

22 May 2017

**NSW Planning Assessment Commission Determination Report
Rye Park Wind Farm (SSD 6693)**

1. INTRODUCTION

On 3 March 2017, the Planning Assessment Commission (the Commission) received from the Department of Planning and Environment (the Department) a State significant development application from Rye Park Renewable Energy Propriety Limited (the Applicant) to develop the Rye Park Wind Farm (the project).

The Department has referred the development application to the Commission for determination in accordance with the Minister for Planning's delegation dated 14 September 2011 because the Department received more than 25 submissions from the public in the nature of objections.

Ms Lynelle Briggs AO, Chair of the Commission, nominated Mr Gordon Kirkby (chair), Mr John Hann, and Mr Ross Carter to constitute the Commission to determine the development application.

1.1 Summary of Development Application

The development application, as amended in the Response to Submissions report, proposes the construction of:

- 109 turbines with a tip height of up to 157 metres (m) and hub height of up to 101m over six precincts (North, North-Western, North-Eastern, Central, Intermediate and Southern);
- ancillary infrastructure, including up to 143 km of internal access roads, operation and maintenance facilities, internal electricity transmission lines, one connection substation and up to three collector substations; and
- upgrades to over 100 km of the local road network to facilitate the delivery of turbines and associated infrastructure to the site.

The project would produce more than 1,056,000 megawatt-hours (MWh) of electricity per year, which could power around 132,000 homes. During construction, the project would create up to 250 jobs and up to 12 jobs during its operation. It would have a capital investment value of \$621 million and contribute \$2,500 per turbine (plus CPI) each year to Hilltops, Upper Lachlan and Yass Valley Councils to fund community projects in these areas.

1.2 Background

The site is located in the Hilltops, Yass Valley and Upper Lachlan local government areas and forms part of a larger rural area primarily used for grazing. The closest township to the site is Rye Park Village, located approximately 3 kilometres (km) to the west, while the larger townships of Boorowa and Yass, are located approximately 10 km to the northwest and 15 km to the southwest respectively.

There are fourteen operational, approved and proposed wind farms within 60 km of the project site, the closest being the proposed Bango Wind Farm 8 km to the west. The proximity of so many windfarms is a consequence of the area's wind resources, and access to major electricity transmission infrastructure.

Following the public exhibition of the Applicant's Environmental Assessment (EA) between 2 May 2014 and 4 July 2014 the Applicant reduced the number of turbines proposed to be constructed from 126 to 109. This was in response to a number of concerns raised in relation to aviation, biodiversity, visual, noise and traffic and transport impacts.

1.3 Need for proposal

In its EA, the Applicant stated that the construction of 109 turbines would:

- provide a source of renewable energy and assist in reducing greenhouse gas emissions;
- contribute to NSW and Commonwealth targets for renewable energy;
- contribute up to \$1.7 million into the Australian economy through the inclusion of flow on effects and multipliers;
- provide both direct and indirect employment during construction and operation;
- contribute approximately \$115 million in direct investment into the local and regional economy over the construction period;
- provide additional income streams for involved landholders;
- improve the local road network surrounding the project site; and
- fund local infrastructure and other projects via a Community Enhancement Program.

2. DEPARTMENT'S ASSESSMENT REPORT

The Department's assessment report identified visual amenity, noise, biodiversity and traffic and transport as the key impacts associated with this proposal. The Department's assessment report concluded that:

- turbines in the North Western and Intermediate precincts of the project would impact the visual amenity of Rye Park village and a relatively large number of surrounding non-associated residences;
- the nature and extent of the visual impacts, combined with the potential cumulative impacts of the proposed Bango Wind Farm, would effectively transform the current rural character of the landscape in those areas;
- the residual visual impacts of the turbines on non-associated residents in the Northern, North Eastern, Central and Southern precincts are moderate to low (excepting one residence with a predicted moderate/high impact);
- the noise generated by the project would be able to comply with the applicable operational noise criteria at all non-associated residences, both on its own and taking into account any cumulative impacts from the proposed Bango Wind Farm;
- the project would not generate unacceptable levels of low frequency noise or infrasound, and the health risks of the project would be negligible;
- proposed mitigation measures, including scheduling of construction traffic deliveries and restricting construction traffic to daytime operation hours, would be sufficient to minimise traffic noise impacts from the project;
- the project would not result in any significant impacts on threatened species or endangered ecological communities (EECs), and would not pose a significant or unacceptable level of risk to bird and bat species or populations in the vicinity of the proposed turbines; and
- with suitable road upgrades, regular road maintenance, and the implementation of a detailed Traffic Management Plan, the project would result in acceptable impacts on the road network capacity, efficiency or safety of the road network.

To address the residual impacts of the North Western and Intermediate precincts on properties in Rye Park village and along the Rye Park-Dalton Road to the south, the Department recommended that the turbines in both precincts be removed. This would reduce the total number of turbines for the project from 109 to 84, and the project would generate approximately 815,000 (MWh) of electricity per year, which could power 102,000 homes, and still contribute to a Community Enhancement Program.

Overall, the Department considered the majority of the site to be suitable for the project:

- as it is in a region with significant wind resources;
- has good access to the state's electricity transmission infrastructure;
- is a permissible land use; and
- residual environmental impacts can be suitably managed to meet contemporary standards.

The Department concluded that, *'the project would achieve a reasonable balance between maximising the use of the site's wind resources and minimising the potential impacts on the local community and the environment'*.

3. COMMISSION'S MEETINGS AND SITE VISIT

As part of its consideration of the development application, the Commission met with the Department, the Applicant, Yass Valley, Upper Lachlan Shire and Hilltops Councils, and visited the site and surrounds. Summaries of each of these meetings are included within **Appendix 1**.

3.1 Briefing from the Department and site visit

On 15 March 2017, the Department met with the Commission to outline a summary of the project, the consultation undertaken to date, visual and noise impacts, as well as the impacts on biodiversity, traffic, soil and water, property values, aviation, decommissioning and refurbishment and bushfire risk.

The meeting was followed by a site visit on 29 March 2017. The Commission visited viewpoints close to residences with potential views of the Intermediate precinct, and public viewpoints from Rye Park village.

3.2 Briefing from the Applicant and site visit

On 23 March 2017, the Commission met with the Applicant for a project briefing. The Applicant made a presentation to the Commission which outlined the project's history, the Applicant's views of the Department's assessment and their views on visual impacts.

The meeting was followed by a site visit on 29 March 2017 with the Applicant. The Commission inspected a number of viewpoints from Rye Park village, the wider public realm and vantage points within the project site.

3.3 Meeting with Upper Lachlan Shire, Yass Valley and Hilltops Councils

The Commission met with Upper Lachlan Shire, Yass Valley and Hilltops Councils on 29 March 2017 to hear their views. At the meeting, Councils raised issues regarding the Community Enhancement Fund, impact on local roads and the Department's proposed conditions.

3.4 Public Meeting

The Commission held a public meeting at the Boorowa Ex-Services Club, Boorowa on 30 March 2017 to hear the public's views on the proposal. A list of the 43 speakers that presented to the Commission is provided in **Appendix 2**. A summary of the issues raised by the speakers and provided in written submissions is provided in **Appendix 3**.

4. ADDITIONAL INFORMATION

Following a meeting on 23 March 2017 and a subsequent site visit, the Commission requested additional information and clarification from the Applicant. The information sought pertained to:

- the viability of the project based on the Department's recommended removal of 25 wind turbines; and
- approaches to the landowners of residence R38 for mitigation.

The Applicant provided this information to the Commission on 24 April 2017. In addition, the Applicant provided the Commission with further information regarding,

- their assessment of the visual impacts on Rye Park Village,
- their assessment of the Independent Peer Review, which was Commissioned by the Department, and
- amendments to the Department's conditions of consent.

This information was not requested by the Commission.

Following a meeting with Councils on 29 March 2017 the Commission was provided with recommended amendments to the Department's conditions relating to traffic management, and clarification over the date of the Consumer Price Index (CPI) in the Voluntary Planning Agreement between Upper Lachlan Shire and the Applicant (see **Appendix 4**).

5. COMMISSION'S CONSIDERATION

In this determination, the Commission has considered carefully:

- all information provided by the Applicant;
- the Department's assessment report;
- advice and recommendations from government agencies;
- written and verbal submissions from public agencies and from the public;
- additional information provided to the Commission and described above in Section 4; and
- relevant matters for consideration specified in section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), including:
 - relevant environmental planning instruments;
 - the *Environmental Planning and Assessment Regulation 2000*;
 - the likely impacts of the development on the natural environment;
 - social and economic impacts in the locality;
 - submissions from the public, Council and other government agencies; and
 - the public interest, including the objects of the EP&A Act.

The key matters considered by the Commission include traffic and transport, biodiversity, visual impact, riparian areas and erosion risk and the public interest. These matters are discussed in detail below.

The Commission has reviewed and accepts the Department's assessment and recommendations in respect of all other matters, which include bushfire safety, aviation, communications and the range of issues set out in Table 20 of the Department's assessment report. These particular matters are not elaborated on in this report.

In addition to the key matters considered, the Commission has also considered concerns raised in the verbal and written submission to the public meeting in relation to health impacts associated with low frequency noise and infrasound, property values, decommissioning and rehabilitation and community consultation. These matters are discussed in Section 6 of this report.

5.1 Traffic and transport

The Commission received submissions from the three Councils and the community regarding potential impacts of the project on traffic and transport. These issues related to road safety linked to increased construction traffic, management conditions for road maintenance and clarification around heavy vehicle routes.

The Commission acknowledges the Applicant's attempts to propose heavy vehicle transport routes that avoid passing through local roads, including through Rye Park village, and understands that no suitable routes were identified that would not require significant roadside vegetation clearing, road re-alignment and impact a number of non-associated residences. The Commission notes that proposed transport routes will be upgraded to facilitate the transport needs of the project, including over 100 km of the local road network, and final road upgrade works would be subject to further detailed assessment and design prior to the implementation of these works. The Commission also notes that the bulk of the traffic impacts would be confined to the construction period, estimated to extend over 18 months.

