

4.0 STATUTORY PLANNING AND CONSULTATION

4.1 Introduction

This section of the Environmental Assessment describes the relevant Statutory Planning Instruments as they may affect the proposal. It also sets out the consultation measures adopted in the preparation of the application.

The following summary (Table 4.0) identifies all Commonwealth, State and Local Legislation with potential to impact on the project and identifies its applicability in this instance:

Table 4.0 – Statutory legislation framework

Legislation	Applicability	Reason
A. COMMONWEALTH		
Environmental Protection and Biodiversity Conservation Act 1999.	APPLICABLE – Referred to Department of Environment, Water, Heritage and the Arts (Dep't of EWHA)	Assessment identified presence of: Threatened fauna species ; Ecological endangered population and; Endangered ecological community. Referral was made to Dep't of EWHA. EWHA deemed the proposal not to be a controlled action.
Radio Communications Act 1992	APPLICABLE	Essential function is to manage the use of the radio frequency spectrum and control licensing of transmitters. It enables “devices” to be prohibited because of potential impacts. Current licenses in the immediate area surrounding the subject site, issued under this Act, have the potential to be affected by the installation of wind turbines through electromagnetic interference.
Civil Aviation Safety Regulations 1998	APPLICABLE	The proposed wind turbines will exceed 110m in height. The proposal must be notified to CASA. CASA have indicated that obstacle lighting will be required. Further reference to CASA during design phase is intended.
SEPP 33 Hazardous and Offensive Development	NOT APPLICABLE	Studies conducted as constituting the environment of the proposal, have shown that the proposal will not adversely affect the “biophysical environment”. It will not pose a risk to “human health, life or property”.
B. STATE		
Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000	APPLICABLE	The Minister for Planning has declared that the proposal was required to be assessed as a Major Project, under Part 3A of the Act, because it has a capital investment value in excess of \$30 million.
Protection of the Environment Operations Act 1997	NOT APPLICABLE	Hydro-electricity generation is covered by the Act, but only if it generates more than 30MW of electricity. The hydro-electric capacity of the proposal is 1MW. Therefore, no license is required. A license under the POEO Act will not be required for the temporary concrete batching plant as it qualifies as a “mobile plant activity”

Legislation	Applicability	Reason
		(Activity No. 46) within Part 2 of Schedule 1 of the Act.
Threatened Species Conservation Act (1995)	NOT APPLICABLE	A 7-part test completed in accordance with Section 5A of the Environmental Planning and Assessment Act (1979) (NSW) and the Threatened Species Act (1995), indicated that the proposed development was not likely to have a significant effect on threatened species, populations, or ecological communities or their habitats.
Water Management Act 2000	APPLICABLE	proposal will not contravene or compromise the Act's principal objective of protecting, enhancing and restoring "water sources, their associated ecosystems, ecologically processes and biological diversity".
Waste Avoidance and Resource Recover Act 2001	NOT APPLICABLE	Objectives of the Act are not relevant to a proposal which does not generate waste. The principal aim of the Act is to "minimise the consumption of natural resources and the final disposal of waste...."
Roads Act 1993	APPLICABLE	A consent under Section 75V of the Act will be required. Consent for works within or over roads will be required under Section 138 of the Act.
Dangerous Goods Act 1975/OHS Amendment (Dangerous Goods) Act 2003	NOT APPLICABLE	No dangerous goods will be used or kept on the site of the proposed development.
Soil Conservation Act 1938	NOT APPLICABLE	The proposal will not adversely affect the capability or sustainability of local area soils.
Contaminated Land Management Act 1997	NOT APPLICABLE	The general objective of the Act is to remediate land where contamination presents a significant risk of harm to human health. The proposal will not result in contamination of land.
Noxious Weeds Act 1993	NOT APPLICABLE	The proposal will not result in the introduction of new weeds to the locality.
Mine Subsidence Compensation Act 1961	NOT APPLICABLE	The proposal does not involve land within a mine subsidence district.
Hunter Regional Environmental Plan 1989	APPLICABLE	The proposal fits the "Aims and Objectives" of the Plan, as set out in Clause 2.
C. LOCAL		
Scone Local Environmental Plan 1996	APPLICABLE	The Director General and the Minister for Planning must give consideration to the provisions of this Plan in their assessment of the project.

The Commonwealth, State and Local Environmental Planning Instruments and Policies of relevance are discussed below:

4.2 Commonwealth Legislation

The following Commonwealth Legislation applies to the site.

4.2.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act 1999 requires Federal Government approval for developments (actions) which are classified as 'controlled actions' under that Act. Controlled Actions are those which, under the auspices of the EPBC Act will have a significant impact on a 'matter of national environmental significance'. In relation to the subject proposal such significant impact may occur if the site were to contain, or the proposal were to affect, threatened species, ecological communities or migratory species listed under the Act.

An Ecological assessment was carried out by Conacher Environmental Group in 2007 and is attached in *Appendix A- Ecological Site Assessment (25 August 2008)*. The findings of this report are further discussed in Section 8.0 of this report.

As outlined in the Conacher Environmental Group report, a number of species listed as endangered or vulnerable under the EPBC Act 1999 were identified on site. The species found were identified as:-

- a) Ecologically endangered population
 - Cymbidium canaliculatum or Tiger Orchid. Seven (7) clumps of this species were identified on the subject landholding, within the Box Woodland vegetation community.
- b) Ecologically endangered Ecological Community (EEC)
 - White Box Yellow Box Blakely's Red Gum Woodland (WBYBBRW)
- c) Threatened species
 - Box Woodland (grassy variant), and
 - Box – Ironbark Grassy Woodland.
 - Glossy Black Cockatoo
 - Speckled Warbler
 - Grey Crowned Babbler
 - Grey-headed Flying Fox
 - Yellow-bellied Sheath Tailed Bat
 - Common Bentwing Bat
 - Eastern Cave Bat

As these species were found on the landholding, an application was made to the Commonwealth Department of Environment, Water, Heritage and the Arts to determine if they consider the proposal to be a controlled action. The Department of Environment, Water, Heritage and the Arts, in a letter dated 18 March 2008 (*Appendix A(i) – Notification of Referral decision*), advised that the project is not a 'Controlled Action'. The project will not therefore need to be assessed under the NSW Bilateral Agreement.

