



6 July 2020

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Dear Ms Bandaruk

**SSD 6687 – Uungula Wind Farm**

Proposed development: Uungula Wind Farm 14km East of Wellington

I refer to the Department's email dated 22 May 2020, requesting comments on the Development Application for the proposed Wind Farm. The subject site is located in a rural area having no services (water supply, sewerage or stormwater). Access to the subject site is from Twelve Mile Road, Wuulman Road, Uungula Road and Ilgingery Road which are a mix of sealed and unsealed gravel roads, with grassed table drains, all maintained by Council.

The following comments are provided to assist in the determination of the application:

- The Environmental Impact Statement (EIS) 4.1.3 Site Access, the discussion is vague and no maps or diagrams are provided. An inspection of the site, which is difficult given its vast size, means that locating driveways/access points is also difficult.
- The utilisation of existing roads rather than building access roads on-site which may pose significant harm to the environment and create segmented areas, would be best practise so as to keep natural areas intact as much as possible.
- No details are provided in the EIS regarding stormwater management for the construction of internal roads and hardstand areas adjacent to Wind Turbine Generator (WTG) locations without affecting surrounding properties. Additionally, there are no details regarding water and sewer infrastructure for the proposed development, especially during construction of the proposal.
- The biodiversity has been conservatively assessed and the actual impact is likely to be significantly lower than currently estimated, with the appropriate assessment methodologies having been used. Issues at this stage largely relate to the lack of final planning, plus the road and transmission system designs are not final and biodiversity impacts therefore cannot be fully assessed.



All communications to: **CHIEF EXECUTIVE OFFICER**

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Twelve Mile Road is nominated for improvement works and it is assumed this would lead to biodiversity impacts. The biodiversity impacts from road improvement/widening have not been considered and will need to be added to the biodiversity assessment and BDAR costs. Similarly, the power transmission line has not yet been assessed for biodiversity impact. The EIS makes the following statement:

*The final electrical layout will minimise vegetation clearing and avoid potential erosion and heritage sites, and will also depend on the ease of excavation, ground stability and cost.*

While Council understands that plans are yet to be finalised, the biodiversity impact of this element of the project shouldn't be forgotten.

- It is noted that the development will damage some ecologically sensitive areas and potentially harm some threatened species and therefore needs to be offset. As long as this meets the requirements stipulated in the Biodiversity Conservation Act and damage to the environment is avoided, mitigated or, worst case scenario, offset.
- Council Staff have met with the Proponent's representatives on two (2) separate occasions to discuss the draft terms of a Planning Agreement for the development. These discussions have been constructive and Council looks forward to finalising the terms of a Planning Agreement with the Proponent in the near future.

Council's Infrastructure Division has raised a number of concerns with regard to the impact of the construction phase upon Twelve Mile Road and other smaller adjoining roads. Council requests that an appropriate condition be included on any approval, to upgrade Twelve Mile Road and other smaller adjoining roads in accordance with Table 1 (**copy attached**) to the satisfaction of Council.

Given the characteristics of the development, and the current status of Council's discussions with the Proponent, Council respectfully requests that an appropriate condition be included on any approval, to enter into a Planning Agreement with Dubbo Regional Council.

- The development application form does not appear on the Department's website and as such, no value of the proposed development is provided other than the statement that it is greater than \$30 million.
- The EIS on page 29 states that states 'wind energy systems' are prohibited in RU1 zone (WLEP 2012). This is incorrect because land use tables don't include the term *electricity generating works* as previously directed by the Department.
- The EIS 3.5.10 Impacts, refers to the concerns of particular landholders having been mitigated and managed through negotiated voluntary Neighbour agreements. There was a reference to Section 5.7.3 (doesn't exist) and Section 6 – which contains a lot of methodology but nothing specific and nothing about 'voluntary neighbour agreements'.

- The EIS 4.1.2 Subdivision, discusses 3 lots for substations as per Table 4.2. It is unclear what 'connection configuration' means and the numerous options create problems when finalising the application. Option 1 – 1365 Twelve Mile Road, Option 2 – 1444 Twelve Mile Road, and Option 3 – 1155 Ungula Road.

Given that the size of the substation allotments would be below the minimum lot size as per Wellington Local Environmental Plan 2012, clause 4.6 – the concurrence of the secretary would be required. This has not been addressed.

The need for separate allotments for substations is also questioned, leased lot options are available with access provided via 'right-of-carriageways'.