The Commission received a submission from the three Councils requesting amendments to the Department's conditions to include an additional road in Condition 26 that should not be used as an over-dimensional vehicle access route, ensure that dilapidation studies and the Traffic Management Plan are undertaken in consultation with Councils and ensure that there is sufficient construction vehicle identification. Councils also requested an amendment to the wording of the Appendix 6 – Schedule of Road Upgrades with regards to Rye Park Dalton Road. The Commission requested comments from the Department regarding their assessment of these amendments.

In their response, the Department agreed to amend Condition 26 to include Blakney Creek South Road, but considers the wording of the remaining conditions provide clarity to Councils on the level of consultation in undertaking dilapidation studies and the Traffic Management Plan and the requirement for vehicle identification would not be necessary (see **Appendix 5**). The Commission has amended Condition 26 and the Schedule of Road Upgrades in Appendix 6 and is satisfied that the Department's conditions address the Councils' remaining requested amendments through the implementation of Condition 30.

The Commission finds that, subject to the conditions recommended by the Department and the Applicant's proposed road upgrades, the project would not have an unacceptable impact on the road network's efficiency or safety. It is also likely that the community will benefit in the longer term from road improvements undertaken to support the project.

5.2 Biodiversity

The Commission heard concerns at the public meeting and received submissions regarding the project's impact on biodiversity, in particular, the amount of vegetation clearing required, impacts on threatened flora and fauna species and ecological communities, and potential bird strike.

A number of ecological assessments have been undertaken by the Applicant to assess the project's biodiversity impacts, which were validated by both the Office of Environment and Heritage (OEH) and the Department. Based on the findings of the ecological assessments and concerns raised by the OEH regarding impacts on flora and fauna, the Applicant has revised the project layout and transport routes and identified a development corridor to minimise these impacts.

In addition, the Applicant proposes measures to avoid and/or mitigate impacts on biodiversity by designing the project to avoid or minimise the disturbance of Endangered Ecological Communities (EEC), threatened species and woodland areas, and committing to micro-siting wind turbines and ancillary infrastructure outside of ecologically sensitive areas. Measures to appropriately monitor, minimise and manage the potential impacts to bird and bat species have also been outlined.

The Department concludes that the project would not cause significant impacts but has recommended conditions requiring the Applicant to implement all the above measures. The Applicant will be required to micro-site wind turbines and infrastructure within the development corridor, no more

than 250 m from its original position and at least 50 m from existing hollow-bearing trees, as well as being required to prepare a Biodiversity Management Plan and a Bird and Bat Adaptive Management Plan.

The Department acknowledges that the installation of a wind farm would result in disturbance to habitat for some threatened species and EECs, which would equate to 52 hectares (ha) or 2% of the total project site. The Department has recommended conditions requiring the Applicant to retire biodiversity credits to offset impacts and restricting the clearance of any further EECs.

The Commission is satisfied with the Department's recommendation and subsequent conditions requiring the Applicant to undertake a range of mitigation and offsetting measures to minimise the project's impacts on biodiversity.

5.3 Riparian areas and erosion risk

The Commission received submissions and heard concerns at the public meeting regarding the project's impacts on riparian areas and erosion risk, citing the erodible nature of soils in the area and the potential impacts on aquatic habitats.

The Commission understands that, to address the community's concerns, the Department and the Environment Protection Authority (EPA) met with local landowners. The Department is aware that the site has high erosion potential and has advised that this can be managed during the project's construction. In this regard the Department has recommended conditions requiring the Applicant to implement best practice control measures to manage erosion risks. The EPA and the Department of Primary Industries (DPI) have not raised any additional concerns about this issue and are satisfied with the Department's recommended conditions.

The project involves a number of water crossings for internal access roads and cabling, which have the potential to indirectly impact on aquatic habitats downstream due to sedimentation or pollution. The Applicant has committed to consulting with DPI with regard to the design of creek crossings to minimise impacts on known aquatic habitats.

The Commission is satisfied with the Department's recommended conditions in addressing the project's impacts on riparian areas and erosion risk.

5.4 Visual Impacts

The potential visual impact of the wind farm was a key issue raised in submissions and at the public meeting. The Commission heard concerns about the visibility of the wind farm by non-associated landholders given their proximity and the ability of screening vegetation to deal with any visual impacts. However, the Commission also heard from speakers and submissions in support of the wind farm which stated that the project would make a positive visual contribution to the landscape, and that the Department's decision to remove 25 wind turbines was based on a subjective visual assessment.

North-Western precinct

There are 20 non-associated residences located near Rye Park village and 30 non-associated residences within the village itself that would be visually impacted by turbines in the North-Western precinct. The Department has assessed 6 non-associated residences (R266, R267, R268, R269, R270 and R271) near Rye Park village as having 'moderate-high' visual impacts from turbines in the precinct. None of the residences in Rye Park village have been assessed as having more than a moderate impact from these turbines.

The Department notes that during the assessment process the Applicant attempted to reduce visual impacts on non-associated residences in Rye Park village and nearby residences by recommending the removal of up to 6 turbines with the highest visual impacts (turbine nos. 16, 45, 47, 133, 134 and 144). However, the Department considered that there are limited options to avoid or mitigate the visual impacts on these residences to acceptable levels, and has recommended the complete removal the North-Western precinct.

The Commission supports the Department's conclusion that the 6 non-associated residences near Rye Park village would experience moderate-high visual impacts from the nearest turbines. In addition, the Commission believes that there would be significant visual impact on the area of public domain to the east of Yass Street in Rye Park, where there would be uninterrupted views of the precinct. The Commission notes that the impact of the precinct on visual amenity from this public domain area has not been specifically assessed by the Applicant, the Department or the independent peer review. From this area, the Commission also considers turbine no. 44 to be visually prominent.

The Commission recommends the removal of turbine nos. 16, 29, 44, 45, 47, 133, 134 and 144 to reduce the visual impact on these residences and the public domain.

The Department considered that the sensitivity of Rye Park village's zoning as RU5 – Village under the Boorowa Local Environmental Plan (LEP) 2012, provided an additional reason for the removal of turbines in this precinct. An objective of the RU5 zone is to ensure development maintains and contributes to the character of Rye Park. The Department states that proposed developments in the surrounding landscape must also be considered and these developments must not transform the landscape within the village.

The Commission notes that Clause 5.3 of the Boorowa LEP applies a distance of 50m as the 'relevant distance' for consideration for development near zone boundaries. Given the distance of the RU5 zone from the nearest turbine is over 3 km away the Commission considers it inappropriate to apply the RU5 zone objectives over such a wide extent outside the actual zoned area and does not give weight to this position.

The Commission does not accept the Department's recommendation to remove all turbines in the precinct. The Commission has determined that turbine nos. 16, 29, 44, 45, 47, 133, 134 and 144 should not be approved due to their moderate-high or high visual impact on non-associated residences and the public viewing areas of Rye Park Village.

Intermediate precinct

The Commission heard concerns over the visual impact of turbines from non-associated residences in proximity to this precinct. The Department's assessment in relation to this precinct consider the visual impact to be moderate/high or high on 9 non-associated residences. Given the proximity of the residences to turbines, with the closest turbine being located 1.26 km away from the nearest residence R47, and the topography of the area, no mitigation measures have been recommended by the Department. The Department also notes that no visual impact agreements have been offered by the Applicant to these residences. Consequently, the Department has recommended the removal of all 9 turbines in this precinct.

The Commission accepts the Department's assessment that wind turbines nos. 93-99 and 101 would have moderate-high and high visual impacts on the nearest non-associated residences. The Commission notes that the independent peer review, which the Department considered as part of their assessment of visual impact, has not assessed turbine no. 90 has having more than a moderate impact on the nearest residences and did not recommend its deletion.

However, the Commission acknowledges an objection to turbine no. 90 received from the OEH based on its impact on a number of hollow bearing trees and proximity to high conservation value vegetation and Wedge-tailed Eagle nest, which would prevent micro-siting of this turbine. The Commission accepts the Department's recommendation to remove turbine no. 90.

Central precinct

The Commission notes that there is a dwelling entitlement on Lot 75 DP754136. The Department's assessment concluded that the visual impact of any dwelling constructed on this lot would be high. As the Department states that the only way to effectively mitigate visual impacts would be to remove the 4 most visually prominent turbines, they consider the Applicant should offer acquisition rights to the landowner in a similar manner to residence R38, which would experience moderate-high visual impacts from turbines in this precinct. The Commission received a submission from the landowner of Lot 75 DP754136 who explained that they would have no issues with the offering of acquisition rights. The Commission is satisfied with this agreement.

Southern precinct

There is one non-associated residence, R56, that the Department considers would have a moderate-high visual impact from turbine no. 145 in this precinct. Given the nature of the topography in this location and proximity to this turbine the Department considers the impact could not be mitigated by visual screening. The Commission notes that the Department has outlined a condition that the Applicant must not construct wind turbine no. 145 unless an agreement with the landowner of residence R56 has been reached. The Applicant stated that it is unlikely to reach an agreement and that, accordingly, this turbine may not be constructed. The Commission accepts the Department's condition.

Conclusion

The Commission accepts the Department's visual impact assessment approach where turbines that are predicted to have moderate-high and high impacts on non-associated residences are recommended to be removed unless visual impact mitigation or acquisition rights can be agreed between the Applicant and landowners.

In the Commission's consideration of whether to include or remove turbines, where the Department's visual impact assessment does not identify a moderate-high or high impact the Commission needs to weigh the visual impact of turbines with the public benefit. This includes renewable energy generation, as well as the contribution turbines make to the local economy through both annual payments into the Community Enhancement Fund and host landowner payments with flow-on benefits to the community.

The Commission accepts the Department's visual and biodiversity impact assessment with regards to all turbines in the Intermediate precinct. The Commission considers that all turbines in the North-Western precinct should be retained, except for the turbines that would have unacceptable visual impacts on Rye Park village and nearby residences. The Commission is satisfied with the Department's recommendation for the Applicant to secure an agreement or acquisition rights with the landowner of property R38 and Lot 75 DP754136, and accepts that turbine no. 145 may not be constructed unless an agreement is reached with the landowner of residence R56.