4.2.2 Radio Communications Act 1992

The *Radio Communications Act 1992* is the primary Act managing radio frequency spectrum, including the issue of licenses. There were found to be four licenses within 50km of the Kyoto Energy Park that required further investigation into potential interference. Garrad Hassan contacted these license holders (two license holders in total) who confirmed that the Kyoto Energy Park proposal would not affect their licenses. A summary of the report undertaken by Garrad Hassan is contained in *Appendix F - Assessment of Environmental Issues Electromagnetic Interference (19 May 2005)* and in this Environmental Assessment under Section 13.0.

4.2.3 Civil Aviation Safety Regulations 1998

Under the *Civil Aviation Safety Regulations 1998 Part 139*, CASA must be notified by an aerodrome operator, of any development or structure that is likely to create an obstacle or infringe on the obstacle limitation surfaces of the aerodrome, or by a developer proposing a development greater than 110m above ground level. CASA is required to assess the information submitted in regard to this, and determine whether the buildings or structures will create a hazard. *Advisory Circular AC 139-18(0) Obstacle Marking and Lighting of Wind Farms* contains further advice and guidance on this matter. The impacts of the proposed development on the operations of Scone aerodrome are assessed in *Appendix E - Assessment of Environmental Issues – Aviation Garrad Hassan (May 2008)* and in this Environmental Assessment under Section 12.0.

4.3 State Legislation

Various Acts that operate under State Governance have potential to apply to the site. Many of these are affected by the Part 3A process, which effectively “turns them off” however they are still considered in referrals to various government agencies.

4.3.1 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act, 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation, 2000* (EP&A Regulation) is the primary Act controlling development in NSW. Part 3A of the EP&A Act deals with land use proposals of State significance. Under Part 3A, application is made directly to the Minister and subject to formal Environmental Assessment.

The Director General’s Requirements for the preparation of the Environmental Assessment for the Kyoto Energy Park is listed in Section 1.4.1 of this report.

Part 3A was added to the Act in 2005 and provides a new category referred to as “Major Projects”. State Environmental Planning Policy (SEPP) 2005 (Major Projects) (SEPP Major Projects) was enacted in connection with Part 3A and it lists projects considered to be “Major Projects” under Part 3A.

If a project is deemed by the Minister to be a major project or of state significance under Part 3A it follows the approval path outlined in Figure 4.0 below.

For the purpose of Part 3A of the Act, Section 75U advises that authorization under the following legislation does not apply for approved projects:

- Concurrence under Part 3 of the **Coastal Protection Act 1979**,
- A permit under section 201, 205 or 219 of the **Fisheries Management Act 1994**,
- Approval under Part 4, or an excavation permit under section 139 of the **Heritage Act 1977**,
- A permit under Section 87 or a consent under 90 of the **National Parks and Wildlife Act 1974**,
- An authorization referred to in section 12 of the **Native Vegetation Act 2003** (or under any Act to be repealed by that Act) to clear native vegetation or State protected land,
- A permit under Part 3A of the **Rivers and Foreshores Improvement Act 1948**,
- A bush fire safety authority under section 100B of the **Rural Fires Act 1997**,
- A water use approval under section 89, a water management work approval under section 90 or an activity approval under section 91 of the **Water Management Act 2000**.
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Division 8 of Part 6 of the **Heritage Act 1977** does not apply to prevent or interfere with the carrying out of an approved project.

Section 75V in Part 3A requires that any consent or license under the following Acts cannot be refused if it is necessary for the carrying out of an approved project and is substantially consistent with the approval under this part.

- An aquaculture permit under section 144 of the Fisheries Management Act 1994,
- An approval under section 15 of the Mine Subsidence Compensation Act 1961,
- A mining lease under the Mining Act 1992,
- A production lease under the Petroleum (Onshore) Act 1991,

- An environment protection licence under Chapter 3 of the Protection of the Environment Operations Act 1997 (for any of the purposes referred to in section 43 of that Act),
- A consent under section 138 of the Roads Act 1993,
- A licence under the Pipelines Act 1967.

