

27 June 2023



Planning Secretary
Department of Planning and Environment

via Major Project Portal

Dear Planning Secretary

Re: Ungula Wind Farm – Secondary Intersection upgrades (Ilgingery Rd and Ungula Rd)

Squadron Energy Pty Ltd (SQE) is writing to the Department of Planning and Environment (DPE) on behalf of Ungula Wind Farm Pty Ltd, with reference to the Ungula Wind Farm (UWF) project, approved under Development Consent SSD-6687 (Mod 2).

Pursuant to Condition B30 of SSD-6687, SQE are seeking the Planning Secretary's agreement for the minor relocation of two Secondary Intersections located on Ilgingery Road and Ungula Road, to accommodate the micro-siting of internal access roads.

This letter details the relevant conditions of approval, the reasons for the request, and details of the consultation completed with Dubbo Regional Council (the relevant roads authority).

Condition 30, SSD-6687

Condition 30 of SSD-6687 requires road upgrades to be completed at 'Secondary Intersections', where the wind farm internal access roads intersect public roads.

Condition 30 of SSD-6687 states:

Unless the Planning Secretary agrees otherwise, prior to commencing construction the Applicant must implement the road upgrades identified in Appendix 7, to the standard and satisfaction of the relevant roads authority.

If there is a dispute about the road upgrades to be implemented, or the implementation of these upgrades, then either party may refer the matter to the Planning Secretary for resolution.

As referenced in Condition 30, Appendix 7 sets out the following road upgrades required for Secondary Intersections:

Road/ intersection	Start Point	Chainage	Upgrade	Timing
Roads Authority: Dubbo Regional Council				
Ungula Road	Twelve Mile Road	As noted in the Figure 1 in this Appendix	Construct secondary intersection for safe exit and entry movements, and to provide adequate wind farm component access	Prior to any use by traffic associated with the construction of the development
Ilgingery Road	Wuuluman Road	As noted in the Figure 1 in this Appendix	Construct secondary intersections for safe exit and entry movements, and to provide adequate wind farm component access	Prior to any use by traffic associated with the construction of the development

Figure 1 of Appendix 7 is included at [Attachment 1](#) of this letter. The conceptual layout of the Secondary intersections are shown on Figures 1 & 2.

Reason for the request

The purpose of the Secondary Intersections is to facilitate the routes of internal roads throughout the Project Site required for wind farm construction and operational vehicles.

The wind farm design has progressed since the Development Consent was issued, and internal roads are now being micro-sited in accordance with Condition A7, which states:

Wind turbines and ancillary infrastructure may be micro-sited without further approval providing:

- a. the surface disturbance remains within the development corridor (with the exception of wind monitoring masts) shown on the figure in Appendix 2.*
- b. no wind turbine is moved more than 100 metres from the relevant GPS coordinates shown in Appendix 2;*
- c. the revised location of the blade of a wind turbine is at least 50 metres from the canopy of existing hollow-bearing trees; or where the proposed location of the blade of a wind turbine is already within 50 metres of the canopy of existing hollow-bearing trees, the revised location is not any closer to the existing hollow-bearing trees;*
- d. the revised location of the wind turbine and/or ancillary infrastructure would not result in any non-compliance with the conditions of this consent; and*
- e. the wind monitoring masts are located within the development corridor where possible and their development would not result in any non-compliance with the conditions of this consent.*

The details of the proposed changes to Secondary Intersections are provided below:

1. Uungula Road Secondary Intersection:

The intersection will be relocated to the north-west on Uungula Road, to accommodate the micro-sited internal access road design. Refer also to notes provided on the Project Layout map at [Attachment 1](#).

2. Ilgingery Road Secondary Intersection:

The intersection will be relocated to the west along Ilgingery Road, to accommodate the micro-sited internal access road design. The internal road will approach Ilgingery Road from the north-east, from Turbine No. 105. Refer also to notes provided on the Project Layout map at [Attachment 1](#).

