

<b>DATE OF DETERMINATION</b>	13 June 2024
<b>DATE OF PANEL DECISION</b>	12 June 2024
<b>DATE OF PANEL BRIEFING</b>	29 May 2024
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Granville Taylor,
<b>APOLOGIES</b>	Kellie Scholes
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 22 May 2024.

#### **MATTER DETERMINED**

PPSHCC-206 – Muswellbrook – DA 2023 – 57 – 981 New England Highway, Aberdeen 2336 – Battery Energy Storage System (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings from both Council and the applicant. The Battery Energy Storage System (BESS) has a 5MW capacity, operates independently and has a separate connection to the grid. The location of the connection to the grid is shown on the plan and has been approved in the Part 5 Authorisation by AUSGRID.

The report before the Panel recommends approval of the application. The Panel in their deliberation has required further clarification and update of the Fire Incident Management Plan report to clarify references to site personnel and aerosol fire suppression systems. An amended Plan has been provided and the references in the report updated, including clarification of the requirement for training for any personnel accessing the site.

The Panel has considered the proximity of the two (2) other development applications for BESS facilities west of the location of the current application that are yet to be assessed and determined.

The Panel has also reviewed the Decommissioning Strategy and added condition 13A to require a review of the document over the course of the project in order to address changes in technology and recycling opportunities and specify the extent of decommissioning and rehabilitation. Condition 1 has also been updated to reflect the latest version of the Fire Incident Management Plan.

The Panel acknowledges the need for these facilities and considers that the proposal has responded to the constraints and characteristics of the site, and that the site is suitable for the proposed development. The proposed development has merit, and the potential impacts are acceptable.

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions in the assessment report and amended as follows.

- a) Condition 1 amended to reflect Revision 3 of the Fire Incident Management Plan dated 3 June 2024.
- b) Addition of new condition 13A to read as follows:

### **Decommissioning and Rehabilitation**

*"13A. Within 3 years of the commencement of operation, the Applicant must update the Decommissioning Strategy for the development which is to be updated by the Applicant at year 10, year 20, and within 2 years prior to decommissioning. The plan must describe the measures that would be implemented to:*

- (i) decommission the development and rehabilitate the site;*
- (ii) minimise and manage the waste generated by the decommissioning of the development;*
- (iii) include a program to monitor and report on the implementation of these measures; and*
- (iv) ensure that best practice is being employed in respect of available recycling technologies.*

*All infrastructure including above and below ground is to be decommissioned and removed. Within 12 months of the cessation of operations, the Applicant must rehabilitate the site and restore land capability to pre-existing production capacity.*

*Vegetation screening implemented under this consent is to be retained."*

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

1. The site is suitable for the proposed development.
2. The potential impacts arising from the development can be appropriately mitigated.
3. The proposed development will contribute towards the transition to renewable energy.





### **CONDITIONS**

The development application was approved subject to the conditions in the council assessment report with the following amendments.

- Condition 1 – updated to reflect the latest version of the Fire Incident Management Plan.
- Condition 13A – addition of a new condition to provide further detail regarding Decommissioning and Rehabilitation.

### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Roberta Ryan	 Granville Taylor

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-206 – Muswellbrook – DA 2023 – 57
2	PROPOSED DEVELOPMENT	Battery Energy Storage System
3	STREET ADDRESS	981 New England Highway, Aberdeen 2336
4	APPLICANT/OWNER	Hunter Development Brokerage Pty Limited K.L. & H.R. Day Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Muswellbrook Local Environmental Plan 2009</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Muswellbrook Development Control Plan 2009</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61(3),</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 17 May 2024</li> <li>Written submissions during public exhibition: 0</li> <li>Total number of unique submissions received by way of objection: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 30 August 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Kellie Scholes, Granville Taylor</li> <li><u>Applicant</u>: Mark Ihlein, Aprajita Gupta, Ron Lucerne-Knight and Rob Ashdown</li> <li><u>Council assessment staff</u>: Hamish McTaggart, Sharon Pope</li> <li><u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>Site inspection: <ul style="list-style-type: none"> <li><u>Panel members</u>: <ul style="list-style-type: none"> <li>Alison McCabe (Chair): 27 October 2023</li> <li>Roberta Ryan: 27 October 2023</li> <li>Tony McNamara: 27 October 2023</li> <li>Granville Taylor: 27 October 2023</li> </ul> </li> </ul> </li> </ul>

		<ul style="list-style-type: none"><li>• Final briefing to discuss council’s recommendation: 29 May 2024<ul style="list-style-type: none"><li>○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Granville Taylor</li><li>○ <u>Applicant</u>: Mark Ihlein, Aprajita Gupta, Ron Ashdown, Jason Costa, Rob Ashdown, Joanna Leigh</li><li>○ <u>Council assessment staff</u>: Hamish McTaggart, Donna Watson</li><li>○ <u>Department</u>: Leanne Harris, Holly McCann</li></ul></li></ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report