- The EIS 4.1.9.3 Cultural heritage, is seeking approval for the development now, but a Cultural Heritage Management Plan will be submitted to the Secretary prior to construction. This matter should be assessed now and this deferring of the assessment process was the subject in a recent NSW Land & Environment court case *Ballina Shire Council v Palm Lake Works Pty Ltd [2020] NSWLEC 41 (Ballina v Palm Lake)*.

The section continues to state that the qualified person to prepare the plan, shall be endorsed by the Secretary. This would appear to be inappropriate, allows for a perceived bias of the secretary, Council would be admonished for ever writing such a condition.

- The EIS 4.2.1 discusses the fact that the slabs for the WTG will be 2.5 metres deep with an excavation area of 27m x 27m (729m<sup>2</sup>) and utilising low level blasting. Details and inspections would be provided with the Construction Certificate/s.
- The EIS 4.3 Energy Storage Facility, consists of buildings, shipping containers, offices, carparks, etc., but no plans are provided.

Council's Senior Building Development Certifier has requested that further information be sought from the applicant in the following or similar terms for the submitted development application:

- Submit an accurate site plan(s) which clearly indicates the distances of the proposed buildings and temporary or permanent structures / facilities from the allotment boundaries. Additionally, submit a more detailed site plan(s) of the Operation and Maintenance compound areas indicating the proposed buildings and any temporary or permanent structures / facilities and any carparking areas including disabled carparking areas etc;
- Submit to Council the floor plans and elevations for the proposed buildings and any temporary or permanent structures / facilities; and
- Information regarding any proposed water supply, stormwater disposal / control and sewage disposal for the proposed buildings and any temporary or permanent structures / facilities.

When Council determines garden sheds, the details provided include length, width, height and materials for construction with the basic development application. This project is worth millions of dollars, has been under consideration for a number of years, yet no plans provided. Again, Council would direct the Department to the concerns raised in a recent NSW Land & Environment court case *Ballina Shire Council v Palm Lake Works Pty Ltd [2020] NSWLEC 41 (Ballina v Palm Lake)*.

- The EIS 4.4.4 Permanent Metrological Masts, states that details will be provided to the secretary after development consent is issued. It should be noted that Council is currently assessing D20-232 Environmental Facility (wind monitoring masts) at 1155 Ungula Road, Wuulman (part of the subject site). If the details with SSD 6687 are insufficient then why shouldn't a separate application be lodged with Council.
- The EIS 5.2.6 Civil Aviation Safety Regulation 1998, states that the proponent will notify CASA after the development approval is issued. Again, Council would direct the Department to the concerns raised in a recent NSW Land & Environment court case *Ballina Shire Council v Palm Lake Works Pty Ltd [2020] NSWLEC 41 (Ballina v Palm Lake)*.
- The EIS 5.3.1 2<sup>nd</sup> paragraph states that the 'lease subdivisions' don't require a Subdivision Certificate. Does the NSW Lands Registry Service agree with this statement, because lately it appears that if something isn't specifically stated in a SEPP, for example SEPP (Exempt & Complying Development Codes) 2008, s2.75 & 2.76, it seems they require a Subdivision Certificate. This issue has recently arisen with regard to 'road closures' and registering the subsequent allotments.

Any approval, should clearly mention the issue of 'lease lots', show the lots on an approved plan, enabling Council to issue a Subdivision Certificate, if required.

- The EIS 5.3.16 Conveyancing Act 1919, states that the minimum lot size in the RU1 zone is 100 ha, when it is in fact 400 ha.
- The EIS 5.4 Local Planning Instruments, states that *"No planning (or draft planning) agreements related to the project have been (or may be) entered into under section 7.4 of the EP&A Act."* This is despite on-going discussions between the proponent and Council and the statement on page 217 that the proponent willingness to enter into a Voluntary Planning Agreement.

If you have any enquiries in this matter, please do not hesitate to contact Council's Manager Building and Development Services, Darryll Quigley, during normal office hours, on 6801 4000.