The general design criteria and proposed uses of the road upgrades would remain the same as stated in the Uungula Wind Farm Environmental Impact Statement (as defined in SSD-6687). The intersections would be designed and constructed to allow safe exit and entry movements and provide adequate wind farm component access. The changes are consistent with the existing development consent and are generally in accordance with the EIS.

SQE can confirm that the proposed intersection relocations would not result in any non-compliance with A7, or any other conditions of the consent. The changes would not result in any increase to biodiversity or heritage impacts permitted under the consent.

Rather, the impacts to biodiversity would be reduced as a result of the changes. The relocation of the intersection on Ilgingery Road would enable an internal access road to approach Ilgingery Road from Turbine No. 105, rather than Turbine No. 102. This would eliminate approximately 2.3 kilometres of internal access road between Turbine No. 102 and Ilgingery Road. By contrast, the access road between Turbine No. 105 and Ilgingery Road is approximately 800 metres in length.

SQE notes that the locations described above and shown at [Attachment 1](#) are indicative only, and the final location of Secondary Intersections will be subject to final design and micro-siting of internal access roads.

A Legal Memorandum prepared by Norton Rose Fulbright is included at Attachment 3, which provides legal advice in relation to the changes being requested under Condition B30 of the consent.

Consultation with Dubbo Regional Council

On Wednesday 29 March, SQE wrote to DRC seeking support and agreement for the secondary intersection relocations as described above. On Thursday 30 March, DRC responded noting that:

- DRC reviewed the request;
- DRC found that there will be no significant impact to DRC road assets or any increased risk to public safety; and
- DRC provide agreement for the proposed relocations of the minor secondary intersections as described.

A copy of the correspondence with DRC is provided at [Attachment 2](#) of this letter.

Conclusion

Pursuant to Condition B30, SQE requests the Planning Secretary's agreement to relocate the secondary intersections, as described in this letter, to accommodate the micro-siting of internal access roads.

If you have any questions or require further information, please don't hesitate to contact me.