5.5 Public Interest

In evaluating whether the project is in the public interest, the Commission has given consideration to both the potential positive and negative impacts of the project within the locality, which would be experienced differently by different communities, groups and individuals. In forming a view on the public interest, the Commission has considered the relevant objectives of the EP&A Act, which states:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment; and*
- (ii) the promotion and co-ordination of the orderly and economic use and development of land.*

The Commission heard support for the project from the local community at the public meeting and through submissions for various reasons, including:

- economic and social benefits for the local community from the Community Enhancement Fund;
- benefits to local businesses;
- direct employment opportunities during construction and operation;
- incomes for host landholders, which in some instances would assist in supplementing farming operations and improving land management;
- the enhancement of views of the landscape by the installation of wind turbines;
- the potential significant power generation through a clean energy resource; and
- the upgrading of local roads.

The Commission also heard opposition to the project from the local community at the public meeting and through submissions for various reasons, including:

- a divide in the community as a result of opposing opinions of the project;
- potential long term adverse health impacts;
- traffic impacts during construction and over the life of the project;
- specialist employment opportunities that wouldn't benefit local people;
- the landscape being transformed from rural to industrial;
- reduction in property values;
- the increased risk of bushfires and impacts on their management; and
- the lack of benefits from the Community Enhancement Fund that are proposed to be allocated over a wider area.

While the Commission heard and received submissions at the public meeting which agreed that the Department's proposed removal of wind turbines would reduce the visual impact on nearby non-associated residences, some members of the community were concerned that this would lead to the reduction in annual funding contributed by the Applicant to the Community Enhancement Fund, equating to \$62,500 less per year, and a reduction of potential income to host landholders.

The Commission's decision will result in 17 turbines being removed from the project, in addition to the 17 turbines that the proponent removed in response to public submissions. The Commission acknowledges that there would be a reduction of \$42,500 a year from the Community Enhancement Fund, reducing the total contribution to the Fund from \$272,500, as originally proposed by the Applicant, to \$230,000.

The Community Enhancement Fund is a critical component to the project in providing benefits to the community.

The Commission heard a wide range of community views in relation to the project from support to opposition. While the Commission acknowledges that the project would have negative impacts, with the removal of a number of turbines and with appropriate conditions, these impacts can be effectively mitigated and are outweighed by the broader public benefit.

6. COMMISSION'S RESPONSE TO COMMUNITY ISSUES

Speakers and written submissions to the public meeting raised a number of concerns about the project's impact on health, property values, decommissioning and rehabilitation, and the level of consultation offered throughout the project.

In addition to the Commission's consideration of the development application in Section 5 of this report, the Commission has considered these issues as follows:

6.1 Health impacts

Speakers at the public meeting raised concerns over the impact of the wind farm on the health of local residents, particularly from low frequency noise and infrasound. It was stated that excessive low frequency noise from wind turbines could lead to sleep disturbance and long term health impacts.

The Department has recommended conditions to ensure surrounding residents are protected from any potential impact from low frequency noise and the EPA is satisfied with this.

Further, the Department's assessment of the impact of infrasound has been guided by research undertaken by the National Health and Medical Research Council (NHMRC) which concluded that, *"there is no direct evidence that exposure to wind farm noise affects physical or mental health"*.

A position statement on *Wind Farms and Health* (2014) by the Australian Medical Association also states that,

"The infrasound and low frequency sound generated by modern wind farms in Australia is well below the level where known health effects occur, and there is no accepted physiological mechanism where sub-audible infrasound could cause health effects."

The Commission is satisfied with the Department's assessment of this issue and recommendation that the project would not pose an unacceptable risk to the health of local residents.

6.2 Property values

Speakers at the public meeting raised the issue of both positive and negative impacts of the wind farm on local property values. The Commission notes that *King & Anor v Minister for Planning; Parkesbourne-Mummel Landscape Guardians Inc v Minister for Planning; Gullen Range Wind Farm Pty Limited v Minister for Planning* ([2010] NSWLEC 1102) considers property values for sites adjacent to a wind farm. The judgement determined that there was no loss of property value to which the Court could lawfully have regard to, as the wind farm was permissible with consent.

In its judgement the court determined that, *'If the concept of blight and compensation were to be applied to a private development, then any otherwise compliant private project which had some impact in lowering the amenity of another property (although not so great as to warrant refusal on general planning grounds when tested against the criteria in s 79C of the Act) would be exposed to such a claim'*. The Commission considers that this judgement is relevant to the proposed development and that impacts to property values cannot be given determinative weight in the context of a proposal that is otherwise acceptable on all other planning grounds.

6.3 Decommissioning and rehabilitation

Concerns were raised at the public meeting regarding the financial capability of the Applicant for the decommissioning of the wind turbines and rehabilitation of the land.

The Department has recommended approval conditions that require progressive rehabilitation of disturbed land, and the removal of decommissioned wind turbines both at the end of the project life and in the event that any individual turbine is inoperable for a period of more than 12 months.

The Commission notes that concern for the financial viability of an Applicant to comply with these conditions arises with many wind farm development applications. However, the wind turbine industry in New South Wales remains relatively young and the Commission is unaware of any project site where wind turbine generators have been decommissioned and not removed from the site.

In the absence of Government policy governing the Applicant's financial arrangements at the time of granting consent, the Commission does not believe it is in a position to doubt that the Applicant will comply with the conditions, and if need be, that the Department can enforce compliance. The Commission accepts the Department's recommended conditions for this matter.

6.4 Community Consultation

The Commission heard concerns from the community at the public meeting and through submissions regarding the adequacy of consultation undertaken by the Applicant. Many residents felt that they had been either left out of the consultation process or that it had been inadequate. It was also stated that there been no consultation to date with the local Aboriginal community. There was also confusion surrounding the establishment and operation of a Community Consultative Committee (CCC). The Commission heard from the Department and the community that the earlier consultation by Epuron was inadequate and some individual landholders may not have been consulted with appropriately.

In their assessment report, the Department highlights that in addition to the formal statutory consultation requirements they publicly exhibited the Applicant's Response to Submissions (RTS) and undertook an extensive engagement process with the local community, which included holding community meetings and consulting with local residents. The Commission notes that consultation with the local Aboriginal community has been documented in Appendix D of the Applicant's RTS.

The Commission acknowledges that while concerns were raised over community consultation there were also members of the community that complimented the Applicant's and Department's consultation throughout the assessment process.

The Commission is satisfied that adequate consultation of the project has been undertaken by the Applicant and the Department during the assessment process in accordance with formal statutory consultation requirements under the EP&A Act.

7. COMMISSION'S FINDINGS AND DETERMINATION

The Commission has considered carefully the Applicant's proposal, the Department's assessment report and the relevant matters for consideration under section 79C of the EP&A Act. The Commission has noted the advice and recommendations from Upper Lachlan Shire, Hilltops and Yass Valley Councils, and government agencies including the OEH, EPA and DPI Water. Finally, the Commission has heard from members of the community about their concerns for the proposal during the public meeting in Boorowa and in submissions.

The Commission acknowledges that heavy vehicle transport routes would pass through local roads and that over 100 km of the local road network will be upgraded. The Commission is satisfied that the appropriate conditions of consent for the maintenance of local roads and committed road upgrades will ensure the project would not result in unacceptable impacts on the road network's efficiency or safety and is likely to result in long term community benefit from road improvements.

The Commission accepts that there will be some disturbance to biodiversity on the project site, which is unlikely to have a significant impact. The Commission is satisfied that the conditions of consent outline a range of mitigation and offsetting measures to minimise the project's impacts on biodiversity.

The Commission acknowledges that the site has high erosion potential and the number of water crossings could impact aquatic habitats downstream of these waterways. The Commission is satisfied with requirements for the Applicant to implement best practice control measures to manage erosion risks and consult with DPI Water on the design of creek crossings to minimise the impact on aquatic habitats.

The Commission largely accepts the Department's visual impact assessment for the turbine array, and supports the exclusion of all turbines from the Intermediate precinct. The Commission does not support the removal of all turbines in the North-Western precinct. The Commission has included a condition requiring turbines nos. 16, 29, 44, 45, 47, 133, 134 and 144 to be excluded as they have the highest visual impact on Rye Park village and nearby residences.

The Commission acknowledges the diversity of community opinion over the project's impacts, however finds that the project is in the public interest.

The Commission has responded to concerns expressed by speakers at the public meeting. While noting that issues such as health impacts, property values, decommissioning and rehabilitation, and community consultation did not relate to substantive aspects of the proposal the Commission has clarified and addressed these issues.


For the reasons set out above, the Commission has determined to grant consent to the development application subject to the conditions set out in the instrument of approval.



Mr Gordon Kirkby (Chair)
Member of the Commission



Mr John Hann
Member of the Commission



Mr Ross Carter
Member of the Commission

APPENDIX 1

RECORDS OF COMMISSION MEETINGS

Meeting with Tilt Renewables (the Applicant)		
Meeting note taken by Matthew Todd-Jones	Date: Thursday, 23 March 2017	Time: 9:30am
Project: Rye Park Wind Farm		
Meeting place: PAC Offices, 201 Elizabeth Street		
Attendees: PAC Members: Gordon Kirkby, John Hann, Ross Carter PAC Secretariat: David Koppers and Matthew Todd-Jones Tilt Renewables: Chris Righetti, Rontheo Van Zyl and Clayton Delmarter		
The purpose of the meeting is for the Applicant to discuss the project with the Commission.		
<p>The Applicant provided the Commission with a PowerPoint presentation of the project which outlined</p> <ul style="list-style-type: none"> the company's details; the project's history; their views of the Department's assessment; and their views on visual impacts. <p>During the meeting the following matters were discussed:</p> <p><u>Project background</u></p> <ul style="list-style-type: none"> The Applicant stated that wind energy resources are not as strong in NSW as they are in other states, but there is better transmission capacity here. The number of turbines for the project reduced from 125 to 109 following further consultation with the community and agencies. <p><u>Project viability</u></p> <ul style="list-style-type: none"> With the removal of another 25 turbines as recommended by the Department this would represent a 20% reduction in the number of turbines for the project. The Applicant feels that the project would not be viable if it remains at 84 turbines. Recovering costs would be made more difficult if the project was reduced to 84 turbines and the capital investment value would be reduced from \$700 million to \$550 million. The Commission asked the Applicant to provide further information regarding project viability in light of this reduction. <p><u>Visual Impacts</u></p> <ul style="list-style-type: none"> The Commission asked whether there were any significant buildings or areas in Rye Park village that may be visually impacted. The Applicant stated that there is a church and public hall in the village but due to topography and screening through existing trees they would not be visually impacted by the project. The Applicant considered the Department's approach to visual assessment to be flawed for various reasons outlined in their presentation. The Applicant feels that the Department's assessment report does not adequately mention the amount of support there is for the project, including 40% of people in Rye Park village. 		

