP&A Act; and
- (b) the terms of the correspondence dated 25 May 2023, which are summarised in Appendix 5.

PART B ENVIRONMENTAL CONDITIONS – GENERAL

TRANSPORT

Heavy Vehicles Requiring Escort and Heavy Vehicle Restrictions

- B1. The Applicant must ensure that the:
- (a) development does not generate more than:
 - i) 30 heavy vehicle movements a day during construction, upgrading and decommissioning; and
 - ii) 5 movements of heavy vehicles requiring escort during construction, upgrading and decommissioning; and
 - (b) length of any vehicles used for the development does not exceed 19 metres, unless the Planning Secretary agrees otherwise.
- B2. The Applicant must keep accurate records of the number of heavy vehicles, and heavy vehicles requiring escort, entering or leaving the site each day for the duration of the project.

Access Route

- B3. All heavy vehicles and heavy vehicles requiring escort associated with the development must travel to and from the site via New England Highway and Sandy Creek Road as identified in Appendix 4.

Note: The Applicant is required to obtain relevant permits under the Heavy Vehicle National Law (NSW) for the use of heavy vehicles requiring escort on the road network.

Site Access

- B4. All vehicles associated with the development must enter and exit the site via the site access point off Sandy Creek Road, as identified in Appendix 4.

Road Upgrades

- B5. Unless the Planning Secretary agrees otherwise, prior to commencing construction the Applicant must upgrade the site access point to the Muswellbrook Town Travelling Stock Reserve (R70196) from Sandy Creek Road to meet the general requirements of Council's 'Standard Drawings for Rural Property Access' as shown in Appendix 3.

This upgrade must be carried out to the satisfaction of the relevant roads authority.

Road Maintenance

- B6. The Applicant must, in consultation with Council:
- (a) undertake an independent dilapidation survey to assess the:
 - (i) existing condition of Sandy Creek Road on the transport route, prior to construction, upgrading or decommissioning works; and
 - (ii) condition of Sandy Creek Road on the transport route, following construction, upgrading or decommissioning works;
 - (b) repair Sandy Creek Road on the transport route if dilapidation surveys identify development related damage to the road during construction, upgrading or decommissioning works.

If there is a dispute between the Applicant and Council about the repair of Sandy Creek Road, then either party may refer the matter to the Planning Secretary for resolution.

Operating Conditions

- B7. The Applicant must ensure:
- (a) any new internal roads are constructed as all-weather roads;
 - (b) any existing internal roads are maintained as all-weather roads;
 - (c) there is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
 - (d) the capacity of the existing roadside drainage network is not reduced;
 - (e) all vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
 - (f) development-related vehicles leaving the site are in a clean condition to minimise dirt being tracked onto the sealed public road network.

Traffic Management Plan

- B8. Prior to commencing road upgrades identified in condition B5, the Applicant must prepare a Traffic Management Plan for the development in consultation with TfNSW and Council, and to the satisfaction of the Planning Secretary. This plan must include:
- (a) details of the transport route to be used for all development-related traffic;
 - (b) details of the road upgrade works required by condition B5;
 - (c) details of the measures that would be implemented to minimise traffic impacts during construction, upgrading or decommissioning works, including:
 - (i) details of the dilapidation surveys required by condition B6;
 - (ii) temporary traffic controls, including detours and signage;
 - (iii) notifying the local community about development-related traffic impacts;
 - (iv) procedures for receiving and addressing complaints from the community about development related traffic;
 - (v) minimising potential cumulative traffic impacts with other State significant development projects in the area, including consultation with TfNSW regarding the Muswellbrook Bypass project;
 - (vi) minimising potential for conflict with school buses and other road users as far as practicable, including preventing queuing on the public road network;
 - (vii) minimising dirt tracked onto the public road network from development-related traffic;
 - (viii) details of the employee shuttle bus service, including pick-up and drop-off points and associated parking arrangements for construction workers, and measures to ensure employee use of this service as described in the EIS;
 - (ix) encouraging car-pooling or ride sharing by employees;
 - (x) scheduling of heavy vehicle movements to minimise convoy length or platoons, and to minimise conflict with light vehicles;
 - (xi) responding to local climate conditions that may affect road safety such as fog, dust, wet weather and flooding;
 - (xii) responding to any emergency repair or maintenance requirements; and
 - (xiii) a traffic management system for managing heavy vehicles requiring escort, including notification procedures to the rail authority (ARTC) prior to movements occurring at the level crossing between Sandy Creek Road and the New England Highway.
 - (d) a driver's code of conduct that addresses:
 - (i) driver fatigue;
 - (ii) procedures to ensure that drivers adhere to the designated transport routes and speed limits; and
 - (iii) procedures to ensure that drivers implement safe driving practices; and
 - (e) a program to ensure drivers working on the development receive suitable training on the code of conduct and any other relevant obligations under the Traffic Management Plan.