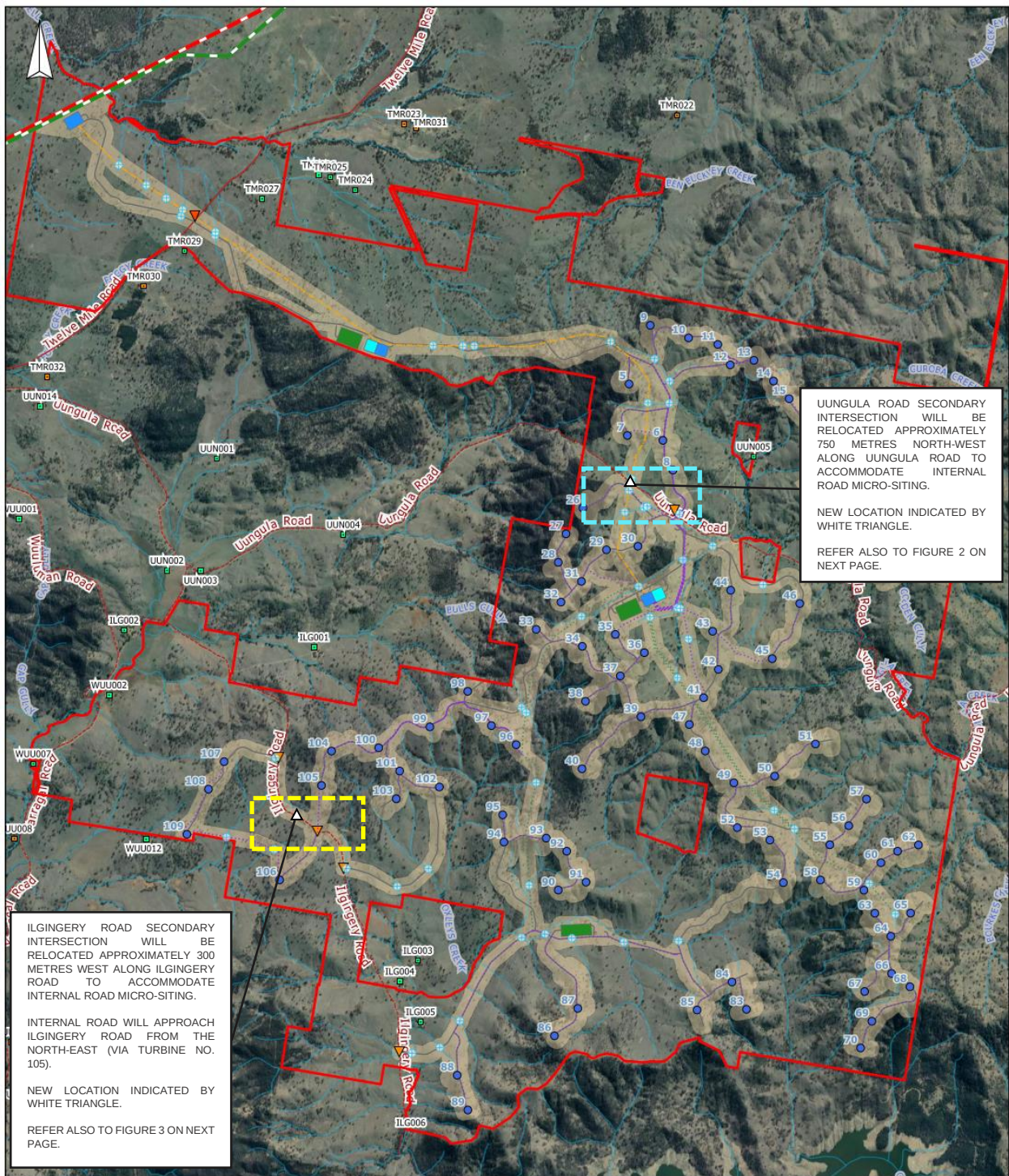
Yours sincerely,



Alana Gordijn
Environmental Manager
 For and behalf of Uungula Wind Farm Pty Ltd



Attachment 1 – Project Layout and Secondary Intersections (with indicative relocation areas)



LEGEND		COMPANY				
Residences: ■ Involved ■ Non-involved --- Existing Unsealed Road --- Existing Sealed Road --- Development Corridor --- Project Site --- Access tracks ▲ Primary Project Site entry ▲ Secondary intersections ▲ Waterway Crossing		UUNGULA WIND FARM PTY LTD				
● Wind Turbine Generator (WTG) ■ Site Compound ■ Substation ■ Energy Storage Facility --- Existing Powerlines: --- 132kV --- 330kV --- Proposed powerlines: --- Overhead (high voltage) --- Overhead (medium to low voltage) --- Underground (medium to low voltage)						
TITLE		Project Layout				
DATE	SCALE	DWG NO	REV	VER		
20/04/2022	1:48000	UWF-146	C	1		
DRAWN BY	CHECKED BY	SHEET	JOB NO	SIZE		
B KRONENBERG	M FLOWER	1 OF 1	110247	A3		

Figure 1 Approved project layout and locations of secondary intersection relocation