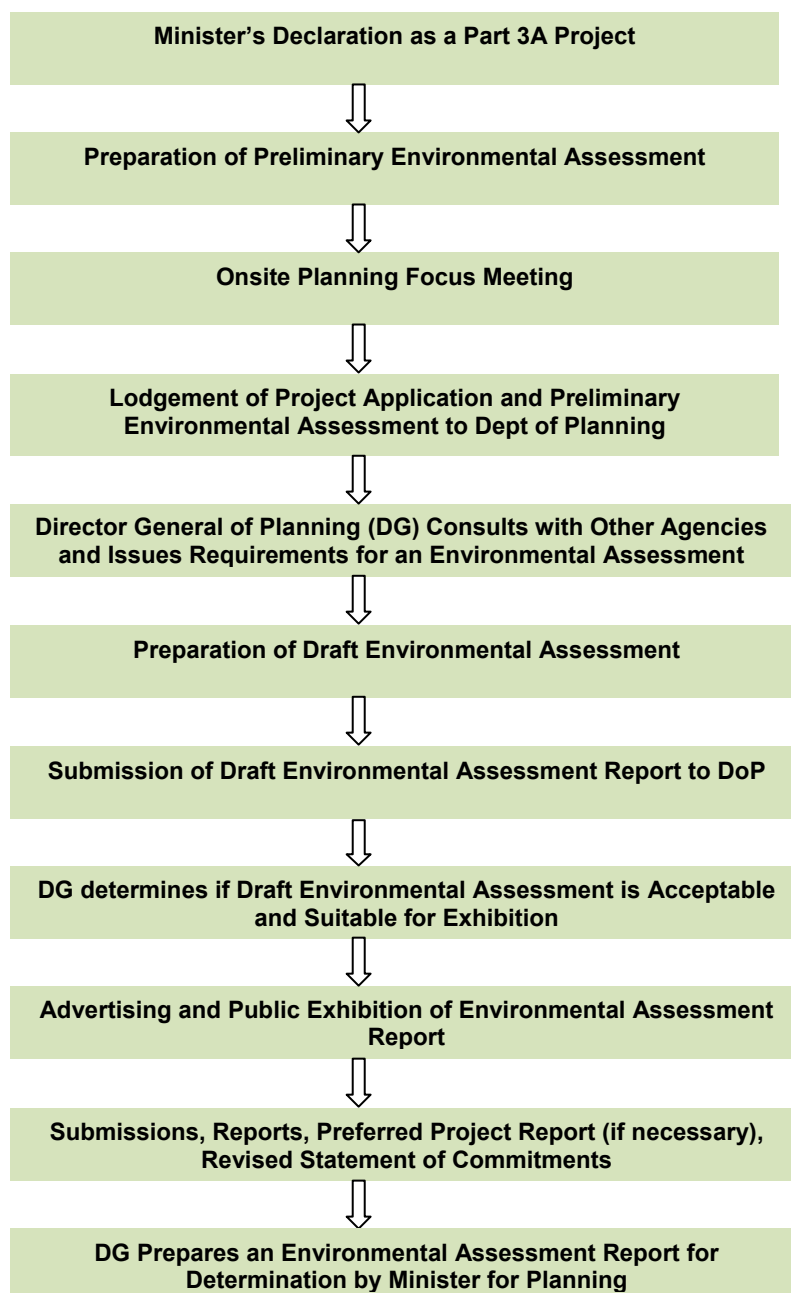


Figure 4.0 Steps in the Part 3A Planning and Assessment

4.3.2 Environmental Planning and Assessment Regulations 2000

In a letter dated 18 February 2009 (*Appendix O(ii)*), the Director General of the Department of Planning advised that the project relates to a project on land with multiple landowners to which Clause 8F(1)(e) of the Environmental Planning and Assessment Regulations (2000) is applicable.

The Director General also advised that Clause 8F (3)(a) of the Regulations relating to public notification prior to public exhibition applies to the project as reproduced below:

Clause 8F(3)(a) of the Environmental Planning and Assessment Regulations (2000)

(3) *If the consent of the owner of the land is not required under this clause, then the proponent is required to give notice of the application:*

(a) in the case of a linear infrastructure project or a project designated under subclause (1)(e)—to the public by advertisement published in a newspaper circulating in the area of the project before the start of the public consultation period for the project.

As the project affects multiple landowners all affected private land owners shall be notified in the local newspaper prior to the start of the public consultation (exhibition) period.

4.3.3 Protection of the Environment Operations Act 1997

The Protection of the Environment Operations Act 1997 (POEO Act) relates to the management of pollution and waste disposal in NSW and is administered by the Department of Environment and Conservation and Climate Change (DECC). Environmental Protection Licence under the POEO Act is required for “General Electrical Works” for energy services other than wind or solar power. As such hydro-electricity generation is a scheduled activity but only if it generates or is capable of generating more than 30MW of electricity.

The hydro-electricity component of Kyoto Energy Park is only capable of generating 1MW and therefore no licence is needed under the POEO Act for this component.

In respect to the construction phase, the DECC have advised that a license will not be required under the POEO Act for the temporary concrete batching plant (CBP). The CBP would have a maximum capacity which is below the threshold capacity for which a license is required. The CBP would be capable of being transported and is to be operated on a temporary basis being for a total period of not more than 6 months in any 12 month period.

4.3.4 Roads Act 1993

A consent for works within or over roads is needed under Section 138 of the Roads Act 1993. The RTA is the appropriate consent authority for classified roads, while the Upper Hunter Shire Council is the consent authority for all local roads. The only work proposed within road reserves relates to construction of power transmission lines. However while under Section 75V consent under the Roads Act can not be reasonably refused, an application will be required.

Special oversize and over mass permits will also be required by the RTA for tower tube and blade transportation by road. This is discussed in detail in Appendix J and in Section 17.0 relating to RTA permits for transportation of Kyoto Energy Park components.

4.3.5 State Environmental Planning Policy (SEPP) (Major Projects) 2005

In letters dated 13 March 2006 (*Appendix O*) and 30 January 2007 (*Appendix O(i)*), the Minister for Planning advised that he had formed the opinion that the Kyoto Wind Farm and the Kyoto Energy Park (Stage 2) now referred to as the Kyoto Energy Park, is development of a kind that is described in Schedule 1, Group 8, Clause 27 of the State Environmental Planning Policy (Major Projects) 2005, namely, “*development for the purpose of an electricity generating facility that has a capital investment value of more than \$30 million*”. The Minister therefore declared the project to be a project to which Part 3A of the Environmental Planning & Assessment Act applies for the purpose of Section 75(b) of that Act.

4.3.6 SEPP 44 Koala Habitat Protection

SEPP 44 provides a planning regime for the conservation and management of natural vegetation areas that offer habitat for koalas so to ensure permanent free-living populations will be maintained over their present range.

Conacher Environmental Group undertook an assessment under the provisions of SEPP 44 and found potential Koala habitat on the site. This was in the form of White Box, Grey Gum, and Forest Red Gum food tree species as listed in Schedule 2 of the SEPP. These species comprised more than 15% of the total site coverage.