Following the Planning Secretary's approval, the Applicant must implement the Traffic Management Plan.

BIODIVERSITY

Vegetation Clearance

- B9. The Applicant must not clear any native vegetation or fauna habitat located outside the approved disturbance areas described in the EIS.

Biodiversity Offsets

- B10. Prior to carrying out any development that could directly or indirectly impact the biodiversity values requiring offset, the Applicant must retire biodiversity credits of a number and class specified in Table 1 and Table 2 below, unless the Planning Secretary agrees otherwise.

The retirement of these credits must be carried out in accordance with the NSW Biodiversity Offsets Scheme and can be achieved by:

- (a) acquiring or retiring 'biodiversity credits' within the meaning of the *Biodiversity Conservation Act 2016*;
- (b) making payments into an offset fund that has been developed by the NSW Government; or
- (c) funding a biodiversity conservation action that benefits the entity impacted and is listed in the ancillary rules of the biodiversity offset scheme.

Table 1: Ecosystem Credit Requirements

Vegetation Community	PCT ID	Credits
Grey Box - Slaty Box shrub - grass woodland on sandstone slopes of the upper Hunter and Sydney Basin.	1655	2

Table 2: Species Credit Requirements

Species Credit Species	Credits Required
Leafless Tongue Orchid (<i>Cryptostylis hunteriana</i>)	2
Striped Legless Lizard (<i>Delma impar</i>)	3
Slaty Red Gum (<i>Eucalyptus glaucina</i>)	2
Austral Toadflax (<i>Thesium australe</i>)	2

- B11. Prior to carrying out any development that could directly or indirectly impact the biodiversity values requiring offset, the Applicant must provide evidence to the Planning Secretary that biodiversity credits have been retired.

Biodiversity Management Plan

- B12. Prior to commencing construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with BCS, and to the satisfaction of the Planning Secretary. This plan must:
- be prepared in accordance with the revised Biodiversity Development Assessment Report (dated 20 January 2023);
 - include a description of the measures and timeframes that would be implemented for:
 - protecting vegetation and fauna habitat outside the approved disturbance areas;
 - managing the remnant vegetation and fauna habitat on site;
 - minimising clearing and avoiding unnecessary disturbance of vegetation that is associated with the construction and operation of the development;
 - minimising the impacts to fauna on site and implementing fauna management protocols;
 - maximising the salvage of vegetative and soil resources within the approved disturbance area for beneficial reuse in the enhancement or the rehabilitation of the site; and
 - controlling weeds, feral pests and pathogens.
 - include a program to monitor and report on the effectiveness of mitigation measures;
 - include an incidental threatened species finds protocol to identify the avoid and/or minimise and/or offset options to be implemented if additional threatened species are discovered on site; and
 - include details of who would be responsible for monitoring, reviewing and implementing the plan.

Following the Planning Secretary's approval, the Applicant must implement the Biodiversity Management Plan.

Note: If the biodiversity credits are retired via a Biodiversity Stewardship Agreement, then the Biodiversity Management Plan does not need to include any of the matters that are covered under the Biodiversity Stewardship Agreement.

AMENITY

Construction, Upgrading and Decommissioning Hours

- B13. Unless the Planning Secretary agrees otherwise, the Applicant may only undertake road upgrades, construction, upgrading or decommissioning activities between:
- 7 am to 6 pm Monday to Friday;
 - 8 am to 1 pm Saturdays; and
 - at no time on Sundays and NSW public holidays.