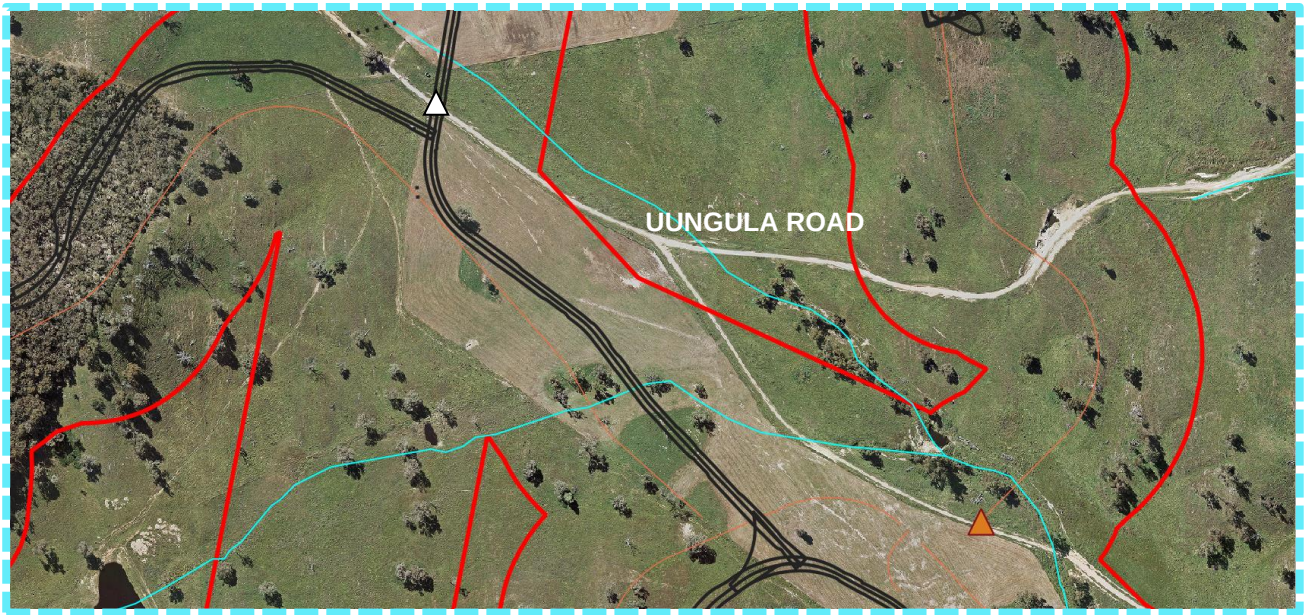


Figure 2 Secondary intersection relocation on Uungula Road. Concept access road design shown in black. Approved project layout road centreline shown in orange.



Figure 3 Secondary intersection relocation on Ilgingery Road. Concept access road design shown in black. Approved project layout road centreline shown in orange.



Attachment 2 – Correspondence with Dubbo Regional Council

From: [Peter James](#)
To: [Alana Gordijn](#)
Cc: [Matthew Flower](#); [CM-Uungula Wind Farm](#)
Subject: RE: Uungula Wind Farm - Secondary intersections on Uungula Road and Ilgingery Rd
Date: Thursday, 30 March 2023 11:58:17 AM
Attachments: [image001.png](#)
[ATT00001.png](#)
[ATT00002.png](#)
[ATT00003.png](#)
[ATT00004.png](#)
[ATT00005.png](#)
[ATT00006.png](#)
[ATT00007.png](#)

[CAUTION] This email originated outside SQE's network. If you do not recognise the sender or did not expect this email then please do not open any attachments or click any link.

Hi Alana,

I have reviewed your request and find that there will be no significant impact to DRC road assets or any increased risk to public safety.

Bases on this I am able to provide DRC agreement for the proposed relocations of the minor secondary intersections as described.

Thank you.

Peter James

Senior Transport Asset Specialist

Infrastructure Delivery | Dubbo Regional Council

P 02 6840 6409

Peter.James@dubbo.nsw.gov.au

<http://dubbo.nsw.gov.au>



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We acknowledge the Wiradjuri people, the traditional custodians of the land. We pay respects to Elders past, present and emerging of the Wiradjuri Nation.

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From: Alana Gordijn <alana.gordijn@squadronenergy.com>
Sent: Wednesday, 29 March 2023 5:01 PM
To: Peter James <Peter.James@dubbo.nsw.gov.au>
Cc: Matthew Flower <Matthew.Flower@squadronenergy.com>; CM-Uungula Wind Farm <project4@cwpr.in.consultationmanager-preview.com>
Subject: Uungula Wind Farm - Secondary intersections on Uungula Road and Ilgingery Rd

⚠ **CAUTION:** This email came from outside the organisation. Be cautious clicking links and do not open attachments unless they are expected.

Good afternoon Peter,

I am writing in relation to the Uungula Wind Farm. As you are aware, road upgrades will be required where the internal wind farm access road intersects with Uungula Road and Ilgingery Road. The UWF Development Consent describes these secondary intersection road upgrades and their locations.

UWF is seeking DRC's agreement for the minor relocation of two secondary intersections. With Council's agreement, we would then write to the NSW DPE seeking the Planning Secretary's agreement as well.

