



ABN: 33 984 256 429

2 June 2020

Tatsiana Bandanuk
A/Senior Environmental Assessment Officer
Energy Assessments, DPIE
4 Parramatta Square
Parramatta NSW 2150

Dear Tatsiana

RE: SSD – 6693-mod-1 – Tip Height Increase - Rye Park Wind Farm

Hilltops Council wish to make the following submission on the above-mentioned modification, currently on public exhibition, closing 3 June 2020.

The submission addresses matters that have a direct impact on Council and the community it represents. The 5 key elements identified by Council are:

1. Voluntary Planning Agreement – Contribution
2. Pavement details and road width
3. Route alternatives, passing options, signage and travel times
4. Community consultation - land acquisition

The above noted elements are further explained below, highlighting Council key issues and options for the Department to evaluate and consider in its determination.

1. Voluntary Planning Agreement – Contributions

The number of turbines in the Hilltops Council area will reduce through the approval of the modification. This would have a significant impact on the community enhancement fund established via the Voluntary Planning Agreement (VPA), entered into by Council and the Applicant.



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The planning agreement provides for the establishment of a community enhancement fund based on a contribution of \$2500 per turbine. This rate was originally established in 2009 but the approval issued in 2017 and does not reflect a CPI increase overtime.

The approved turbines had a capacity of 1.5 – 3.5MW. The revised turbines now have a capacity of up to 6MW. Hilltops Council along with Yass Valley Council and Upper Lachlan Valley Council negotiated with the Applicant the community contributions based on an average capacity of 2.5MW per turbine.

The modification in height will allow the applicant to reduce the number of turbines, however with the increase in height the applicant has more than doubled the turbines capacity. The reduction in the number of turbines has a direct impact on the contribution value and benefit to the community enhancement fund.

The Voluntary Planning Agreements is to allow for the application and administration of developer contribution funds to be administered and calculated for the benefit of the public beyond the framework of the contribution plan that applies to that land. A fundamental principle in negotiating a planning agreement is for the agreement terms to be equal to or greater than the public benefit captured under a contribution plan that would normally apply to that land.

Under section 7.4 (3a) of the *Environmental Planning and Assessment Act 1979*, a planning agreement cannot exclude the application of section 7.11 or 7.12 in respect of development unless the consent authority for the development or the Minister is a party to the agreement. The VPA does not exclude the application of contributions payable, nor is there notation that the Minister has exempt the development from contributions. The conditions of consent issued are silent on the payment of contributions.

Any modification to a consent sought by the Applicant has a direct impact on the calculation of developer contributions and, as the consent authority, it would be your responsibility to ensure that the amendment to contributions payable is applied. Therefore, Council would fully support the conditioning of either of the two options outlined below.

Option 1: Increase the community enhancement current contribution rate to \$7,565 (CPI indexed annually) per turbine. This is aligned to the same calculation used by Yass Valley Council, under the current provision of their Community Enhancement Fund Policy.

Option 2: The contribution rate per turbine as identified in the VPA applies. However, the modification no longer excludes the application of a section 7.12 levy, as per the Council contribution plan that applies over the land. Council would also seek that any levy is to be paid prior to the commencement of construction.

For fairness and transparency, Council has aligned its options with a similar submission from Yass Valley Council.



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2. Pavement details and road width

The pavement details provided in the modification are ambiguous in their interpretation and of concern to Council. Therefore, Council would like to provide further clarification and their expectation in approving future design and construction methods that are applied to Council owned assets or assets in the care and control of Council.

The road pavement construction is to involve a 200mm DGB20 (crushed gravel) base, spread over the existing ripped road, mixing the existing pavement to 350mm with lime stabilisation and compacting to produce a uniform pavement. The wearing surface is to be 14/7mm double/double bitumen seal. This is in line with a standard road construction, suitable to withstand HML loads.

Council would also require the tie in of the new pavement surface to the existing surface be gradual, and to a design approved by Council.

The road width is to be minimum 7m formation and seal, with 3.5m travel lanes in each direction. Council prefers the sealing of a 200mm shoulder for each lane, bringing the total formation width to 7.4m. Edges must be battered to tie into existing verge with minimal-to-no impact on existing vegetation. Council are willing to reduce the shoulder requirement based on demonstrated impacts on existing vegetation. The road is to have travel lane and edge lane markings applied to delineate each.

Council is of the opinion that the applicant is to carry out pre and post construction upgrades, as the current pavement along these routes will not withstand the weight and volume of the traffic associated with the development.

There are also various crossings and level changes that have not been considered in the modification. The bridges and culverts along these routes will need to be reviewed and assessed for their ability to accommodate the size and volume of traffic proposed. Council understands the Applicant has engaged a bridge engineer and is currently undertaking this assessment. Council would be required to approve any pre-strengthening works and remediation works prior to these works occurring on Council assets.

3. Route Alternatives, passing options, signage and travel times

Council has major concerns with the routes identified, particularly in and around the townships of Boorowa and Rye Park. Council has received several enquiries from concerned residents about the routes being considered in this modification, and Council would express these same concerns.



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When entering the township of Boorowa, Council has a preference for the route to exit Lachlan Valley way onto Meads Lane then head along Long Street to reach Rye Park Road. This would remove the requirement for travel down Trucking Yard Road and Dillion Street.

The Rye Park main street is of concern as many houses are built in close proximity to the roadway with minimal setbacks. In addition, there is little ability to widen the pavement due to roadside drainage constraints. The noise and vibration of vehicular movements is also not preferable within the townships due to potential impacts on schools, local businesses, and other local traffic movement.

As a by-pass option to the township of Rye Park, Council prefers the use of Dirt Hole Creek Road. This road is a 3m gravel road and would be expected to have the same pavement upgrade as a 7m formation and seal.

Travel through these townships is to be restricted to reduce any community impact with vibration and noise during the night. Council has identified two possible laybys outside these townships. It is expected that the heavy vehicular movements are temporarily immobilised during restricted hours, to be agreed to by Council.

For local traffic movement and passing of heavy vehicles along routes, Council would prefer the applicant identify pull over bays. This would allow local traffic to pass safely during peak times. Furthermore, the applicant will need to identify wayfinding signs and passing lanes.

4. Community Consultation – Land Acquisition

Throughout this process there has been clear requirements for the Applicant to undertake a consultation program and comprehensively discuss with relevant stakeholders, including the community.

Council has had residents along the route and within the townships raise significant concerns over the routes and impacts on their own land, property and the townships. Based on the communication received by Council, it would appear that the applicant has not satisfactorily addressed or notified local residents of proposed activities and works.

The stakeholder and community engagement plan, noted consultation with Council and agencies during 2019 and 2020, but no consultation with the community. As private land acquisition is key to the success of this project, it would be to the benefit of the Applicant to commence consultation with the community as soon as possible and well before any further physical activity associated with the proposal occurs.

The applicant's communication and engagement responsibility has an applied risk to Council's reputation. Prior to any finalisation of the routes suggested, Council would strongly suggest



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community consultation be held with the residents of Boorowa and Rye Park as well as identified private land owners who are being impacted by travel routes or sweep paths.

Thank you for this opportunity to make a submission, should you require further information please do not hesitate to contact myself on (02) 6384 2536.

Regards

Claire Scott
Manager Land Use Planning



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