Yours faithfully



*Stephen Wallace*  
Director Development and Environment

Attachment: Table 1 – Ungula Wind Farm – Road Upgrades/Rectification Works

**Table 1 - Uungula Wind Farm - Road Upgrades/Rectification Works**

Road	Start point	Chainage	Item type	Item description	Upgrade/Rectification required	Justification
<b>Twelve Mile Rd.</b>	Goolma Road	00km	Sub-standard intersection	Intersection layout is not safe and unsuitable for increased traffic movements. This is the intersection with the Goolma road, State Road MR633.	Design and construct a new intersection to TfNSW standards, gain design and construction approval from Dubbo regional Council and TfNSW.	Intersection is not up to design standard and unsafe for increased traffic movements
<b>Twelve Mile Rd.</b>	Goolma Road	0.0km to Ch. 1.09km	Pavement condition	Currently in good condition	Conduct dilapidation survey and report. Pavement and seal condition to be as good or better at end of the projects construction and commissioning.	No cost to the community for a private development activity.
<b>Twelve Mile Rd.</b>	Goolma Road	Ch. 1.09km to Ch13.760.9	Pavement and seal condition and pavement strength.	1. The depth and strength of the existing pavement is in poor condition, this being most noticeable in the outer wheel paths. Accelerated pavement failure is expected due to increased traffic volumes and heavy/wide loads during construction and post construction works. 2. Current seal width varies from $\leq 5.0\text{m}$ to $> 7.0\text{m}$ with $\leq 5.5\text{m}$ common, passing and overtaking opportunities are difficult, the nominated increase in traffic volumes will accelerate seal and edge break failure and will increase the likelihood of traffic accidents.	Reconstruct the pavement full length to the horizontal and vertical alignment as shown in the design plans provided by CWP Renewables (cover sheet 19-142-UWF-C0100) works to comply with RMS "Roadworks specifications - design and construct".	1. Public safety. 2. Maintaining the remaining useful life of the pavement and seal. 3. Minimise/reduce maintenance activities and frequencies. 4. No cost to the community for private development activities.
<b>Twelve Mile Rd.</b>	Goolma Road	Ch. 13.59 (approx.)	Primary Project site access	Primary project Site Access as identified in EIS and SOEE.	Construct access as per the requirements of the EIS and SoEE and Sec 138 requirements.	Section 138 certificates requirements. Public Safety

Road	Start point	Chainage	Item type	Item description	Upgrade/Rectification required	Justification
<b>Wuuluman Rd.</b>	Twelve Mile Road	5.035km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.

Road	Start point	Chainage	Item type	Item description	Upgrade/Rectification required	Justification
Uungula	Twelve Mile Road	Ch. 0.005km to Ch. 0.075	Minor pavement reconstruction	Pavement and seal in sub-standard condition, unsuitable for increased traffic volumes.	Reconstruct and seal section of road from the end of the intersection turnout to the concrete causeway.	Pavement improvement to allow for increased traffic volumes.
Uungula	Twelve Mile Road	Ch. 0.76km	Pavement alignment	Poor (unsafe) horizontal alignment of concrete causeway, poor sight distance, potential for head on collision.	Realign the existing concrete causeway to improve sight distance, this may be achieved by the addition of widening's to the existing structure and realigning the approaches.	Public safety. No cost to the community for private development activities.
Uungula	Twelve Mile Road	2.49km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Uungula	Twelve Mile Road	4.34km	Pavement/seal condition	Current seal width and condition at a dust suppression seal is not adequate in both strength and width for increased traffic volumes	Reconstruct, widen and seal existing dust suppression seal in front of house, 350m x 5.0m (seal width)	To maintain asset integrity and for local resident amenity
Uungula	Twelve Mile Road	4.77km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Uungula	Twelve Mile Road	6.33km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Uungula	Twelve Mile Road	6.53km	Dust nuisance	Existing residence close to road, additional nuisance dust will be generated by increased vehicle movements	Prepare and seal 150m x 5m (75m each side of existing concrete causeway) in front of residence	Public safety and local resident amenity
Uungula	Twelve Mile Road	8.32km	Stock grid condition and approaches	Stock grid in poor condition and not to the current required minimum standard, increased traffic movements are expected to cause the grid to fail.	Replace with a minimum 4m wide RTA standard "Heavy Duty" grid and install a bypass gate, prepare and seal the pavement x 20m on each approach	For public safety and to reduce maintenance frequencies at a difficult location
Uungula	Twelve Mile Road	9.59km	Concrete causeway approaches	Saturated/soft approaches to concrete causeway, currently suitable for local traffic only, not suitable for increased traffic volumes.	Gravel resheeting to causeway approaches x 50m x 6m x 100mm (minimum) to each approach	Public safety and to allow all weather access.
Uungula	Twelve Mile Road	10.41km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Uungula	Twelve Mile Road	11.16km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Uungula	Twelve Mile Road	12.78	Gravel creek crossing	Natural gravel creek crossing will not stand up to additional traffic volumes, particularly during wet periods	Will require gravelling to 80m x 6.0m x 100mm, and maintained during the wind farm construction.	Public safety and to improve all weather access
Uungula	Twelve Mile Road	Not defined	Secondary intersections x 2 each	Secondary intersections, to turbines 8 and 30, and to turbine 17.	Construct intersections for safe exit and entry movements and to provide adequate wind farm component access,	Section 138 certificates requirements. Public Safety