- The Applicant stated that it would be unlikely that a visual agreement could be reached with the owner of residence R56.

Socio-economic impact

- The Applicant stated that 12 landholders would be adversely affected by the removal of turbines with 8 missing out altogether. This represents approximately \$400,000 in lost annual revenue for these landholders.
- Removing turbines would also reduce the amount of money contributed to the Community Enhancement Fund.

Additional information

- The Applicant has commissioned a Registered Landscape Architect to peer review the Independent Expert Review, which will subsequently be provided to the Commission and made publically available.
- The Commission will meet with the Applicant for a site visit on 29 March and will be provided with visual simulations of various viewpoints onsite.

Documents: PowerPoint presentation

Meeting closed at 11:30am

Meeting with Department of Planning and Environment		
Meeting note taken by Matthew Todd-Jones	Date: Wednesday, 15 March 2017	Time: 9:00am
Project: Rye Park Wind Farm		
Meeting place: PAC Offices, 201 Elizabeth Street		
Attendees: PAC Members: Gordon Kirkby, John Hann PAC Secretariat: David Koppers and Matthew Todd-Jones DPE: Mike Young (Director Resource Assessments), Diana Charteris (Senior Planning Officer)		
The purpose of the meeting is for the Department to brief the Commission on the project.		
<p>The following issues were discussed:</p> <ol style="list-style-type: none"> <u>Strategic context and Project Summary</u> <i>Project delays</i> <ul style="list-style-type: none"> The Commission sought clarification as to the delay in the project coming forward for determination. DPE advised that the economic situation for wind energy combined with a change of Proponent contributed to the delay. The latter meant that agreements took longer to be reached and the RTS phase sat with the Proponent for over 2 years. <i>Approvals</i> <ul style="list-style-type: none"> The project requires Federal level approval under the Environment Protection and Biodiversity Conservation Act. It has been referred to the Federal Government. <i>Project Details</i> <ul style="list-style-type: none"> DPE feels that their changes meet the requirements of the Upper Lachlan Shire Council Development Control Plan, which has a clause for wind farms. There will be a 250m micro-siting allowance. There will be a key interaction with the Bango Wind Farm located to the west of the project site and potential for cumulative impacts. Bango Nature Reserve is designated Conservation area located to the south of the site. There is a ridge of higher ground that runs through the site – residences to the west would be more impacted than residences to the east. There are also non-associated residences in the middle of the site. There are now 9 access points to the site, down from 13 originally proposed. Road upgrades have been agreed with Councils upfront instead of post approval. <u>Consultation</u> <ul style="list-style-type: none"> A Community Consultative Committee has been operating for many years. The relationship between the community and the previous Proponent, Epuron, had broken down. The new Proponent has slightly improved the relationship. The Department held a community information session in Rye Park, 60 people attended. The Department has met with Councils, agencies and undertook site visits. No objections had been received from the Councils and a VPA contribution of \$2,500 per turbine per year had been agreed. Issues Council raised included upgrading their road networks, sourcing water for the project and the impact of the project on potential subdivisions of land. OEHS's main issue was vegetation clearing. DPE has undertaken site visits with them and note that they are still concerned with the locations of a handful of wind turbines. 		

- Community submissions highlighted the strong regional and local interest in this project.

3. Visual Impacts

- The independent peer review found no reason why the area couldn't support a wind farm.
- There will be a big interaction with the Bango wind farm, some properties will see both wind farms.
- The independent consultation felt that the Proponent's visual assessment was too low and DPE agrees.
- *Northern Precinct* – there are 5 very close residences. DPE originally recommended removal but the Proponent has reached agreements with these residences, deletions not warranted.
- *North Western Precinct* – Rye Park village is located adjacent to here. DPE believes that the turbines would transform the landscape and believe that all 16 in the precinct had to be removed. Infrastructure can still be run to the Northern precinct.
- *Feasibility argument* – the Proponent felt that taking away turbines from this precinct would affect the project's feasibility as some of them were the most productive. DPE weren't convinced with the Proponent's evidence for this and mentioned that the Proponent hadn't previously stated that the project would be affected.
- *North Eastern Precinct* – limited impacts from this area due to topography.
- *Central Precinct* – R38 – there would be a high impact, no agreement has been reached, and DPE feels acquisition rights should be offered. Lot 75 – anywhere you put a house on this property it would be affected, DPE's argument is on visual grounds, can't build 4 turbines unless given acquisition rights or have an agreement with the landholder.
- *Intermediate Precinct* – high impacts as properties are within 2km. Removing wind turbines would limit impacts, including cumulative impact with the Bango wind farm. Community had strong views against the project. The DPE has made some calls to the community after their recommendations were released and there have been mixed views.
- *Southern Precinct* – R56 is very close, DPE has recommended that if there is no landholder agreement then no turbines will be built here. R68 is close to the transmission line but relocating this would be constrained by biodiversity.
- The Proponent hasn't objected strongly to DPE's conditions but will probably look to air grievances through the PAC process.
- The Commission asked how the low/medium/high impact matrix was considered.
- DPE explained that 2 matters are taken into consideration – dominance, based on elevation and proximity, and the proportion of the views taken up by turbines. Anything passed moderate has a real visual impact.

4. Noise

- The project is located in a quiet rural setting.
- The Proponent's assessment show compliance with adopted standards, in relation to the turbines, infrastructure and cumulative noise with the nearby Bango wind farm.
- There would be minor exceedances of the low assessment threshold during construction.
- DPE satisfied with the baseline data.

5. Biodiversity

- The project would involve clearing of up to 254ha of native vegetation, which represents a 2% disturbance of the site.
- Impacts will generally be avoided during micro-siting.
- OEH had concerns over hollow-bearing trees, at risk species and roadside vegetation. There will be minor clearing of roadside vegetation expect for where road entrances are proposed.

- Credit/offset process for this project is designed to find offsets but not use a restrictive FBA process so that there is incentive through micro-siting to minimise impacts.
- DPE and OEH satisfied that there is land available to retire credits quickly.
- Bird and Bat strike – there is no current policy around this and it is not counted in the offsets. OEH are wanting a 500m buffer from Wedge-tailed eagle nests.
- In terms of adaptive management there has been an instance in the Gullen Range Wind Farm where turbines have been switched off during breeding seasons. There is no evidence of the need to do this for Rye Park.

6. Traffic

- The community raised concerns over bringing heavy vehicles through Rye Park.
- Construction workers would mainly travel up Cooks Hill Road, which will need sealing.
- The Councils are satisfied with the level of upgrades to their respective roads and the Proponent's approach to the dilapidation survey.

7. Soil and water

- The community raised concerns over soil erosion due to construction, and the potential loss of fish from local waterways.
- The EPA and DPI Water didn't object to this project and felt that there was nothing to preclude a wind farm from being developed in this area.

8. Property values

- There is relevant caselaw around this issue.
- Two studies have been undertaken by OEH and the valuer general and both pointed to no evidence to suggest a negative effect, but the data sample was quite small.
- If there is evidence of a significant loss or widespread loss then it would become a relevant consideration.

9. Decommissioning/refurbishment

- The Proponent will be required to decommission the turbines but if the company ceases for whatever reason then it is ultimately the responsibility of the landowner.
- Refurbishment allows for the continuation of the project but if impacts change then a modification of new DA will be required.

10. Other issues

- *Aviation* – no issues raised by CASA and obstacle lighting not required.
- *Bushfire risk* – this was a big issue raised by the community who thought that you can't fight fires on wind farms as there would be no aerial support. However, the RFS has a policy statement which is contrary to this. Access tracks around wind farms also allow better access for the RFS.

Meeting closed at 11:00am

Meeting with Hilltops, Upper Lachlan Shire and Yass Valley Councils		
Meeting note taken by Matthew Todd-Jones	Date: Wednesday, 29 March 2017	Time: 9:00am
Project: Rye Park Wind Farm		
Meeting place: Yass Valley Council Chambers, 209 Comur Street, Yass		
<p>Attendees:</p> <p>PAC Members: Gordon Kirkby, John Hann, Ross Carter</p> <p>PAC Secretariat: David Koppers and Matthew Todd-Jones</p> <p>Hilltops Council: Sharon Langman (Director of Environmental Services) Wendy Tuckerman (Administrator)</p> <p>Upper Lachlan Shire Council: Tina Dodson (Director – Environment and Planning) John Bell (General Manager) Phil Newham (Director Works and Operations) Brian McCormack (Mayor)</p> <p>Yass Valley Council: Chris Berry (Director of Planning & Environmental Services)</p>		
The purpose of the meeting is for the Councils to discuss the project with the Commission.		
<p>The following issues were discussed:</p> <ol style="list-style-type: none"> <u>Community Enhancement Fund/Voluntary Planning Agreement</u> <ul style="list-style-type: none"> The Councils stated that no VPAs had been executed at this stage. They felt the VPAs should benefit the whole LGA, not just the nearest community, and be administered by s355 Committees. The Councils met with the Applicant on the VPA together. Upper Lachlan Shire Council (ULSC) stated that VPAs are already in effect in their area from other wind farms. The Councils felt that the Applicant hasn't made it clear how many turbines are within each LGA. This will be important to see how the VPA will operate. <u>Roads</u> <ul style="list-style-type: none"> ULSC – page 30, Appendix 6 of DPE's assessment report (Rye Park-Dalton Road) should be amended, delete 'unsealed' roads. ULSC – page 13, condition 26 – add Blakney Creek Road to notes. There are concerns over road safety in this area. Yass Valley Council (YVC) were happy with the table in Appendix 6. Hilltops Council were unsure of where material will be coming from and which roads will be taken. Hilltops recommended that an agreement be reached of the roads which will be used, outside of those listed in Appendix 6, and put in the conditions. It could then be enforceable. 		