Please refer to the attached letter for a detailed description of our request. If possible, we kindly request Council's feedback by Friday 14th April 2023.

Very happy to discuss this with you over the phone as required.

Best regards,

Alana Gordijn

Environmental Manager
Delivery



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L
W**

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Squadron Energy acknowledges the Traditional Owners and ongoing Custodians of the lands and waters on which we operate. We pay our respects to Elders past, present and emerging.

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29 March 2023



Peter James
Infrastructure Delivery
Dubbo Regional Council

via email: Peter.James@dubbo.nsw.gov.au

Dear Peter

Re: Ungula Wind Farm – Secondary Intersection upgrades (Ilgingery Rd and Ungula Rd)

Squadron Energy Pty Ltd (SQE) is writing to Dubbo Regional Council (DRC) on behalf of Ungula Wind Farm Pty Ltd, with reference to the Ungula Wind Farm (UWF) project, approved under Development Consent SSD-6687 (Mod 2).

Condition 30 of SSD-6687 requires road upgrades to be completed at ‘Secondary Intersections’, where the wind farm internal access roads intersect public roads. SQE are seeking DRC’s support and agreement (as the relevant roads authority) for the minor relocation of two Secondary Intersections located on Ilgingery Road and Ungula Road.

Should DRC agree, SQE will seek the Planning Secretary’s agreement to the intersection relocation, in accordance with Condition 30 of SSD-6687.

Condition 30 of SSD-6687 requires:

Unless the Planning Secretary agrees otherwise, prior to commencing construction the Applicant must implement the road upgrades identified in Appendix 7, to the standard and satisfaction of the relevant roads authority.

If there is a dispute about the road upgrades to be implemented, or the implementation of these upgrades, then either party may refer the matter to the Planning Secretary for resolution.

As referenced in Condition 30, Appendix 7 sets out the following road upgrades required for Secondary Intersections:

Road/ intersection	Start Point	Chainage	Upgrade	Timing
Roads Authority: Dubbo Regional Council				
Ungula Road	Twelve Mile Road	As noted in the Figure 1 in this Appendix	Construct secondary intersection for safe exit and entry movements, and to provide adequate wind farm component access	Prior to any use by traffic associated with the construction of the development
Ilgingery Road	Wuuluman Road	As noted in the Figure 1 in this Appendix	Construct secondary intersections for safe exit and entry movements, and to provide adequate wind farm component access	Prior to any use by traffic associated with the construction of the development

Figure 1 of Appendix 7 is included at Attachment 1 of this letter. The indicative locations of the Secondary intersections are shown on Figure 1.

The purpose of the Secondary Intersections is to facilitate the routes of internal roads throughout the Project Site required for wind farm construction and operational vehicles. Under Condition A7 of SSD-6687, internal access roads ('ancillary infrastructure') may be micro-sited.

Condition A7 of SSD-6687 states:

Wind turbines and ancillary infrastructure may be micro-sited without further approval providing:

a) the surface disturbance remains within the development corridor (with the exception of wind monitoring masts) shown on the figure in Appendix 2.

The wind farm design has progressed since the Development Consent was issued, and internal roads are now being micro-sited in accordance with Condition A7. It is proposed that two Secondary Intersections be relocated to accommodate the micro-siting of the internal roads.

The details of the proposed changes to Secondary Intersections are provided below:

- 1. Uungula Road Secondary Intersection:** The intersection may be relocated approximately 700 - 900 metres to the north-west on Uungula Road, to accommodate the final internal road design. Refer also to notes provided on the Project Layout map at Attachment 1.
- 2. Ilgingery Road Secondary Intersection:** The intersection may be relocated by up to 300 metres to the west along Ilgingery Road, to accommodate the final internal road design. The internal road will approach Ilgingery Road from the north-east, from Turbine No. 105. Refer also to notes provided on the Project Layout map at Attachment 1.

SQE notes that the locations described above and shown at Attachment 1 are indicative only, and the final location of Secondary Intersections will be subject to final design and micro-siting of internal access roads.