No Koalas were observed during fauna surveys and no evidence of previous Koala habitation within the subject sites was made. As no Koalas live in the area, it is considered that the site does not form core Koala habitat and therefore the SEPP does not apply (Refer to Section 8.3 for further detail)

4.3.7 SEPP (Infrastructure) 2007

SEPP (Infrastructure) 2007 provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP allows greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency.

As outlined in this SEPP (Division 4), the proposed Kyoto Energy Park is defined as an electricity generating works, and therefore subject to the provisions of this SEPP. Under Division 5 Electricity transmission or distribution, Subdivision 1 Electricity transmission or distribution works, Pamada Pty Ltd is considered an electricity supply authority. Under Clause 41 an electricity transmission or distribution network may be carried out by or on behalf of an electricity supply authority without consent on any land. This includes construction work, laying of cable, etc. No works are proposed within National Parks, State Forests or Public reserves.

Under Division 4, Clause 34 of the Infrastructure SEPP components of the project defined as 'electricity generating works' would be permissible with consent on land zonings which are equivalent to the "prescribed zones" identified in Clause 33 of the SEPP. Under both these cases the provisions of the Infrastructure SEPP would override relevant prohibition provisions identified in LEP zonings. A summary of permissibility of generating components within land use zonings is outlined in Table 4.1.

4.3.8 Integrated Development

The proposal is not 'integrated development' as Section 75R of Part 3A excludes the Part 4 provisions.

4.4 Local Legislation

A brief description of relevant local planning instruments is provided below. Permissibility of all components of the KEP within relevant land use zonings are described in Table 4.1

It is important to note that the permissibility of transmission line networks against local zonings are not an issue as the proposed transmission line works would be permissible without consent under Division 5, Clause 41 of the Infrastructure SEPP as the Proponent meets the definition of an "electricity supply authority" and the works meet the definition of "development for the purpose of an electricity transmission or distribution network".

4.4.1 Upper Hunter Local Environmental Plan 1986

Both Middlebrook and Mountain Station (subject sites) are fully contained within the Upper Hunter LGA as shown in Figure 4.1 and 4.2. The local planning instrument the Upper Hunter Local Environmental Plan 1986 (Scone LEP 1986). Under the Scone LEP 1986 the proposed Kyoto Energy Park is defined as "Eco-generating works" meaning;

"a building, works or place used for the generation of energy using:

- (a) renewable resources, such as solar, wind or tidal energy and the like, or*
- (b) resources such as methane gas produced from land-fill operations".*

The Scone LEP 1986 aims to encourage the proper management, development and conservation of natural and man-made resources within the local government area of Scone by protecting, enhancing and conserving:

- (a) Important agricultural resources;
- (b) Timber, minerals, soils, water and other natural resources;
- (c) Scenic and rural landscape, and
- (d) The environmental and cultural heritage of the local government area.

4.4.2 Muswellbrook Local Environmental Plan 1985

Proposed works within the Muswellbrook LGA would include work for the construction of line infrastructure 'work' required for transmission line Option 4 (see Section 19.2.4). The local planning instrument is the Muswellbrook Local Environmental Plan 1985 (Muswellbrook LEP 1985). No other works are proposed within this LGA.

Table 4.1 – KEP components- Permissibility of use in local zonings

Project Component	Applicable Zoning	Permissibility of Use
Generating Works (Wind Turbines, Solar PV, Mini-hydro)	1c) Rural Small Holdings	No development works are proposed in Zoning 1(c).
	1d) Rural Holding	'Eco-Generating Works' Permissible with consent under the Scone LEP
	1i) Intensive Agricultural	No Generating works are proposed within Zoning 1(i).
	1s) Small Farm	'Eco-Generating Works' are permissible with consent under the Scone LEP
	7a) Environmental Protection "A" Scenic	'Eco-Generating Works' are permissible with consent under the Scone LEP
Manager's Residence	1d) Rural Holding	Residential buildings are prohibited in Zoning 1(d) under the Scone LEP. The Manager's residence is however an ancillary use. This residence is necessary for the safe and proper function of the KEP.
Visitor and Education Centre	1s) Small Farm	Is an innominate permissible use, with consent, under the Scone LEP. The Visitors and Education Centre is an ancillary use. The facility shall be primarily used for research, education and heritage displays consistent with the DA.
Site Substation (Mountain Station)	1d) Rural Holding	'Eco-Generating Works' are permissible without consent under the Scone LEP. Also permissible under Division 5, Clause 41 of the Infrastructure SEPP as Pamada meets the definition of an "electricity supply authority" and the works meet the definition of "development for the purpose of an electricity transmission or distribution network".
Internal and External Transmission Network	Multiple.	The transmission network would be permissible without consent under Division 5, Clause 41 of the Infrastructure SEPP as the Proponent meets the definition of an "electricity supply authority" and the works meet the definition of "development for the purpose of an electricity transmission or distribution network".