The following construction, upgrading or decommissioning activities may be undertaken outside these hours without the approval of the Planning Secretary:

- the delivery of materials as requested by the NSW Police Force or other authorities for safety reasons; and
- emergency work to avoid the loss of life, property and/or material harm to the environment.

Noise

B14. The Applicant must:

- (a) minimise the noise generated by any construction, upgrading or decommissioning activities on site in accordance with best practice requirements outlined in the *Interim Construction Noise Guideline* (DECC, 2009) or its latest version; and
- (b) take all reasonable and feasible steps to minimise operational noise and ensure that the noise generated by the operation of the development does not exceed the noise limits in Table 3 below to be determined in accordance with the procedures in the *NSW Noise Policy for Industry* (EPA, 2017) at any non-associated residence.

Table 3: Noise Limit Requirements

Location	Noise Limits in dB(A)			
	Day	Evening	Night	Night
	L _{Aeq} (15min)	L _{Aeq} (15min)	L _{Aeq} (15min)	L _{AFmax}
Non-associated residence	40	36	36	52

Dust

B15. The Applicant must minimise the dust generated by the development.

Visual

B16. The Applicant must:

- (a) minimise the off-site visual impacts of the development, including the potential for any glare or reflection;
- (b) ensure the visual appearance of all ancillary infrastructure (including paint colours) blends in as far as possible with the surrounding landscape; and
- (c) not mount any advertising signs or logos on site, except where this is required for identification or safety purposes.

Vegetation Buffer

B17. The Applicant must establish and maintain a vegetation buffer (tree screening), as described in the EIS, at the locations outlined in Appendix 1 of this consent. The tree screening must:

- (a) be planted prior to commencing operation;
- (b) be comprised of species that are endemic to the area;
- (c) minimise views of the development from the adjacent Northview Estate property within 3 years of commencing operations;
- (d) be designed and maintained in accordance with RFS's *Planning for Bushfire Protection 2019* (or equivalent); and
- (e) be properly maintained with appropriate weed management,
- (f) unless the Planning Secretary agrees otherwise.

Lighting

B18. The Applicant must:

- (a) minimise the off-site lighting impacts of the development; and
- (b) ensure that any external lighting associated with the development:
 - (i) is installed as low intensity lighting (except where required for safety or emergency purposes);
 - (ii) does not shine above the horizontal; and
 - (iii) complies with *Australian/New Zealand Standard AS/NZS 4282:2019 – Control of Obtrusive Effects of Outdoor Lighting*, or its latest version.

HERITAGE

Protection of Heritage Items

- B19. The Applicant must ensure the development does not cause any direct or indirect impacts on Aboriginal heritage items located outside the approved development footprint.
- B20. Prior to carrying out any development that could directly or indirectly impact the heritage item identified in the table in Appendix 6, the Applicant must salvage the item that would be impacted in accordance with the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010), or its latest version.

Note: The location of the Aboriginal heritage item referred to in this condition are shown in the figure in Appendix 6.

Aboriginal Cultural Heritage Management Plan

- B21. Prior to carrying out any development that could directly or indirectly impact the heritage item identified in condition B20, the Applicant must prepare a Aboriginal Cultural Heritage Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
- (a) be prepared by a suitably qualified and experienced person whose appointment has been endorsed by the Planning Secretary;
 - (b) be prepared in consultation with Heritage NSW and Aboriginal stakeholders;
 - (c) include a description of the measures that would be implemented for:
 - (i) salvaging the item identified in condition B20, and protecting any items located outside the approved development area;
 - (ii) contain a chance finds protocol, should previously unidentified Aboriginal heritage items be found or Aboriginal skeletal material be discovered.
 - (iii) a contingency plan and reporting procedure, should Aboriginal heritage items outside the approved disturbance area be damaged;
 - (iv) ensuring workers on site receive suitable heritage inductions prior to carrying out any development on site, and that records are kept of these inductions; and
 - (v) ongoing consultation with Aboriginal stakeholders during the implementation of the plan;
 - (d) a program to monitor and report on the effectiveness of these measures and any heritage impacts of the project.

Following the Planning Secretary's approval, the Applicant must implement the Heritage Management Plan.