- ULSC stated that a Traffic Management Plan would usually cover this.
- YVC also stated that the transportation of water, gravel, sand and cement can also cause problems to roads.
- ULSC stated that there are no arrangements about the sourcing of concrete in the conditions. They prefer mixing of concrete to be on site, which has happened for other projects.
- Temporary batch plants are mentioned in DPE's assessment report but nothing included in the conditions.
- ULSC to forward to the Commission wording that has been used for Traffic Management Plans before.
- Condition 28 also needs more strengthening.
- Rumours going around that roads in the ULSC area are being wrecked by developments are not true.
- Heavy vehicles should be added to Condition 26. It should not just be about over-dimensional vehicles.
- Instead of just stipulating that a dilapidation survey will be prepared it should be in conjunction with Councils.
- YVC stated that it will be important to reinforce that heavy vehicles should follow designated routes.
- ULSC stated the identification of construction trucks would help to pinpoint breaches in vehicle movements. Maybe this could be put into the conditions.

3. Other issues

- YVC – the Community Enhancement Fund and roads were our primary focus. Issues such as visual impact are better placed to be addressed by the community.
- Hilltops – complaints handling should go to the Applicant rather than the Council.
- There was poor consultation with the Applicant in the beginning but improved when Tilt took over.
- Councils meet collectively and have been very good in achieving consistency.
- The commencement of CPI should be included on page 25, the date will be provided by the Councils. The VPA was exhibited at Hilltops based on this date. It should apply to all Councils equally.
- ULSC – 2km separation distances under the Council's DCP are applied consistently and every Applicant is made aware of these distances.

Meeting closed at 10:00am

APPENDIX 2
LIST OF SPEAKERS AT THE RYE PARK WIND FARM PUBLIC MEETING

Date & Time: 9:30am on Thursday, 30 March 2017

Place: Boorowa Ex Services Club, Pudman Street Boorowa NSW 2586

Meeting Schedule	
9:30 am	Opening Statement from the Chair – Mr Gordon Kirkby
Registered Speakers:	1. Jim Field
	2. John Arnott (Waubra Foundation)
	3. Ron Veness
	4. Andrew Field
	5. Sylvia Pearsall
	6. Robyn Stephenson
	7. Joann Dungey
	8. Phillip Fowler
	9. Bob Searle (Rye Park Progress Association)
	10. Brad Pearsall
	11. Patricia Pearsall
	12. Rod & Ros Gibson
	13. Craig Southwell
	14. Kate Macmaster
	15. Paul Oreardon
	16. Sandra Veness
	17. Sara Brown (Rye Park Action Group)
	18. Jane Apps
	19. Andrew Southwell
	20. Rosemary Miller
	21. Steve Moss

22. John Washbrook
23. Paul Cavanagh
24. Linda Cavanagh
25. James Thompson
26. Kate Mosbey
27. Winston Cheetham
28. Allan Howard
29. Fiona Gorman
30. Charlie Prell (Australian Wind Alliance)
31. Brendan Cocaerill
32. Debbie Vanderlaan
33. Richard Stapleton
34. Bert Barrass
35. Justin Mooney
36. David Sainsbury
37. Christine Hawkins
38. Matthew Smith
39. Christian Wythes
40. David Walters
41. Bay Kelly
42. Graeme Smith
43. Penny & Tony Bickford
End

APPENDIX 3

SUMMARY OF ISSUES RAISED AT THE RYE PARK PUBLIC MEETING

Rye Park Wind Farm Public Meeting		
Meeting notes taken by David Koppers and Matthew Todd-Jones	Date: Thursday, 30 March 2017	Time: 9:30am
Project: Rye Park Wind Farm		
Meeting place: Boorowa Ex-Services Club, 55/59 Pudman Street, Boorowa		
Attendees: PAC Members: Gordon Kirkby (Chair), John Hann, Ross Carter PAC Secretariat: David Koppers and Matthew Todd-Jones		
The purpose of the meeting is for the Commission to hear the public's views on the Department's Assessment Report and draft conditions for consent.		
<p>The following issues were raised:</p> <p><u>Environmental Impacts</u></p> <ul style="list-style-type: none"> • The wind farm would damage the environment through vegetation clearing. • Footings of turbines and roads will destroy untouched environments. • Rehabilitation will take significant work and the environment will never return to same state. • The impact from the gas pipeline from 40 years ago is still visible. • Windfarms are the least polluting energy source and Rye Park has a good wind energy resource. • The project would result in the clearing of old forests and grasslands. • This area is a habitat for flora and fauna species, some of which are endangered. • The environment would benefit more to people than the wind farm. • Some residents have spent a significant amount of money on rehabilitation and management of their farm to protect biodiversity. • There will be issues of bird and bat strike, especially wedge tailed eagles. There should be a penalty for the Applicant of \$1500 for any killed. • It is stated that turbines are not to be located closer than 50 metres from hollow bearing trees. But birds may not nest so close and may be killed by blade strike. • The Applicant should have to look after trees used for screening and no cost should be borne by landowners. • Boorowa Landcare group had funds made available to re-establish vegetation, yet the installation of turbines would undo their existing work. <p><u>Economic Impacts</u></p> <ul style="list-style-type: none"> • The site's ridgelines are not suitable for grazing or pastures. • Many residents are only in primary production which has many ups and downs, and this project allows economic diversification. • Employment opportunities from the project would be beneficial to Rye Park and surrounding communities. • The Community Enhancement Fund would also be beneficial to the community. • The Fund should only benefit affected communities and not the whole of the LGAs. • Turbine host landholders will benefit. Some are farmers who will be able to subsidise their operations with the money they will receive by funding farm infrastructure and environmental programs. • Income from the project would allow landholders who are farmers to employ assistance on their farms. 		

- There is potential for significant power generation.
- The removal of turbines would be a loss of jobs, community funds and energy production.
- The loss of 25 turbines may impact on the project's viability.
- The employment opportunities would not be for local people as they would mostly be specialist roles.

Visual Impact

- The area would turn into an industrial workplace.
- Wind farms should be built near the cities that draw from them.
- The turbines would be 1 ½ times higher than the turbines at Gullen Range.
- The photomontages give false views.
- There would be a cumulative impact on properties in the Northern precinct with the Bango wind farm.
- Why was it less important to not have the Northern precinct removed? Properties in this area have been ignored and screening is unreasonable.
- There would be high visual impacts from turbines in the Intermediate precinct.
- The Department's conditions relating to shadow flicker state that the project should not exceed 30 hours per year. A resident claimed that they will have 300 minutes per month.
- No windfarm is visually pleasing but the visual impacts are minor in consideration to the bigger issues.
- People should not be able to veto projects on someone else's land just because they can see it.
- 6 non-associated residents in the north west sector were used to justify the removal of 16 turbines, but 3 of those are happy with the project.
- Wind farms are becoming a regular part of the landscape.
- Views are only nice when the landscape is green. The project would enhance the view.
- Conclusions throughout the independent peer review are not supported by matrix results and the original Landscape Visual Impact Assessment should be relied upon.

Social Impact

- This project has divided the community and there are a lot of people who are not prepared to speak up about their concerns.
- The wind farm would bring more families into the area due to employment.
- Support for wind farms that are developed in consultation with communities.

Health Impact

- Larger turbines worsen health over wider area.
- Symptoms of psychological stress and sleep disturbance reported out past 3 kilometres.
- Health impacts are destructive to this point.
- This also leads to people abandoning their properties.
- The deletion of turbines is welcomed on health grounds.

Noise

- Noise from the project would be an issue as currently the still nights are peaceful.
- An environmental noise assessment from February 2016 didn't include noise testing for R38 which was done the year before.
- The turbines will comply with noise guidelines. A recent govt study showed southern highlands turbines were complying with noise standards

Soil and water

- The soil is fragile and the land is very erodible when it rains and there will be run off into dams and creeks. This will affect frogs and fish in these waterways, including the Southern pygmy perch.
- The rock on the site is and not basalt but shale, which is highly erodible when disturbed.
- There has been erosion on the eastern side of the site and scarring is evident where clearing has occurred.
- What will the company do to restore the land?
- There would be likely water pollution from the construction of the project.
- All waterways flow into Pudman creek on the western side. This creek is depended on for watering stock and bushfire protection.
- There is also the potential for water holes to run dry.
- Water storages need to be built as a mitigation measure if the project goes ahead.
- Conditions require the project to comply with urban stormwater guidelines which are inadequate.

Bushfire Risk

- There would be a big bushfire risk after the construction of these turbines. There would be no choice but to escape if a fire comes from the west.
- Aerial bombing would not be an option.

Consultation

- Some residents weren't consulted throughout the project at all.
- There has been no consultation to date with the local Aboriginal community.
- The Environmental Impact Statement was 1200 pages long and the exhibition period was only 31 days long. This was not enough time for people to comment and unfair on people having to print of numerous pages.
- No knowledge of the Community Consultative Committee (CCC) which was set up and what they do.
- The CCC should not be operated by the Applicant.
- Two public meetings provided little to no information and the public does not have a good understanding of the impacts.

Property Values

- The project will decrease property values and residents won't be able to sell.
- The upgrading of local roads would increase property values in the area.

Transport

- There is not enough detail in this project regarding transport issues.
- All residents would benefit from the road upgrades within the area.
- Many residents of Rye Park travel for work.
- There are concerns over safety impacts on road due to heavy vehicles. The more construction vehicles on the local roads would lead to more accidents.
- With increased traffic it may take over 30 minutes for emergency services to respond to emergencies in the area.
- There are no management conditions on road maintenance or access to roads, they only relate to oversized loads.

Decommissioning

- This will be the hosts responsibility contrary to what the Applicant might say. The applicant won't have the funds to decommission the project as they probably won't exist when it comes to this stage.

Meeting closed at 2.30pm

APPENDIX 4

COUNCILS' REQUESTED TRANSPORT CONDITIONS AND VPA – UPPER LACHLAN SHIRE COUNCIL AND APPLICANT 2016

From: [Tina Dodson](#)
To: [Chris Berry](#); [Sharon Langman](#)
Cc: [Matthew Todd-Jones](#); [Phillip Newham](#); [John Bell](#)
Subject: PAC Meeting - Rye Park Wind Farm Proposal
Date: Thursday, 6 April 2017 10:57:43 AM
Importance: High

Hi Chris and Sharon

Further to Councils meeting with the PAC on the 29 March 2017 and subsequent phone conversation with Matthew Todd-Jones on 5 April 2017, the following additional information listed below will be provided. Do your respective Councils wish to add any further amendments/comments? Is so I will need them ASAP as the PAC are keen to look at what we all are providing.