The general design criteria and proposed uses of the road upgrades would remain the same as stated in the Uungula Wind Farm Environmental Impact Statement (as defined in SSD-6687). The intersections would be designed and constructed to allow safe exit and entry movements and provide adequate wind farm component access.

SQE is seeking DRC's support and agreement for the relocation of the two Secondary Intersections as described in this letter.

If you have any questions or require further information, please don't hesitate to contact me.

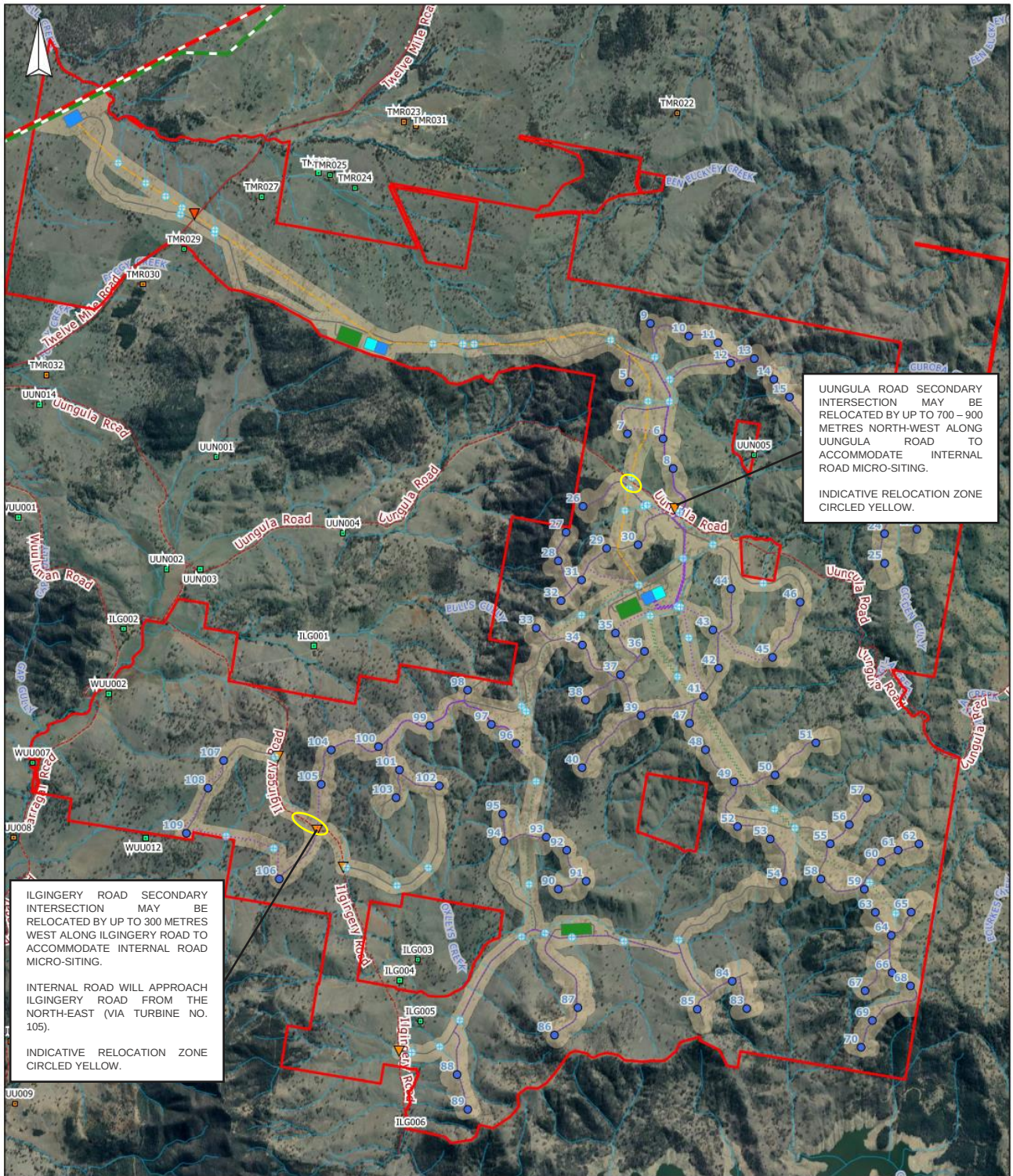
Yours sincerely,



Alana Gordijn
Environmental Manager
 For and on behalf of Uungula Wind Farm Pty Ltd