SOIL AND WATER

Water Supply

- B22. The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain the necessary water licences for the development.

Water Pollution

- B23. The Applicant must ensure that the development does not cause any water pollution, as defined under Section 120 of the POEO Act.

Unexpected Finds

- B24. An Unexpected Finds Procedure for Contamination must be prepared before the commencement of construction and implemented throughout construction. The procedure must:
- (a) be followed should unexpected contamination or asbestos (or suspected contamination) be excavated or otherwise discovered;
 - (b) include details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved; and
 - (c) be prepared, (or reviewed and approved), by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Operating Conditions

B25. The Applicant must:

- (a) minimise any soil erosion and control sediment generation;
- (b) ensure that construction, upgrading or decommissioning of the development has appropriate drainage and erosion and sediment controls designed, installed and maintained in accordance with the relevant requirements in the *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004) manual, or its latest version;
- (c) ensure the battery storage and ancillary infrastructure (including security fencing) are designed, constructed and maintained to reduce impacts on surface water, localised flooding and groundwater at the site; and
- (d) ensure the battery storage and ancillary infrastructure are designed, constructed and maintained to avoid causing any erosion on site.

HAZARDS

Fire Safety Study

B26. Prior to commencing construction of the battery storage, the Applicant must prepare a Fire Safety Study for the development, to the satisfaction of FRNSW and the Planning Secretary in writing. The study must:

- (a) be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline*;
- (b) describe the final design of the battery storage;
- (c) include reasonable worst-case bush fire scenario to and from the battery storage and the associated bush fire management; and
- (d) identify measures to eliminate the expansion of any fire incident including:
 - (i) adequate fire safety systems and appropriate water supply;
 - (ii) separation and / or compartmentalisation of battery units; and
 - (iii) strategies and incident control measures specific to the battery storage design.

Following approval by the Planning Secretary, the Applicant must implement the measures described in the Fire Safety Study.

Note: 'to the satisfaction of FRNSW' above means confirmation in writing from FRNSW that the Study meets the requirements of FRNSW as required by the Department's Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline.

Storage and Handling of Dangerous Goods

B27. The Applicant must store and handle all chemicals, fuels and oils used on-site in accordance with:

- (a) the requirements of all relevant Australian Standards; and
- (b) the NSW EPA's *Storing and Handling of Liquids: Environmental Protection – Participants Handbook* if the chemicals are liquids.

In the event of an inconsistency between the requirements (a) and (b) above, the most stringent requirement must prevail to the extent of the inconsistency.

Operating Conditions

B28. The Applicant must:

- (a) minimise the fire risks of the development, including managing vegetation fuel loads on-site;
- (b) ensure that the development:
 - (i) complies with the relevant asset protection requirements in the RFS's Planning for Bushfire Protection 2019 (or equivalent) and Standards for Asset Protection Zones; and
 - (ii) is suitably equipped to respond to any fires on site, including provision of a 20,000 litre water supply tank fitted with a 65 mm Storz fitting and a FRNSW compatible suction connection;
- (c) ensure that the battery storage area:
 - (i) includes a 10 metre defendable space around the perimeter that permits unobstructed vehicle access; and
 - (ii) is managed as an asset protection zone (including the defendable space);
- (d) assist the RFS and emergency services as much as practicable if there is a fire in the vicinity of the site; and
- (e) notify the relevant Local Emergency Management Committee following construction of the development, and prior to commencing operations.

Emergency Plan

- B29. Prior to commencing commissioning, the Applicant must develop and implement a comprehensive Emergency Plan and detailed emergency procedures for the development, and provide a copy of the plan to the NSW RFS Hunter Valley Fire Control Centre and FRNSW. The plan must:
- (a) be prepared in accordance with the findings of the Fire Safety Study required under Condition B26;
 - (b) be consistent with the Department's *Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'* and RFS's *Planning for Bushfire Protection 2019* (or equivalent);
 - (c) include details on how the battery storage and sub-systems can be safely isolated in an emergency;
 - (d) include bushfire emergency management planning, including:
 - (i) details of the location, management and maintenance of the Asset Protection Zone;
 - (ii) a list of works that should not be carried out during a total fire ban;
 - (iii) details of how RFS would be notified, and procedures that would be implemented, in the event that:
 - there is a fire on-site or in the vicinity of the site;
 - there are any activities on site that would have the potential to ignite surrounding vegetation; or
 - there are any proposed activities to be carried out during a bushfire danger period; and
 - (e) include an Emergency Services Information Package in accordance with *Emergency services information and tactical fire plan* (FRNSW, 2019), to the satisfaction of FRNSW and RFS.
- B30. The Applicant must:
- (a) implement the Emergency Plan and the Emergency Services Information Package for the duration of the development; and
 - (b) following commencement of commissioning of the battery storage, keep a copy of the Emergency Services Information Package on-site in a prominent position adjacent to the site entry points at all times.