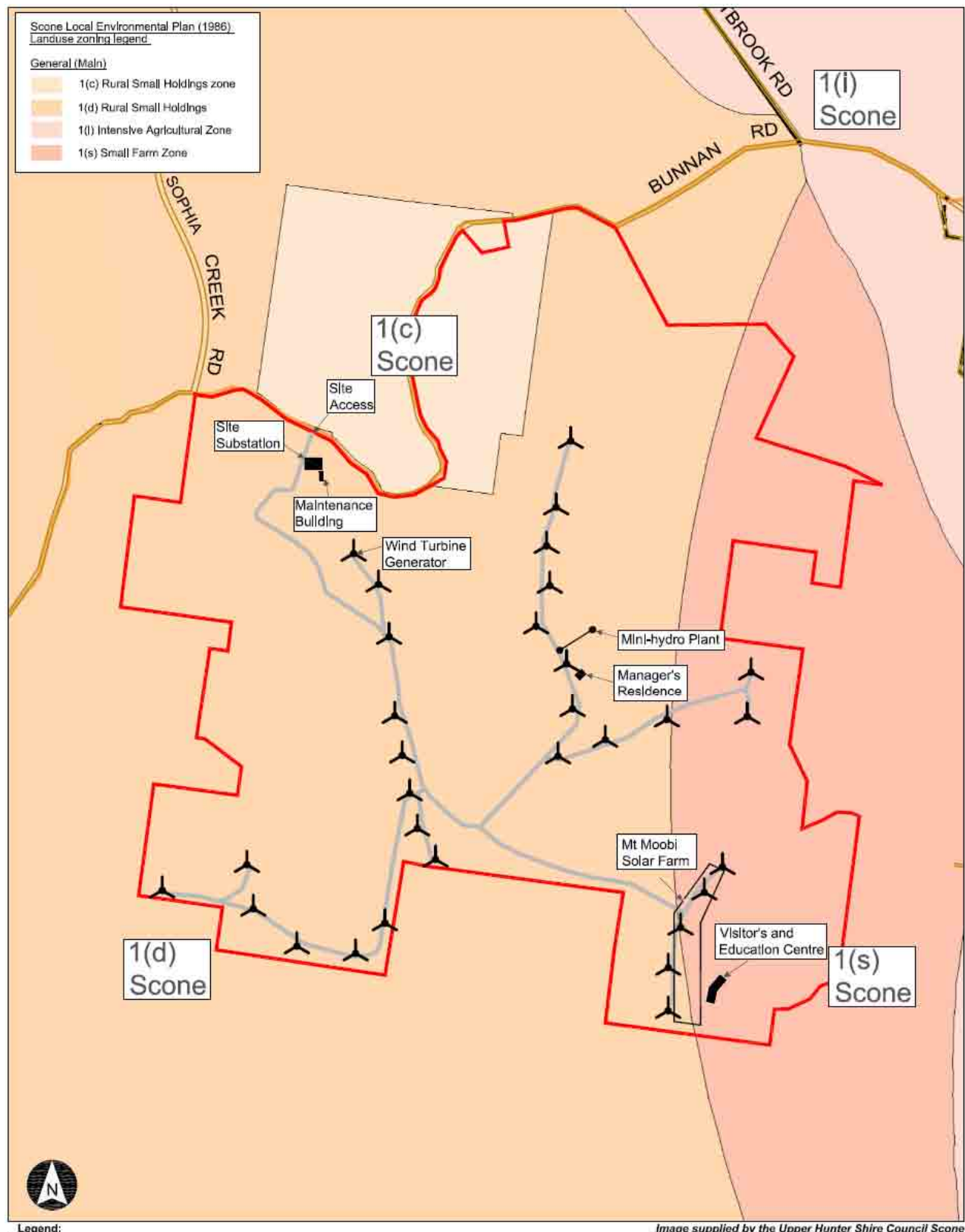
Table 4.2 describes the objectives of the zonings which apply to the land upon which the development is proposed to be located. The location of all proposed Kyoto Energy Park facilities in relation to land use zonings under Scone LEP is illustrated in Figure 4.1 (Mountain Station) and Figure 4.2 (Middlebrook Station).

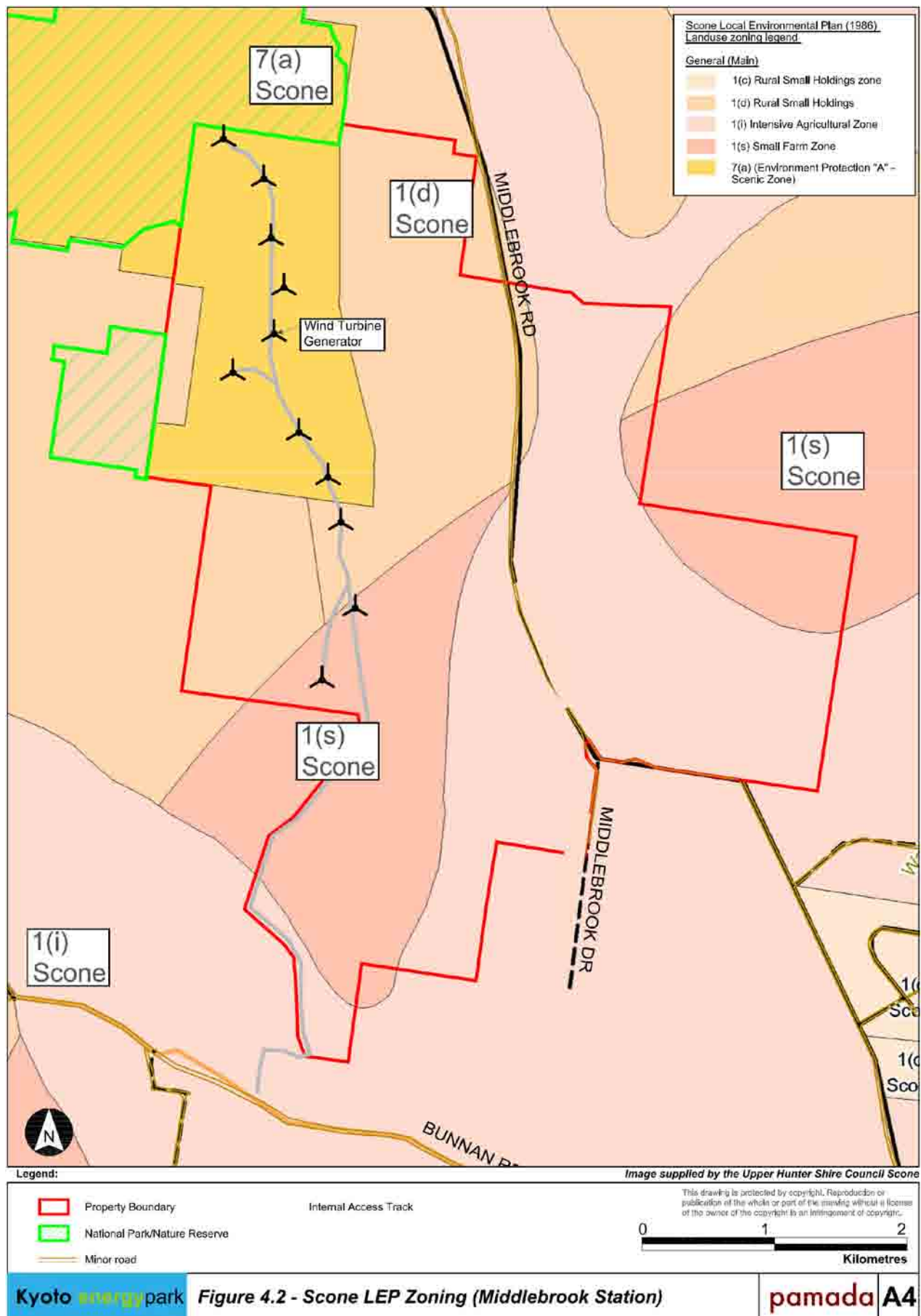
Table 4.2 – Scone LEP Zoning Objectives and applicability.