Attachment 1 – Project Layout and Secondary Intersections (with indicative relocation areas)



LEGEND Residences: Involvement Non-involved Existing Unsealed Road Existing Sealed Road Development Corridor Project Site Access tracks Primary Project Site entry Secondary intersections Waterway Crossing Wind Turbine Generator (WTG) Site Compound Substation Energy Storage Facility Existing Powerlines: 132kV 330kV Proposed powerlines: Overhead (high voltage) Overhead (medium to low voltage) Underground (medium to low voltage) SCALE BAR 0 5 km	COMPANY UUNGULA WIND FARM PTY LTD CWP renewables
	TITLE Project Layout
	DATE 20/04/2022 SCALE 1:48000 DWG NO UWF-146 REV C VER 1
	DRAWN BY B KRONENBERG CHECKED BY M FLOWER SHEET 1 OF 1 JOB NO 110247 SIZE A3



Attachment 3 – Norton Rose Fulbright Memorandum

Norton Rose Fulbright Australia
ABN 32 720 868 049
Level 5, 60 Martin Place
SYDNEY NSW 2000
AUSTRALIA

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Fax +61 2 9330 8111
GPO Box 3872, Sydney NSW 2001
DX 368 Sydney
nortonrosefulbright.com

Memorandum

From	Noni Shannon	Date	30 May 2023
Direct Line	+61 2 9330 8346		
Email	noni.shannon@nortonrosefulbright.com	Our ref	4025036
To	Alana Gordijn Environmental Manager Squadron Energy	Your ref	

Dear Alana

Uungula Wind Farm SSD-6687 - Proposed Changes to Locations of Secondary Intersections for Site Access and Component Delivery

1 Introduction and summary of advice

- 1.1 We act for Uungula Wind Farm Pty Ltd (**UWF Pty Ltd**), the proponent of the Uungula Wind Farm (the **Project**), which was granted State significant development consent #6687 (the **Consent**) under section 4.38 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) on 7 May 2021.
- 1.2 UWF Pty Ltd has asked us for advice on whether the proposed relocation of two secondary intersections, required to provide site access to the Project and to allow delivery of Project components to the Project site:
 - (1) May be approved by the Planning Secretary under the existing conditions of the Consent; or
 - (2) Requires a modification of the Consent.
- 1.3 In summary, we are of the view that the Planning Secretary has the power under Condition B30 to approve the proposed alternative locations of the two secondary intersections in question.
- 1.4 Our advice on this issue is set out below.

2 Background to proposed relocation of Secondary Intersections

- 2.1 We are instructed that UWF Pty Ltd proposes to relocate two secondary intersections required for site access and component delivery for the Project being:
 - (1) One secondary intersection at Uungula Road/Twelve Mile Road (**Uungula Intersection**); and

APAC-#305139442-v1

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- (2) One secondary intersection at Ilgingery Road/Wuuluman Road (**Ilgingery Intersection**),
(together the **Secondary Intersections**).

2.2 We are further instructed that:

- (1) The general design and layout of the Secondary Intersections will remain unchanged from that set out in the DA documentation submitted for the Consent and Appendix 7 of the Consent;
- (2) The only proposed amendment to the Secondary Intersections is that the Uungula Intersection may be relocated approximately 700-900 metres to the north-west on Uungula Road and the Ilgingery Intersection may be relocated by up to 300m to the west on Ilgingery Road;
- (3) These changes to the locations of the Secondary Intersections will result in an overall decrease in internal road length within the Project area and are required to better align the Secondary Intersections with the location of the relevant internal access roads, which have now been micro-sited under condition A7 of the Consent; and
- (4) The Council, as the roads authority for the roads where the Secondary Intersections will be implemented, has agreed, in writing, to the proposed relocation of the Secondary Intersections.