WASTE

- B31. The Applicant must:
- (a) minimise the waste generated by the development;
 - (b) classify all waste generated on site in accordance with the EPA's *Waste Classification Guidelines 2014* (or its latest version);
 - (c) store and handle all waste on site in accordance with its classification;
 - (d) not receive or dispose of any waste on site; and
 - (e) remove all waste from the site as soon as practicable, and ensure it is reused, recycled or sent to an appropriately licensed waste facility for disposal.

DECOMMISSIONING AND REHABILITATION

- B32. Within 18 months of the cessation of operations, unless the Planning Secretary agrees otherwise, the Applicant must rehabilitate the site to comply with the objectives in Table .

Table 4: Rehabilitation Objectives

Feature	Objective
Site	<ul style="list-style-type: none">• Safe, stable and non-polluting.
Battery Storage infrastructure	<ul style="list-style-type: none">• To be decommissioned and removed, unless the Planning Secretary agrees otherwise, with the exception of assets held by the Network Service Provider.
Land use	<ul style="list-style-type: none">• Restore land to pre-existing use.
Community	<ul style="list-style-type: none">• Ensure public safety at all times.

PART C ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

- C1. Prior to commencing construction, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Planning Secretary. This strategy must:
- (a) provide the strategic framework for environmental management of the development;
 - (b) identify the statutory approvals that apply to the development;
 - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
 - (d) set out the procedures that would be implemented to:
 - (i) keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - (ii) receive, handle, respond to, and record complaints;
 - (iii) resolve any disputes that may arise;
 - (iv) respond to any non-compliance;
 - (v) respond to emergencies; and
 - (e) include:
 - (i) references to any strategies, plans and programs approved under the conditions of this consent; and
 - (ii) a clear plan depicting all the monitoring to be carried out in relation to the development, including a table summarising all the monitoring and reporting obligations under the conditions of this consent.

Following the Planning Secretary's approval, the Applicant must implement the Environmental Management Strategy.

Revision of Strategies, Plans and Programs

- C2. The Applicant must:
- (a) update the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary prior to carrying out any upgrading or decommissioning activities on site; and
 - (b) review and, if necessary, revise the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary within 1 month of the:
 - (i) submission of an incident report under condition C10 of Schedule 2;
 - (ii) submission of an audit report under condition C14 of Schedule 2; or
 - (iii) any modification to the conditions of this consent.

Staging, Combining and Updating Strategies, Plans or Programs

- C3. With the approval of the Planning Secretary, the development may be staged and the Applicant may:
- (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
 - (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and
 - (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).
- C4. If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.
- C5. If approved by the Planning Secretary, updated strategies, plans or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan or program.

- C6. If the Planning Secretary agrees, a strategy, plan or program may be staged without addressing particular requirements of the relevant condition of this consent if those requirements are not applicable to the particular stage.

NOTIFICATIONS

Notification of Department

- C7. Prior to commencing the construction, operations, upgrading or decommissioning of the development or the cessation of operations, the Applicant must notify the Department in writing via the Major Projects website portal of the date of commencement, or cessation, of the relevant phase.

If any of these phases of the development are to be staged, then the Applicant must notify the Department in writing prior to commencing the relevant stage, and clearly identify the development that would be carried out during the relevant stage.

Final Layout Plans

- C8. Prior to commencing construction, the Applicant must submit detailed plans of the final layout of the development to the Department via the Major Projects website and to Council and NSW Subsidence Advisory, showing comparison to the approved layout and including details on the siting of battery storage components and ancillary infrastructure.