Zone	Objectives of the zone	Comment
Zone 1(d) Rural Holdings Zone	(a) To promote the conservation of agricultural holdings that are of sufficient area to be utilised for commercial farming practice;	The components of the Kyoto Energy Park, by nature of design, allow for the continuation of the existing agricultural/farming practices currently occurring on site and are therefore a compatible land use which will co-exist with current land uses. The proposal would also provide additional income for the land owner.
	(b) To provide for a range of compatible land uses which maintain the rural environment, character and landscape of the locality;	The proposed works are permissible with consent in relevant zonings under the Scone LEP. The Kyoto Energy Park development footprint is minimal in relation to the overall area of the subject sites (<1%) and will not disrupt or impose on the existing land use for grazing and for agricultural land.
	(c) To encourage only development which is ecologically sustainable and carried out in a manner that will not have any adverse impacts on the environmental qualities of the locality, particularly any adverse cumulative impacts.	As a green energy source, the Kyoto Energy Park is an ecologically sustainable development which will contribute to the move towards the reduction in fossil fuel based energy. It will result in a positive ESD image for Scone. There will be minimal clearing for generator components access roads and buildings. Existing roads will be upgraded.
Zone 1(s) Small Farm Zone	• To provide for a range of compatible land uses which maintain the rural environment, character and landscape of the locality;	The components of the Kyoto Energy Park, by nature of design, allow for the continuation of the existing agricultural/farming practices currently occurring on site and are therefore a compatible land use which can co-exist. It will also provide additional income for the land owners.
	• To encourage only development which is sustainable and carried out in a manner that will not have any adverse impact on the environmental qualities of the locality, particularly any adverse	As a green energy source, the Kyoto Energy Park is an ecologically sustainable development which will contribute to the move towards the reduction in fossil fuel based energy.

Zone	Objectives of the zone	Comment
	cumulative impact;	It will result in a positive ESD image for Scone. There will be minimal clearing for access roads as existing roads will be utilized.
	<ul style="list-style-type: none"> To permit underground mining; 	The proposed development will not limit the potential extraction of coal, gas or any other resources within the locality. It will result in a positive ESD image for Scone.
	<ul style="list-style-type: none"> To provide for small scale farming in defined areas where the potential for conflict for sustainable natural resource management and with agricultural and other productive uses can be minimized; and 	There will be minimal clearing for access roads as existing roads will be utilized.
	<ul style="list-style-type: none"> To permit non-agricultural land uses such as rural industries, tourist facilities and the like which are in keeping with the preceding zone objectives and which will not adversely affect agricultural productivity. 	The development includes a Visitor's and Education Centre which will cater for groups, educational institutions particularly schools and research. Existing tourism activities are proposed to merge with the development.
Zone 7(a) (Environmental Protection "A" – Scenic Zone) Zone	To protect hill land, escarpments and river valleys of scenic significance and permit a variety of uses subject to more particular control as, for example, in the choice of building materials, position of a building site, access roads and landscaping.	The visual impact of the development has been assessed and mitigation measures recommended to minimize the impacts and to ensure the overall scenic significance of the locality is preserved. The details of this assessment are contained in " <i>Visual Assessment Report</i> ", <i>Integral Landscape Architecture and Visual Planning (2008) (Appendix B)</i> and " <i>Assessment of Environmental Issues for the Proposed Kyoto Energy Park – Shadow Flicker and Blade Glint</i> ", <i>Garrad Hassan (28 August 2008) (Appendix G)</i> . The findings and recommendations are discussed in <i>Section 12.0 Aviation</i> and <i>Section 11.0 Visual Impact Assessment</i> in this Report.

The proposed development is permissible with consent in all zones to which it relates and subject to appropriate amelioration measures is not inconsistent with the objectives of these zones.





4.4.2 Draft Upper Hunter Land Use Strategy

The Draft Upper Hunter Land Use Strategy is a strategic planning document which, until its recommendations are incorporated into the Council's exhibited LEP, does not have any statutory effect. This Strategy identifies where growth and change are expected to occur within the Shire and proposes land use planning objectives and strategies to guide development over the next 25 years. The Strategy focuses on urban settlement, villages and residential development, rural areas and environmental values and constraints.

The Strategy also identifies infrastructure requirements to support future development, and will help inform local and state government budget processes. The intent of the Strategy is to:

- *Recommend actions for achieving the Upper Hunter community's land use objectives, consistent with the Council's vision for the future LGA and;*
- *Recommend changes to the 3 current LEPs applying within the LGA to reflect the Council's and community's vision and land use objectives, in a manner consistent with the NSW Government's planning requirements, including the Standard LEP provisions.*

Key planning issues relevant to the Kyoto Energy Park were identified in the Upper Hunter Land Use Strategy (UHLS) listed in Table 4.3.