- Condition No 26 (page 13) Notes: Insert additional dot point: *"To avoid any doubt this consent does not allow the use of Blakney Creek Road for any purpose related to this development."*
- Condition No 28 (page 14): The applicant must - insert *"in agreement with the relevant roads authority"*: (a) prepare a dilapidation survey of the designated over-dimensional and heavy vehicle route (*this report is not to be prepared using a "laser car" device*).
- Condition No 30 (page 14): Prior to the commencement of construction, the Applicant must prepare a Traffic Management Plan for the development.. – insert *"in agreement with the relevant roads authority"*, and to the satisfaction...
- Condition No 30(b) (page 14): Insert new dot point *"The developer will be responsible to ensure that all vehicles associated with the development have signage affixed that identifies the vehicles as being associated with the development"*.
- Requires new additional Condition: *"All concrete used on the site must be batched on-site"*.
- Appendix 6 – Schedule of Road Upgrades (page 30): Rye Park Dalton Road – Upgrade – Delete the words *"or unsealed standard based on current standard of road section"*.

Please let me know if you require any further information or clarification.

Regards
Tina Dodson
Director Environment and Planning
Upper Lachlan Shire Council

[REDACTED]

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Rye Park Wind Farm

Community Enhancement Fund Agreement

The Upper Lachlan Shire Council

Rye Park Renewable Energy Pty Ltd

Contents

Table of contents

1	Definitions and interpretation	2
	1.1 Definitions	2
	1.2 Interpretation	5
2	Planning Agreement	6
3	Application of this deed	6
4	Operation of this deed	6
5	Payment of the Monetary Contribution and the Additional Contribution	6
	5.1 The Monetary Contribution	6
	5.2 General	7
6	Community Enhancement Fund	7
	6.1 Establishment of the Community Enhancement Fund	7
	6.2 The Committee	7
	6.3 Call for Funding Applications	8
	6.4 Notification to Company	8
	6.5 Allocation of Funds	8
	6.6 Public Recognition	9
	6.7 Auditing	9
7	Application of sections 94 and 94A of the EP&A Act to the Development	10
8	No Registration	10
9	Disposal by the Company of its interest in the Development	10
10	No fetter	10
11	Dispute Resolution	10
	11.1 Notice of Dispute	10
	11.2 Response to Notice	11
	11.3 Negotiation	11
	11.4 Further Notice if not Settled	11
	11.5 Mediation	11
	11.6 Litigation	12
	11.7 Exchange of information	12
	11.8 Continue to Perform obligations	12
12	GST	12
	12.1 Interpretation	12
	12.2 Reimbursements	13
	12.3 Additional amount of GST payable	13
	12.4 Variation	13

13	General	13
13.1	Costs	13
13.2	Notices	14
13.3	Waiver	14
13.4	Governing Law	14
13.5	Prior Agreements Superseded	14
13.6	Modification of Deed	15
13.7	Representations and Warranties	15
13.8	Severability	15
13.9	Confidentiality, Media Releases and Enquiries	15
13.10	Counterparts	15
13.11	No Fiduciary Relationship	15
13.12	Further Acts	15
13.13	Enforcement	16
	Schedule 1: Notice Details	17
	Signing page	18

Planning Agreement

Date

Between the parties	
	The Upper Lachlan Shire Council ABN 81 011 241 552 of 44 Spring Street, Crookwell NSW 2583 (Council)
	Rye Park Renewable Energy Pty Ltd ABN 34 601 541 931 of Level 23 "Rialto Towers" 525 Collins Street Melbourne VIC 3000 (Company)
Recitals	<ol style="list-style-type: none">1 The Company has agreed to pay Monetary Contributions in relation to the Rye Park Wind Farm to the Council's Rye Park Community Enhancement Fund on the terms of this deed.2 The Council agrees to be the custodian of the Monetary Contributions paid by the Company to the Community Enhancement Fund and to distribute and expend the funds in the Community Enhancement Fund in accordance with this deed.3 The Company has lodged the Rye Park Development Application.
This deed witnesses as follows:	

1 Definitions and interpretation

1.1 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
Approved Local Projects	each Local Project for whatever purpose (as determined by Council after recommendation by the Committee) approved for funding from the Community Enhancement Fund in accordance with this deed.
Auditor	an appropriately qualified auditor appointed by the Council.
Committee	the committee established to administer the Community Enhancement Fund in accordance with the DCP, pursuant to section 355 of the Local Government Act and, comprising: <ul style="list-style-type: none">• the Mayor or Councillor Delegate;• the General Manager or delegate of the Council;• up to 2 community representatives who do not own any of the Rye Park Land; and• a representative appointed by the Company
Committee Charter	the charter governing aspects of the governance of the Committee, as modified from time to time.
Contribution Year	Means every 12 month period from 1 July each year.
Construction Certificate	has the meaning contained in the EP&A Act.
Community Enhancement Fund	the fund to be established by the Council and administered in accordance with this deed and the DCP.
Costs	includes costs, charges and expenses, including those incurred in connection with advisers. The cost of administering the Community Enhancement Fund shall be paid to Council out of the Monetary Contribution on an as needed basis and shall be no more than \$5000 per annum, indexed to CPI over the life of the project
Local Project	Any local community purpose that may be considered for funding so that it becomes an approved Local Project.
Rye Park Wind Farm Development Application	The application no. SSD6693 lodged with the Minister for Planning under the EP&A Act on 18 January 2011, as modified from time to time.
Rye Park Wind Farm Development Consent	The development consent granted by the Minister pursuant to the Rye Park Wind Farm Development Application as modified from time to time.
Rye Park Land	<ul style="list-style-type: none">• all other land on which it is proposed that associated and ancillary infrastructure for the Rye Park Wind Farm that will be located within the Upper Lachlan Local Government Area as specified in the Rye Park Development Consent; and• the land that is the subject of and is described in the Rye

	<ul style="list-style-type: none"> • Park Wind Development Application.
Rye Park Wind Farm	the construction and operation of a wind energy facility to be known as the Rye Park Wind Farm, on the Rye Park Land consisting of up to 109 wind turbines and associated infrastructure as authorised by the Rye Park Development Consent. Also referred to in this agreement as the Development.
DCP	the <i>Upper Lachlan Development Control Plan 2010</i> as amended from time to time.
EP&A Act	the <i>Environmental Planning and Assessment Act 1979 (NSW)</i> as amended from time to time.
Index Number	the Consumer Price Index for Sydney (Housing) number or equivalent index published from time to time by the Australian Bureau of Statistics commencing at the June 2011 quarter.
Local Projects	<p>any projects proposed to be carried out within the Upper Lachlan Shire Council local government area and located within 20kms of the Rye Park Wind Farm which are aimed at:</p> <ol style="list-style-type: none"> 1 enhancing any aspect of the local environment including, but not limited to, ameliorating any impacts from the Rye Park Wind Farm; or 2 providing any community service or facility or benefit or educational assistance. <p>which may include the building of a Strategic Fund to develop a single or expensive Local Project that will require significant upfront or multi-year investment.</p> <p>members of the community through incorporated or registered not for profit organisations will be able to apply for funds under the CEF for community benefit or education support projects within 20km of the project. Should no suitable local projects be identified during any funding round within this boundary as the first priority applications will be considered within the current Upper Lachlan Shire Council boundaries as of 11 February 2016.</p>
Mediator	a person appointed as mediator under clause 11.5 of this deed.
Monetary Contribution	the amount of \$2,500 per annum per turbine constructed within Upper Lachlan Shire Council Local Government Area as adjusted in accordance with clause 5.1(b) of this deed.
Operating Turbine	each wind turbine constructed and commissioned as part of the Rye Park Wind Farm which generates electricity into the transmission network during any part of the relevant Contribution Year within Upper Lachlan Shire Council Local

	Government Area.
Strategic Fund	<p>an allocation of the Monetary Contribution to an Approved Local Project where money is held by Council and dedicated to a large or multi-year funding commitment.</p> <p>authorisation is provided to Council to progressively or otherwise pool funds to fund prioritised projects as recommended by the Committee.</p>

1.2 Interpretation

- (a) Clause headings are for convenience only and will be ignored in the interpretation of this deed.
- (b) References to a party include the successors and permitted assigns of that party.
- (c) Words importing the singular include the plural and words importing the plural include the singular.
- (d) Words importing a person include a corporation, firm or body corporate.
- (e) Nothing contained in this deed will be deemed or construed as creating the relationship of partnership.
- (f) References to a month mean a calendar month and a reference to a year means a calendar year.
- (g) References to any document include any permitted amendment, supplement to or replacement or novation of the document.
- (h) References to any legislation or to any section or provision of any legislation includes any:
 - (1) statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision; or
 - (2) ordinances, by-laws, regulations and other statutory provision substituted for that legislation, section or provision.
- (i) Other grammatical forms of defined words or expressions have corresponding meanings.
- (j) 'Including' and similar expressions are not words of limitation.

2 Planning Agreement

The parties agree that this deed is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the EP&A Act.

3 Application of this deed

This deed applies to the Rye Park Development Consent and evidences the Company and the Company's compliance with the relevant condition(s) of the Rye Park Development Consent.

4 Operation of this deed

The parties agree that this deed will not operate or bind the parties unless and until the Company obtains a Construction Certificate.

5 Payment of the Monetary Contribution

5.1 The Monetary Contribution

- (a) The Company must pay to the Council the Monetary Contribution in arrears on 1 July of each year for each turbine which was an Operating Turbine during the preceding Contribution Year.
- (b) The parties agree that the Monetary Contribution will be reviewed on 1 July of each year in accordance with the following formula:

$$MC = \frac{A \times B}{C}$$

Where:

MC = the Monetary Contribution payable for the following Contribution Year;

A = the Monetary Contribution payable during the Contribution Year just ended;

B = the Index Number last published before the end of the Contribution Year just ended; and

C = the Index Number last published before the commencement of the Contribution Year just ended.