Road	Start point	Chainage	Item type	Item description	Upgrade/Rectification required	Justification
Ilgingery	Wuuluman Road	0.02km	Stock grid condition and approaches	Stock grid in poor condition, unsafe and not to the required minimum standard, increased traffic movements are expected to cause the grid to fail.	Replace with a minimum 4m wide RTA standard "Heavy Duty" grid and install a bypass gate, prepare and seal the pavement by 20m on each approach	For public safety and to reduce maintenance frequencies at a difficult location
Ilgingery	Wuuluman Road	0.57km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Ilgingery	Wuuluman Road	1.79km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Prepare and seal stock grid approaches by 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Ilgingery	Wuuluman Road	3.89km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Extend stock grid approach seal to 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Ilgingery	Wuuluman Road	5.21km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Extend stock grid approach seal to 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Ilgingery	Wuuluman Road	6.18km	Stock grid approaches	Stock grid with unsealed approaches, increased maintenance frequency at difficult location due to increased traffic.	Extend stock grid approach seal to 20m x 4.5m each side of grid with a two coat flush seal.	To reduce maintenance activities at a difficult location.
Ilgingery	Wuuluman Road	6.67km to site entry	Gravel pavement	Lack of gravel to this section of road. Increased traffic movements will require gravel resheeting to provide for safety and all weather access.	Gravel resheet from the entrance to "Pine Park" to secondary intersection near turbines 88 and 89, gravel dimensions to a minimum of 4.5m wide and 100mm minimum deep x approximately 790m.	Public safety and to provide all weather access. No cost to the community for private development activities.
Ilgingery	Wuuluman Road	7.11km	Stock grid condition and approaches	Stock grid in poor condition, unsafe and not to the required minimum standard, increased traffic movements are expected to cause the grid to fail.	Replace with a 4m wide RTA standard "Heavy Duty" grid and bypass gate, prepare and seal the pavement by 20m on each approach	For public safety and to reduce maintenance frequencies at a difficult location
Ilgingery	Wuuluman Road	Not defined	Secondary intersections x 4 each	Secondary access intersections to - turbine 107, turbine 106, turbine 102, and turbine 88.	Construct intersections for safe exit and entry movements and to provide adequate wind farm component access.	Section 138 certificates requirements. Public Safety

### All roads (Twelve Mile, Wuuluman, Ungula and Ilgingery)

Road	Start point	Chainage	Item type	Item description	Upgrade/Rectification required	Justification
<b>All (affected) roads</b>	N/A	N/A	Wearing surface, base course, and drainage maintenance	1. Twelve Mile Road - Chainage 00 to Chainage 13.76km. 2. Wuuluman Road - Chainage 00 to Chainage 6.0km. 3. Ungula Road - Chainage 00 to secondary intersection access to turbine 17. 4. Ilgingery Road - Chainage 00 to secondary intersection access to turbine 88	All roads that are, or are likely to be affected by wind farm activities are to be maintained to a suitably safe standard at full cost to the proponent during pre-construction, construction, and commissioning activities.  This will be achieved by; 1. Conducting a joint (Council and proponent) road condition survey on or about the 30 <sup>th</sup> of May annually. 2. Developing agreed outcome list and work schedules from findings during the joint condition survey. 3. - At full cost to the proponent undertake maintenance and repairs as per the agreed outcome list and work schedules.	For public safety and nil cost to the community for private development activities.
<b>All (affected) roads</b>	N/A	N/A	Returned condition acceptance	Returned condition and pre-construction dilapidation surveys of the Twelve Mile, Wuuluman, Ungula, and Ilgingery roads	Conduct a pre-commencement dilapidation survey and condition report for all roads that are, or are likely to be affected by wind farm construction and commissioning activities. Road pavements and seal conditions to be passed back to council in as good or better than pre-commencement condition at the completion of the construction and commissioning phases of the of the wind farm project.	No cost to the community for private development activities.