Table 4.3 – Draft Upper Hunter Land Use Strategy – Key objectives

Key Planning Objectives	Relevant Objectives of Upper Hunter Land Use Strategy (UHLS)
Protection of Agricultural land and viability	<ul style="list-style-type: none"> • Agriculture production accounts for approximately 82% of the existing landuse in the Upper Hunter LGA and a significant proportion of the related employment. The main proportion of these industries including equine, viticulture and horticulture which are potentially sensitive to impacts from coal mining activities. • The Kyoto Energy Park will generate electricity from non polluting resources and displace resources that can be potentially harmful on the sensitive landuse activities within the area. • The existing landuses on site, predominantly grazing, aviation and tourism will in the most part continue unaffected by the Kyoto Energy Park proposal.
Climate change implications for landuses	<ul style="list-style-type: none"> • The Kyoto Energy Park would have positive implications for mitigation of climate change with no production of Greenhouse Gases and other chemical air pollutants during operation.
Rural water quality and availability and protection of catchments	<ul style="list-style-type: none"> • The Kyoto Energy Park generating components have minimal water requirements for production of electricity. Wind turbines and the solar PV plant do not require water for operation. The Closed loop mini hydro plant is a sealed system and will have negligible water requirements for operation. Water will be sourced from rooftops on-site and stored in rainwater for tanks for use in site amenities and for drinking water.
Recommendations for the Development Guidelines for Scone Airport and surrounding land	<ul style="list-style-type: none"> • The impact of the proposed development on the operation of Scone airport have been addressed in <i>Section 12.0 Aviation</i> and were assessed in <i>Assessment of Environmental Issues – Aviation Garrad Hassan (28 August 2008) (Appendix E)</i>. Mitigation measures are proposed to address any impacts. Final consultation with CASA is required for impacts related to 7 turbines on Middlebrook Station.
Heritage issues, scenic and cultural landscapes	<ul style="list-style-type: none"> • The impact of the proposed development on heritage issues was assessed in <i>Aboriginal Heritage Assessment</i>, undertaken by <i>Myall Coast Archaeological Services Pty Ltd (16 September 2008) Appendix H</i> and

Key Planning Objectives	Relevant Objectives of Upper Hunter Land Use Strategy (UHLS)
	<i>European Heritage Assessment Myall Coast Archaeological Services (15 September 2008) Appendix I</i> and are discussed in Section 9.11 Heritage of this Environmental Assessment .
Aboriginal Heritage Assessment	<ul style="list-style-type: none"> Aboriginal objects or artefacts were not observed on site nor were any areas of potential identified. Due diligence will be undertaken during any surface excavation works (excavations, regarding) to ensure that if objects are found correct procedures are followed. Further recommendations are outlined in Section 9.11 Heritage of this Environmental Assessment .
European Heritage Assessment	<ul style="list-style-type: none"> The assessment concluded the development is neither adjacent to nor likely to affect any known heritage items, although it does overlook Castle Rock (located approximately 1.3 km from the closest turbine). The proposal will not have an adverse impact on any listed items of local, state or federal heritage value.
Biodiversity and natural ecosystems	<ul style="list-style-type: none"> The potential impacts of the development on flora and fauna are assessed in the <i>Ecological Site Assessment</i>, and <i>Bird Impact Assessment</i>, prepared by Conacher Environmental Group (2008) (Appendices A and A(iii)) respectively, and are discussed in <i>Section 8.0 Biodiversity, Flora and Fauna</i>. The Ecological Site Assessment also takes into consideration impacts on the Towarii National Park and the recommendations of the Hunter Central River Catchment Action Plan.
Alternative energy production	<ul style="list-style-type: none"> The Strategy predicts an increased trend over the next 25 years towards development of alternative energy production and marketing of a clean green image. The Kyoto Energy Park will contribute to this trend towards cleaner alternative energy sources. The existing agricultural practices on the subject sites and in the vicinity of the sites will not be affected, thereby meeting the general aims and rural related objectives of this Strategy.

4.5 Relevant Development Guidelines

The following guidelines are applicable to the development:

- Department of Planning's draft *NSW Wind Energy Draft Environmental Impact Assessment Guidelines, 2002*
- South Australian Environmental Protection Authority's *Wind Farms – Environmental Noise Guidelines, 2003*
- NSW EPA *Industrial Noise Policy, Jan 2000*
- Chapter 171 of the NSW EPA *Environmental Noise Control Manual, 2004*
- Department of Environment and Conservation's *draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation*
- Australian Wind Energy Association and the Council of National Trust's *Wind Farms and Landscape Values: Stage 1 Final Report – Identifying Issues, March 2005, Appendix B: Wind Farms and Landscape Values: Final Issues Paper*
- Departments of Environment and Conservation and Primary Industries' draft *Guidelines for Threatened Species Assessment*
- Auswind's *Wind Farms and Birds: Interim Standards for Risk Assessment, July 2005*
- Commonwealth Department of Environment and Heritage's *Cumulative Risk for Threatened and Migratory Species, March 2006*
- NSW Rural Fire Service's *Planning for Bush Fire Protection 2006*
- Civil Aviation Safety Authority's draft advisory circular AC 139-18(0) *Obstacle Marking and Lighting of Wind Farms, December 2005*
- ARPANSA draft *Radiation Protection Standard for Exposure Limits to Electric and Magnetic Fields*

The above Guidelines have been taken into consideration in the methodology and assessment of the respective components of this Environmental Assessment. Discussion in relation to the matters of relevance to the project is included in the respective Technical Reports contained in the Appendices (Volume 2) as well as in the summary discussions contained in relevant sections of this Environmental Assessment.