- (c) The monetary contribution is a taxable supply for GST in accordance with Clause 12.

5.2 General

- (a) The obligation of the Company to pay any Monetary Contribution under this deed will cease on the date on which the last of the Operating Turbines is decommissioned.

- (b) The parties agree that the Monetary Contribution paid in accordance with this deed will have the public purpose of facilitating Approved Local Projects.
- (c) The Company agrees to pay interest on any overdue part or whole of the Monetary Contribution payable:
 - (1) from the date on which the overdue part or whole of the Monetary Contribution is due for payment under this deed;
 - (2) until the date on which the overdue part or whole Monetary Contribution is paid,at the bank bill swap interest rate within Australia that is published by the Australian Financial Markets Association, during the relevant period when the relevant Monetary Contribution is overdue.

6 Community Enhancement Fund

6.1 Establishment of the Community Enhancement Fund

- (a) The Council must hold and apply all Monetary Contributions paid by the Company under this deed in accordance with clause 5.2(b).
- (b) The Council must invest all Monetary Contributions paid by the Company under this deed in an interest bearing account held in the name of the Council for the purpose of the Community Enhancement Fund pursuant to the provisions of section 625 of the Local Government Act 1993.
- (c) The Committee may disburse Monetary Contributions paid by the Company under this deed to Approved Local Projects that propose to invest the disbursed money for the purposes of the Approved Local Project.
- (d) A proportion (not less than 20% of the Community Enhancement Fund) will be allocated to local education assistance. Monies not expended through the local education assistance in any given year shall be transferred to the Community Enhancement Fund for the following year.

6.2 The Committee

- (a) The Council must establish the Committee on or before the date on which the first instalment of the Monetary Contribution is paid under this deed.
- (b) The Company must be represented by a company-nominated representative on the Committee.
- (c) The Council must procure that the role of the Committee includes:
 - (1) to determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made;
 - (2) to recommend to the Council which applications for funding for Local Projects should be funded from the Community Enhancement Fund as required by clause 6.5(a);

- (3) adherence to a Committee Charter; and
- (4) to appoint the Auditor as required by clause 6.7(a).

6.3 Call for Funding Applications

During:

- (a) November to January in each year in which there are funds in the Community Enhancement Fund; or
- (b) any further period determined by the Committee,

the Council must publicly advertise in the Council's Voice newsletter (or any periodic Council publication which replaces the Voice newsletter) and in the local newspapers the availability of funds in the Community Enhancement Fund and call for applications to be made to the Committee, in the form required by the Committee, from the public, community groups and individuals for funding for Local Projects (**Funding Applications**).

6.4 Notification to Company

The Council must procure that the Committee:

- (a) notifies the Company of each application made for funding for Local Projects from the Community Enhancement Fund;
- (b) if requested by the Company, consult the Company in relation to applications made for funding for Local Projects from the Community Enhancement Fund; and
- (c) notifies the Company of each Local Project which is to be funded from the Community Enhancement Fund, including the amounts of any funding.

6.5 Allocation of Funds

- (a) The Council must procure that the Committee makes recommendations to the Council as to which of the Funding Applications the Committee recommends be funded from the Community Enhancement Fund.
- (b) The deed expressly authorises Council to progressively or otherwise pool funds to fund prioritised Local Projects as recommended by the Committee.
- (c) The Council must:
 - (1) consider the funding recommendations of the Committee;
 - (2) consider any Committee consultation with the Company pursuant to clause 6.4(b); and
 - (3) procure that Council confirms which Local Projects will be funded from the Community Enhancement Fund in accordance with the recommendations of the Committee.
- (d) The Council must pay funds from the Community Enhancement Fund to each Approved Local Project, and may require each Approved Local Project to enter into a Funding Agreement where appropriate.

6.6 Public Recognition

- (a) The Council must publicly and positively acknowledge:
 - (1) the payment of the Monetary Contribution by the Company; and
 - (2) the Company's role in funding any Approved Local Projects via the Community Enhancement Fund.
- (b) The form of public acknowledgment required by clause 6.6(a) is to be agreed by the Council and the Company (acting reasonably) but must include:
 - (1) The prominent inclusion of the Company's logo in any advertisement for Funding Applications or an announcement made in relation to the Approved Local Projects and funding determinations; and
 - (2) where appropriate for particular approved Local Projects, a permanent sign recognising that the Approved Local Project was funded by the Company via the Community Enhancement Fund.

6.7 Auditing

- (a) During each year in which there are funds in the Community Enhancement Fund, the Council must appoint an Auditor to reconcile:
 - (1) the Monetary Contribution paid by the Company under clause 5;
 - (2) any payments made by the Council in accordance with clause 6.5;
 - (3) any money that is withheld from annual disbursement for the purpose of building a Strategic Fund to apply towards a specific Approved Local Project;and identify any corrective payments required.
- (b) The Company and the Council must make any corrective payments identified by the Auditor as being necessary to reconcile the Community Enhancement Fund.
- (c) The costs of the Auditor will be paid out of the Community Enhancement Fund.

7 Application of sections 94 and 94A of the EP&A Act to the Development

The parties agree that as the Rye Park Wind Farm is excluded from the application of these sections, the terms of this deed and the Community Enhancement Fund are, in effect, offered by the Company in substitution for the contributions that would otherwise be made under those sections.

8 No Registration

The parties agree that this deed will not be registered on the Rye Park Land pursuant to section 93H of the EP&A Act.

9 Disposal by the Company of its interest in the Development

- (a) Prior to the Company disposing of any part of its interest in the Rye Park Wind Farm to any third party, the Company must procure entry by that third party into a deed with the Council and the Minister (as appropriate) on substantially the same terms and conditions as this deed.
- (b) Subject to the Company complying with its obligations under clause 9(a), the Council will release the Company from any further obligation under this deed on and from the date on which it ceases to have any interest in the Rye Wind Farm.

10 No fetter

Nothing in this deed shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

11 Dispute Resolution

11.1 Notice of Dispute

If a party claims that a dispute has arisen under this deed (**Claimant**), it must give written notice to the other party (**Respondent**) stating the matters in dispute and designating as its representative a person to negotiate the dispute (**Claim Notice**).

11.2 Response to Notice

Within 20 business days of receiving the Claim Notice, the Respondent must notify the Claimant of its representative to negotiate the dispute.

11.3 Negotiation

The nominated representatives must:

- (a) meet to discuss the matter in good faith within 10 business days after service by the Respondent of notice of its representative; and
- (b) use reasonable endeavours to settle or resolve the dispute within 15 business days after they have met.

11.4 Further Notice if not Settled

If the dispute is not resolved within 15 business days after the nominated representatives have met, either party may give to the other a written notice calling for determination of the dispute (**Dispute Notice**).

11.5 Mediation

The parties agree that a dispute shall be mediated if it is the subject of a Dispute Notice, in which case:

- (a) the parties must agree the terms of reference of the mediation within 5 business days of the receipt of the Dispute Notice (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply);
- (b) the appointment of a Mediator will be agreed between the parties, or failing agreement within 5 business days of receipt of the Dispute Notice, either party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply to appoint a mediator;
- (c) the Mediator appointed pursuant to this clause 11.5 must:
 - (1) have reasonable qualifications and practical experience in the area of the dispute; and
 - (2) have no interest or duty which conflicts or may conflict with his function as mediator, he being required to fully disclose any such interest or duty before his appointment;
- (d) the Mediator shall be required to undertake to keep confidential all matters coming to his knowledge by reason of his appointment and performance of his duties;
- (e) the parties must within 5 business days of receipt of the Dispute Notice notify each other of their representatives who will be involved in the mediation;
- (f) the parties agree to be bound by any mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement;
- (g) in relation to costs and expenses:
 - (1) each party will bear their own professional and expert costs incurred in connection with the mediation;
 - (2) the costs of the Mediator will be shared equally by the parties unless the Mediator determines a party has engaged in vexatious or unconscionable behaviour in which case the Mediator may require the full costs of the mediation to be borne by that party.

11.6 Litigation

If the dispute is not finally resolved in accordance with clause 11.5, either party is at liberty to litigate the dispute.

11.7 Exchange of information

The parties acknowledge that the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause is to attempt to settle the dispute between the parties. No party may use any information or documents obtained through the dispute resolution process established by this clause 11 for any purpose other than an attempt to settle a dispute between the parties.

11.8 Continue to Perform obligations

Each party must continue to perform its obligations under this deed, notwithstanding the existence of a dispute.

12 GST

12.1 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 7 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) In this clause 7:
 - (1) "**monetary consideration**" means any consideration expressed as an amount of money; and
 - (2) "**non taxable supply**" means a supply that is not a taxable supply.
- (c) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause.
- (d) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

12.2 Reimbursements

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

12.3 Additional amount of GST payable

If GST becomes payable on any supply made by a party ("**Supplier**") under or in connection with this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause), for that supply is exclusive of GST;

- (b) any party ("**Recipient**") that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply ("**GST Amount**") at the same time as any other consideration is to be first provided for that supply; and
- (c) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with this clause.

12.4 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 12.3), varies from the additional amount paid by the Recipient under clause 12.3, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

13 General

13.1 Costs

The parties agree to meet their own Costs in connection with:

- (a) the negotiation, preparation and execution of this deed;
- (b) performing its obligations under this deed; and
- (c) the advertising and exhibiting of this planning agreement in accordance with the EP&A Act.

13.2 Notices

- (a) A party notifying or giving notice under this deed must do so in writing addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by notice).
- (b) A notice given in accordance with clause 13.2(a) will be deemed to have been given and received:
 - (1) if delivered, on receipt;
 - (2) if posted via registered post, three business days after posting;
 - (3) if sent by email on confirmation of the correct transmission of the email; and
 - (4) any notice received after 5.00 pm or on a day not a business day shall be deemed to have been received at 9.00 am on the next business

day.

13.3 Waiver

- (a) The fact that a party fails to do, or delays in doing, something the party is entitled to do under this deed, does not amount to a waiver of any obligation of, or a breach of obligation by, another party;
- (b) A waiver by a party is only effective if it is in writing and signed by the party against whom the waiver is claimed;
- (c) A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

13.4 Governing Law

This deed is governed by New South Wales law and each party irrevocably submits to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed.