3 Conditions of the Consent and DA Documentation

3.1 Condition B30 of the Consent provides that:

Road Upgrades

B30. Unless the Planning Secretary agrees otherwise, prior to commencing construction the Applicant must implement the road upgrades identified in Appendix 7, to the standard and satisfaction of the relevant roads authority.

If there is a dispute about the road upgrades to be implemented, or the implementation of these upgrades, then either party may refer the matter to the Planning Secretary for resolution.

3.2 In our view, condition B30 grants the Planning Secretary two discretions.

3.3 The first discretion arises from the inclusion of the words '*Unless the Planning Secretary agrees otherwise...*'. This provides the Planning Secretary with a discretion with respect to the subject matter of Condition B30 as set out in the first paragraph of that condition. That subject matter is both the timing and the implementation of the road upgrades as set out in Appendix 7.

3.4 The second discretion is set out in the second paragraph of Condition B30. That discretion is to the Planning Secretary to resolve any dispute between the Applicant and the roads authority (Council in this case) with respect to the road upgrades themselves and/or the implementation of the road upgrades.

3.5 For the purposes of this advice, it is only the first discretion which is of relevance. We understand that Council, as the relevant roads authority, has agreed to the proposed amendment to the location of the Secondary Intersections.

3.6 The drafting of the first paragraph of Condition B30, where the discretion has been placed at the commencement of the condition, enables the discretion to apply to all of the subject matter of that paragraph. This can be compared to the drafting of the following conditions of the Consent:

- (1) Condition A14, where the discretion of the Planning Secretary is limited to the "other timeframe" for entering into the VPA; and
- (2) Condition B6, where the discretion of the Planning Secretary is limited to the hours of operation for the road upgrades, construction, demolition, upgrading and decommissioning.

- 3.7 From a practical perspective, this discretion provides flexibility to a small aspect of the approved works which are ancillary to the main development that has been approved, being the wind farm, but which are outside the micro-siting mechanism in Condition A7, which can be automatically applied without Planning Secretary approval. As set out in paragraph 2.2, we understand that the proposed relocation of Secondary Intersections only arises due to the final detailed design that has now occurred in accordance with the micro-siting allowance under Condition A7.
- 3.8 Supporting this interpretation of the drafting of Condition B30 is the principle that the proponent of a development is entitled to rely on the conditions of the development consent granted for the development, and the conditions of consent are to be interpreted and construed according to its terms: *House of Peace Pty Ltd v Bankstown City Council* (2000) 48 NSWLR 498; 106 LGERA 440; *Winn v Director-General of National Parks and Wildlife* (2001) 130 LGERA 508. Conditions of development consent, and the consent itself, should be construed not as a document drafted with legal expertise, but in a way that achieves practical results and by way of a fair and liberal reading of the rights it confers: *Westfield Management Limited v Perpetual Trustee Company Limited* [2006] NSWCA 245; *Baulkham Hills Shire Council v Ko-veda Holiday Park Estate Ltd* (2009) 167 LGERA 395.
- 3.9 Additionally, while case law has supported a liberal and practical interpretation of development consents, it is also important to note that principles of statutory construction can assist, and should generally be applied, when construing a development consent. In particular, the development consent should be construed to produce a “harmonious” result and to “give meaning to every word” of its provisions: *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355; [1998] HCA 28; *Snowy Monaro Regional Council v Tropic Asphalts Pty Ltd* (2019) 362 ALR 359; [2018] NSWCCA 202.
- 4 **Next steps**
- 4.1 We understand that UWF Pty Ltd proposes to send correspondence to the DPE seeking the Planning Secretary’s agreement to the proposed minor relocation of the Secondary Intersections.
- 4.2 We are happy to discuss any issues or questions that the DPE may have with respect to the proposed relocation with DPE’s legal team if required and we are also happy to join any discussion with the broader DPE assessment team if required.
- 4.3 In the meantime, please contact Noni Shannon (02 9330 8346 | noni.shannon@nortonrosefulbright.com) if you would like to discuss any of the matters raised in this advice.

Kind regards



Noni Shannon

Partner

Norton Rose Fulbright Australia