The Applicant must ensure that the development is constructed in accordance with the Final Layout Plans.

Work as Executed Plans

- C9. Prior to commencing operations or following the upgrades of any battery storage components or ancillary infrastructure, the Applicant must submit work as executed plans of the development showing comparison to the final layout plans to the Department via the Major Projects website and also to Council and NSW Subsidence Advisory.

Incident Notification

- C10. The Department must be notified in writing via the Major Projects website immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 7.

Non-Compliance Notification

- C11. The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.
- C12. A non-compliance notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- C13. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

- C14. Independent Audits of the development must be conducted and carried out at the frequency and in accordance with the *Independent Audit Post Approval Requirements* (2020) to the following frequency:
- (a) within 3 months of commencing construction; and
 - (b) within 3 months of commencement of operations.
- C15. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
- C16. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified in condition C14 of Schedule 2 upon giving at least 4 weeks' notice to the Applicant of the date upon which the audit must be commenced.

- C17. In accordance with the specific requirements in the *Independent Audit Post Approval Requirements* (2020), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under condition C14 of Schedule 2 of this consent, or condition C16 of Schedule 2 where notice is given by the Planning Secretary;
 - (b) submit the response to the Planning Secretary; and
 - (c) make each Independent Audit Report, and response to it, publicly available within 60 days of submission to the Planning Secretary, unless otherwise agreed by the Planning Secretary.
- C18. Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the *Independent Audit Post Approvals Requirements* (2020) unless otherwise agreed by the Planning Secretary.
- C19. Notwithstanding the requirements of the *Independent Audit Post Approvals Requirements* (2020), the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

ACCESS TO INFORMATION

- C20. The Applicant must:
- (a) make the following information publicly available on its website as relevant to the stage of the development:
 - (i) the EIS;
 - (ii) the final layout plans for the development;
 - (iii) current statutory approvals for the development;
 - (iv) approved strategies, plans or programs required under the conditions of this consent;
 - (v) the proposed staging plans for the development if the construction, operation and/or decommissioning of the development is to be staged;
 - (vi) a comprehensive summary of the monitoring results of the development, which have been reported in accordance with the various plans and programs approved under the conditions of this consent;
 - (vii) how complaints about the development can be made;
 - (viii) any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
 - (ix) any other matter required by the Planning Secretary; and
 - (b) keep this information up to date

Legend

- Development Site/ Development Footprint
- Cadastre
- Road
- Electricity Transmission Line
- Site Access Point
- Easement
- Muswellbrook Subtransmission Substation
- Watercourse (Strahler Stream Order)
 - 1
 - 2
 - 3
 - 6
- Indicative Muswellbrook Bypass Footprint
- Existing Waterway Crossing
- Northview Estate**
 - Stage 6
 - Stage 7
- Mapped Aboriginal Heritage Sites**
 - Mapped Aboriginal Heritage Sites
- Travelling Stock Route Conservation Value**
 - Medium MCV
- Non-Associated Receivers**
 - Residential
- Proposed Layout**
 - BESS Area
- Ausgrid Future Works (not part of BESS project)
- Grid Connection Investigation Area
- Internal Access Tracks and Asset Protection Zone
- O&M Compound
- Screening Vegetation
- Shared Access Route
- Substation Area
- Works Area in Existing Substation
- Temp Construction Compound
- Indicative Connection
- Noise Walls