13.5 Prior Agreements Superseded

This deed:

- (a) wholly replaces and excludes all prior agreements, correspondence, negotiations, representations, explanations and statements between the parties covering or in connection with the matters covered by this deed; and
- (b) is the entire agreement between the parties in respect of the matters covered by this deed.

13.6 Modification of Deed

No modification or alteration of any provision of this deed will be valid unless it is in writing and signed by all parties to this deed.

13.7 Representations and Warranties

The parties represent and warrant that they have power to enter into this deed and comply with their obligations under the deed and that entry into this deed will not result in the breach of any law.

13.8 Severability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 13.8(a) does not apply where the provision to be severed would

materially adversely affect the nature or extent of a parties obligations under this deed.

13.9 Confidentiality, Media Releases and Enquiries

- (a) The parties agree that the terms of this executed deed are not confidential and this deed may be treated as a public document and exhibited or reported without restriction by any party.
- (b) If requested by a party, the other party must not issue, publish or authorise any media release or advertisement concerning this deed, without obtaining the other party's prior written approval (which approval may not be unreasonably withheld).

13.10 Counterparts

This deed may be executed in any number of counterparts that together will constitute one instrument. A party may execute this deed by signing any counterpart.

13.11 No Fiduciary Relationship

Nothing in this deed will be construed or interpreted as constituting the relationship between the parties as that of a partnership, joint venture or any form of fiduciary relationship.

13.12 Further Acts

Each party must promptly execute all documents and do all things reasonably required to effect, perfect or complete this deed and all transactions incidental to it.

13.13 Enforcement

Subject to compliance with clause 11, this deed may be enforced by any party in any court of competent jurisdiction.

Schedule 1

Schedule 1: Notice Details

The Upper Lachlan Shire Council

Address	44 Spring Street, Crookwell NSW 2583
Attention	General Manager
Fax	02 4830 1045
Email	jbell@upperlachlan.nsw.gov.au

Rye Park Renewable Energy Pty Ltd

Address	Level 23, "Rialto Towers", 525 Collins Street, MELBOURNE VICTORIA 3000
Attention	Company Secretary
Email	ryeparkwindfarm@trustpower.com.au

Executed as a deed

Signed and delivered for
The Upper Lachlan Shire Council

sign here ▶ _____
Authorised Officer

print name _____

in the presence of

sign here ▶ _____
Witness

print name _____

_____(Date)

Executed by Rye Park Renewable Energy Pty)
Ltd ABN 34 601 541 931)
Company)

in accordance with section 127(1) of the
Corporations Act 2001 (Cth):

Signature of director

Signature of director

Name (please print)

Name (please print)

APPENDIX 5

DEPARTMENT OF PLANNING AND ENVIRONMENT'S RESPONSE TO COUNCILS' REQUESTED TRANSPORT CONDITIONS

MEMORANDUM

RYE PARK WIND FARM (SSD 6693)

RESPONSE TO PLANNING ASSESSMENT COMMISSION

The following is the Department's response to Upper Lachlan Shire Council's submission, dated 6 April 2017, which the Department understands was agreed between Hilltops Council, Upper Lachlan Shire Council and Yass Valley Council.

The Department notes that it has consulted extensively with each of the Councils in assessing the project and in the formulation of the recommended conditions of consent. This has included many of the matters raised by the Councils in their submission to the Commission.

The Department has considered the suggested changes to the conditions and has provided a detailed response to each of these suggestions below. This has resulted in some minor amendments to the recommended conditions – see attached.

Schedule 2

Condition 26 – Blakney Creek South Road

The Department considers there are legal and practical limitations with imposing a restriction on the valid use of the public road network by light vehicles, and has rather focused its assessment on over-dimensional and heavy vehicles which have the potential to have the most significant impacts on the safety and performance of the road network.

In this regard, the Department has specified a designated route for over-dimensional and heavy vehicles associated with the project, which avoids the use of local roads wherever possible (including Blakney Creek South Road).

In regard to light vehicles, the traffic assessment shows that the vast majority of light vehicles associated with the project would travel to/from Yass via Cooks Hill Road, and the Department has recommended this road be upgraded and sealed to cater for the predicted increase in traffic, in accordance with the recommendations of Upper Lachlan Shire Council.

The Department recognises that other local roads would be used by light vehicles to access different parts of the site from time to time. However, the assessment indicates that the volume of light vehicles using other local roads in the vicinity of the site would not be significant.

The Applicant has indicated that while it expects light vehicles would predominantly use Cooks Hill Road, it is not in a position to control all light vehicles associated with the project, and there may be times where Cooks Hill Road is not available (e.g. for road maintenance). Consequently, it does not support a blanket restriction on the use of Blakney Creek South Road by light vehicles.

From a practical perspective, the Department considers that there would be very limited use of Blakney Creek South Road by project-related vehicles given that Cooks Hill Road is the shortest route to the site, and once upgraded, would provide a fully sealed road all the way from Yass.

The Department also acknowledges that it is not practical or reasonable for a proponent to be required to control the routes taken by all light vehicles associated with a project from using the public road network, particularly where these vehicles may be associated with third party contractors. Further, the Department is not aware of any fundamental access restrictions along Blakney Creek South Road that would prevent light vehicles using this road to access the site from time to time.

It is also worth noting that the Department has recommended that the Applicant be required to prepare a detailed Traffic Management Plan for the project in consultation with RMS and the Councils. This would provide an opportunity for the Councils to ensure any residual concerns about the impacts of the project on the safety or performance of the road network are appropriately managed.

Given the above, the Department does not support the amendment proposed by Council. However, the Department has amended the condition to clarify that the consent does not allow the use of Blakney Creek South Road as an over-dimensional or heavy vehicle access route, as set out below.

26. The Applicant must ensure that all over-dimensional and heavy vehicle access to and from the site is via the designated routes identified in the figures in Appendix 7, unless the applicable roads authority agrees otherwise.

Notes:

- *The Applicant is required to obtain relevant permits under the Heavy Vehicle National Law (NSW) for the use of over-dimensional vehicles on the road network.*
- *To avoid any doubt, this consent does not allow the use of Banks Street, Blakney Creek South Road, Cemetery Drive, Cook Streets, Dirthole Creek Road, High Rock Road and Lagoon Creek Road as over-dimensional or heavy vehicle access routes.*
- *To avoid any doubt, this consent does not allow the use of site access points 1 and 9 identified in the EIS.*

Condition 28 – Road Maintenance

The Department notes that the dilapidation survey and ‘make good’ provisions specified in Condition 28 are already required to be prepared and implemented to the satisfaction of the relevant roads authority.

Consequently, as the relevant roads authority, Council can specify that a ‘laser car’ device is not to be used for the dilapidation surveys of the local road network.

Further, if there is a dispute about the scope of the dilapidation survey, or any remedial works, the condition specifies that either party may refer the matter to the Secretary for resolution.

Given the above, the Department considers the condition already addresses the request from the Councils, and does not require amendment.

Condition 30 – Traffic Management Plan

For State Significant Developments it is appropriate that the final approval of management plans required under the development consent be retained by the Secretary of the Department. This is common practice and is consistent with the statutory regime that elevates the consideration of these projects to the NSW Government.

Notwithstanding, the conditions require the Applicant to consult with the RMS and Councils in preparing the Traffic Management Plan, and the Department will liaise further with RMS and the Councils to ensure the final plan adequately addresses any residual concerns.

Given the above, the Department does not recommend that this condition be amended.

Condition 30(b) – Vehicle Identification

The Department has considered this issue in its assessment of a range of State Significant Developments and has concluded that a condition requiring all project-related vehicles to be identified as being associated with the project is not practical, enforceable or necessary.

On any project of this size there will be a broad range of vehicles accessing the site, and the proponent has limited ability to control or require all vehicles to be identified as being associated with the project, particularly vehicles associated with third party contractors.

The Department considers there are sufficient controls in place under the recommended conditions, and the Applicant will be required to monitor and report on compliance with these conditions. A complaints management system is also required under the conditions, and the Department will follow-up any complaints about inappropriate use of the road network from the community or the Councils. The Department’s compliance team will also undertake site inspections and audits during the construction

phase of the project to ensure compliance. Finally, all road users must abide by the relevant road rules, and any breach of these rules is a police matter.

Given the above, the Department does not consider that the condition should be amended.

New Condition – Concrete

The Applicant has indicated that single pole type structures up to 45 m high and composed of concrete may be used for the proposed overhead 330 kV transmission line.

The Department understands that if this is the case, the poles would be manufactured by the supplier off site and transported to the site via the designated over-dimensional and heavy vehicle transport route. The vehicle movements associated with the transport of the transmission poles has been considered in the estimated construction traffic.

As the Applicant may use concrete transmission poles, as well as pre-cast concrete for other ancillary infrastructure associated with the project, the Department considers it would not be reasonable (or necessary) to require all concrete used for the project to be batched on site.

In this regard, the Department does not consider that imported pre-cast concrete onto the site would create any additional impacts that have not been considered in the assessment, and if anything has the potential to reduce impacts on the site by reducing the quantity of materials required for the concrete batching plants.

Given the above, the Department does not recommend that the requested condition be included in the final development consent.

Appendix 6 – Schedule of Road Upgrades

In its Traffic and Transport Assessment, dated April 2016, the Applicant has committed to sealing the portion of Rye Park Dalton Road which is currently unsealed in accordance with its proposed sealed standard prior to commencing the use of the relevant section of the road for any over-dimensional or heavy vehicle traffic (i.e. if site access points 5 and/or 13 are used for construction).

As such, the Department has amended the Schedule of Road Upgrades in Appendix 6 as set out below:

Road / Intersection	Start – End	Length (km)	Upgrade	Timing
Rye Park Dalton Road	Dirthole Creek Road to site access point 13	23.9	Upgrade as necessary to proposed sealed standard. Upgrade bridges over Pudman Creek, Flakney Creek and Blakney Creek as necessary.	Prior to commencing the use of the relevant section of Rye Park Dalton Road for any over-dimensional or heavy vehicle traffic associated with the construction of the development