4.6 Government Stakeholders and Consultation

On 1 May 2007 the Director General of the Department of Planning issued the Environmental Assessment requirements in relation to Part 3A of the Act. In preparing his requirements, the Director General consulted with the agencies listed below in relation to their requirements:

- NSW Department of Environment and Conservation
- Department of Natural Resources
- Hunter Central Rivers Catchment Management Authority
- Upper Hunter Shire Council
- NSW Rural Fire Services

The Director General also required the Pamada to undertake an appropriate level of consultation with the following additional agencies and interest groups:

- Roads and Traffic Authority
- Department of Primary Industries
- Energy Australia/Transgrid
- Civil Aviation Safety Authority (CASA)
- Woonarua Local Aboriginal Council and
- The Local Community

4.6.1 Consultation with Authorities

Project development and consultation planning with the government agencies has included:

- Consultation with the Upper Hunter Shire Council in relation to a development application for a wind monitoring tower in mid 2004, prior to the gazettal of Part 3A of the Environmental Planning & Assessment Act;
- Regulation informal and formal consultation, commencing with informal discussions used to refine the overall project definition, implementation and management;
- On initiating the project, a formal Planning Focus Meeting was held at the Upper Hunter Shire Council Chambers in Scone on 31 January 2007. The meeting also included a visit to the proposed sites at Middlebrook and Mountain Station properties;
- Numerous face-to-face meetings with Upper Hunter Councillors and Senior Council staff, presentations and progress meetings to the Upper Hunter Shire Council since early in the project phase;
- Regular progress meetings and briefs to Councillors and senior Council staff during the Environmental Assessment discussing environmental investigations and outcomes and to gather information on issues of concern to Council, local residents and nearest neighbours;
- Following receipt of the Director General's Requirements (DGRs) on 7 May 2007, Pamada issued a formal letter to identify government stakeholder agencies who were not in attendance at the Planning Focus Meeting or which had not provided requirements to the Director General. The letter described the proposal and sought information on matters that should be addressed in the Environmental Assessment. It was issued to three Federal government agencies, twelve state government agencies, including: the Office of Renewable Energy Regulator; the Civil Aviation Safety Authority; the Department of Utilities, Energy and Sustainability; the Government Radio Network and; the NSW State Emergency Service.
- Direct voice or email contact with government agencies to provide additional information, discuss issues raised earlier or to clarify details in the responses received;
- Consultation and meetings with network providers including Connection Inquiries to Energy Australia and Transgrid, and a meeting with the National Electricity Market Management Company NEMMCO.
- Issue of copies of all Community Information Newsletters to the contacts in the Government Departments and agencies identified in the Environmental Assessment phase.

Comments received from the agencies and interest groups have been considered in the assessment of the respective issues. Discussion of the issues is included in the relevant sections of this report.

Further consultation with Government authorities are summarised in the *Community Participation Plan Appendix N*. Extensive consultation with Government Departments and Agencies identified in the DGRs have also been made directly with individual consultants undertaking environmental studies and are contained within those reports.

Community consultation is discussed in the following Section 4.0 - Community Participation.

4.6.2 Planning Focus Meeting

A planning focus meeting was held on the 31st January 2007 at the Upper Hunter Council Chambers and included an inspection of the sites.

Those who attended included are summarised in Table 4.4 below.

Table 4.4 Kyoto Energy Park Planning Focus Meeting Attendance

Group/Agency	Representative
NSW Department of Planning (Infrastructure)	Neville Osborne
NSW Department of Planning (Infrastructure)	Mark Turner
NSW Department of Environment and Conservation	Mitchell Bennett
Hunter-Central Rivers Catchment Management Authority	Steve Eceles
Upper Hunter Shire Council	David Casson
Upper Hunter Shire Council	Paul Smith
NSW Department of Primary Industries	Cameron Ricketts
NSW Department of Primary Industries	Julie Edman
BBC Consulting Planners	Julie Horder
Pamada Pty Limited (the Proponent)	Mark Sydney
Pamada Pty Limited (the Proponent)	Jacque Ryan
Middlebrook Scone Pty Limited (Landowner)	Allan Henderson
Apologies were received from the following:	
BBC Consulting Planners	Bob Chambers
NSW Department of Planning (Hunter)	Amy Blakely
NSW Department of Natural Resources	Anthony Bryson
NSW Rural Fire Service	Doug Stevens

Issues were raised by some of the representatives of each department attending the meeting. These comments were recorded (Refer to *Appendix N- Community Participation Plan*) and have been addressed by expert consultants during the environmental assessment stage.

Initial Consultation letters describing the project were forwarded to relevant government agencies and service providers whose requirements were not included in the Director General's requirements or who

were not involved in the Planning Focus Meeting (PFM). These include the following list of government agencies and groups:

Table 4.5 Kyoto Energy Park - Other Government Agencies consulted

Category	Group/Agency
Approval Authority	Department of Planning (DoP)
Other Agencies/Groups	Department of Environment and Conservation (DECC)
	Roads and Traffic Authority (RTA)
	Department of Primary Industries (Minerals, Fisheries and Agriculture) (DPI)
	Department of Natural Resources (DNR)
	Hunter-Central Rivers Catchment Management Authority
	NSW Rural Fire Services (RFS)
	NSW Mine Subsidence Board
	Local Aboriginal Land Council and Key Indigenous Stakeholders
	Local Community
	Upper Hunter Shire Council (UHC)
Local Government	
Commonwealth Government Agencies	Commonwealth Department of Environment and Heritage (DEH)
	Office of Renewable Energy Regulator (ORER)
	Civil Aviation Safety Authority (CASA)
	Air Services Australia
	Department of Defence
Energy Service Providers	Energy Australia (EA)
	Enerserve (EA)
	Transgrid
	NEMMCO



Figure 4.3 Planning Focus Meeting Mountain Station Scone

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