Premise

FIRM POWER
Muswellbrook Battery Energy Storage System

Sources: © State of NSW, Department of Customer Services, Spatial Services 2021

APPENDIX 2: SCHEDULE OF LANDS

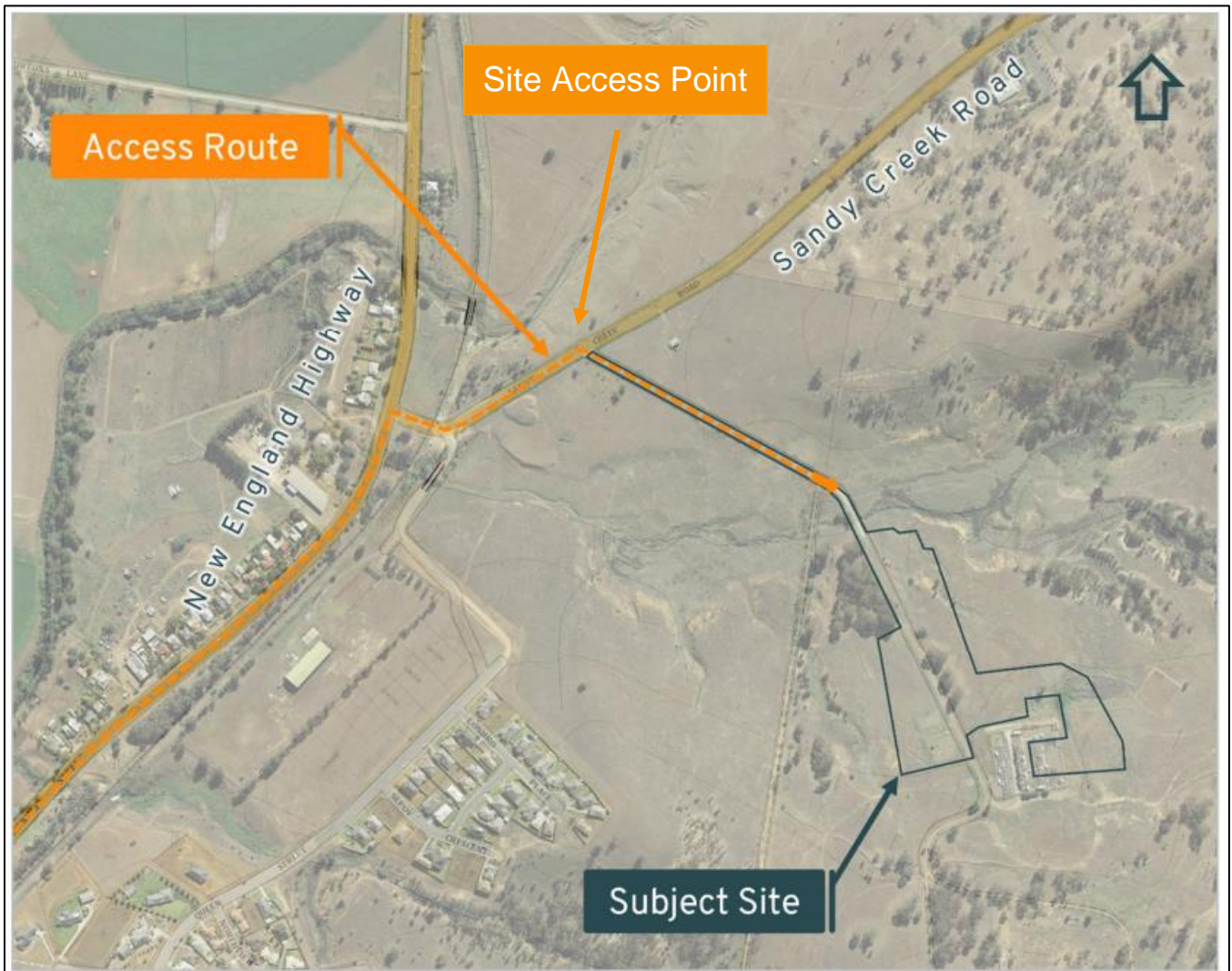
<i>Lot Number</i>	<i>Deposit Plan (DP)</i>
11	839233
12	839233
15	905479

Note: The site will also be taken to include any Crown land contained within the site.

APPENDIX 3: ROAD UPGRADES



APPENDIX 4: SITE ACCESS



APPENDIX 5:

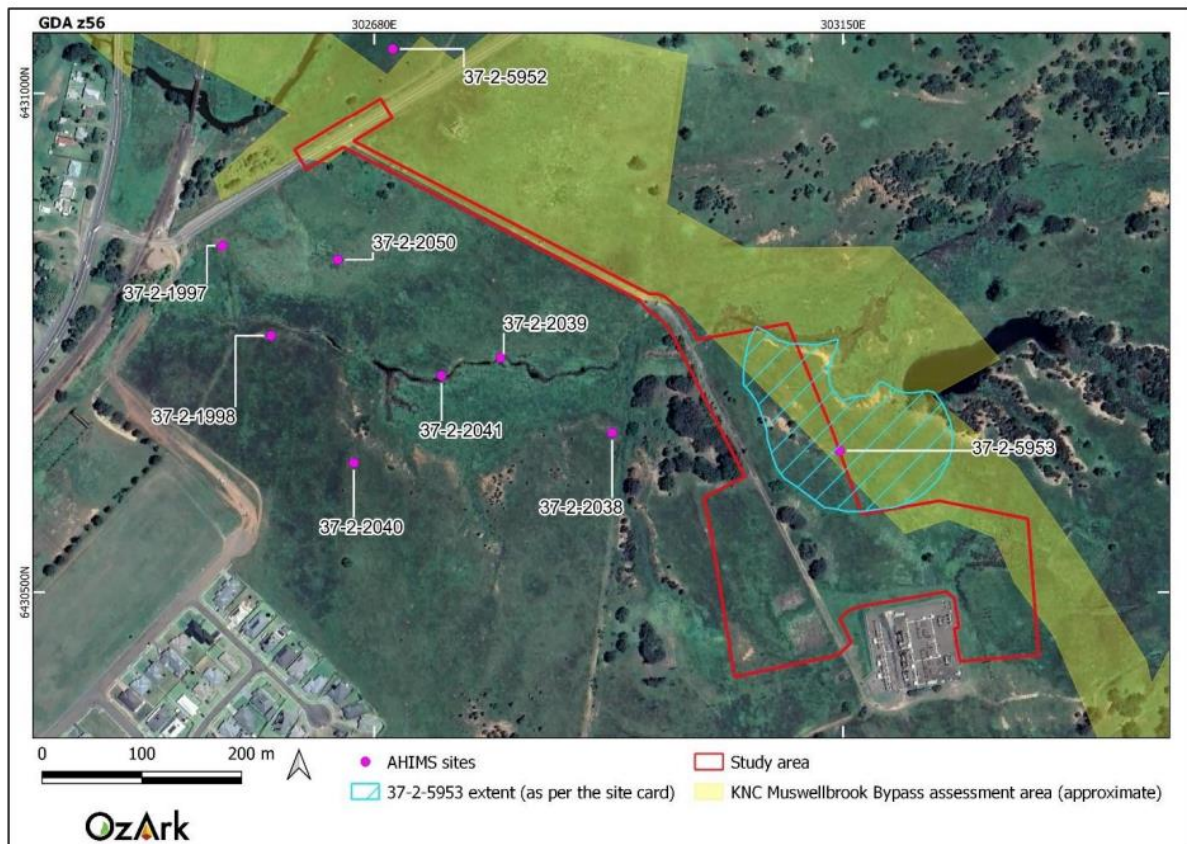
GENERAL TERMS OF THE APPLICANT'S VPA OFFER

The VPA must include provisions for the payment, collection, management and distribution of the contributions under the agreement, with a focus on funding community enhancement in the area surrounding the project site.

<i>Council</i>	<i>Payment details</i>
Muswellbrook Shire Council	<ul style="list-style-type: none">• Contributions to the value of \$200 per MWh (by nameplate capacity), paid annually from the date of commencement of operation.• Indexed to the Consumer Price Index annually on the anniversary of the date that the first MW commences commercial operations.

APPENDIX 6: ABORIGINAL HERITAGE ITEMS

Item name	Degree of Impact
Aboriginal Site 37-2-5953 (Muswellbrook Bypass AFT 2)	Partial. Only items located within the project boundary may be salvaged (refer to the Figure in this Appendix to identify items)



APPENDIX 7: INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition C7 of Schedule 2 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - (a) identify the development and application number;
 - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) identify how the incident was detected;
 - (d) identify when the applicant became aware of the incident;
 - (e) identify any actual or potential non-compliance with conditions of consent;
 - (f) describe what immediate steps were taken in relation to the incident;
 - (g) identify further action(s) that will be taken in relation to the incident; and
 - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) a summary of the incident;
 - (b) outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) details of any communication with other stakeholders regarding the incident