

Attachment A – DA 2023/66 Draft Conditions of Consent – Hunter and Central Coast Planning Panel Report 7 August 2024

Draft conditions:

IDENTIFICATION OF APPROVED PLANS

(1) Approved Plans and Supporting Documents

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Pln. No.	Rev. No.	Plan Title.	Drawn by.	Dated.
23046(CD)-1	D	Cover Sheet	HDB Town Planning	04/12/2023
23046(CD)-2	D	Site Plan	HDB Town Planning	04/12/2023
23046(CD)-3	D	Compound Pad with Existing Features	HDB Town Planning	04/12/2023
23046(CD)-4	D	Compound Pad with Proposed Structures	HDB Town Planning	04/12/2023
23046(CD)-5	D	Access Detail	HDB Town Planning	04/12/2023
23046(CD)-6	D	Longitudinal Section 1/3	HDB Town Planning	04/12/2023
23046(CD)-7	D	Longitudinal Section 2/3	HDB Town Planning	04/12/2023
23046(CD)-8	D	Longitudinal Section 3/3	HDB Town Planning	04/12/2023
23046(CD)-9	D	Cross Section 1/2	HDB Town Planning	04/12/2023
23046(CD)-10	D	Cross Section 2/2	HDB Town Planning	04/12/2023
23046(CD)-11	D	Details	HDB Town Planning	04/12/2023
LDA00	C	Cover Sheet	Conus Landscape Architecture	05/12/2023
LDA01	C	Site Analysis	Conus Landscape Architecture	05/12/2023
LDA02	C	Site Plan Context	Conus Landscape Architecture	05/12/2023
LDA03	C	Landscape Plan	Conus Landscape Architecture	05/12/2023
LDA04	C	Plant Schedule & Elevation	Conus	05/12/2023

		C2	Landscape Architecture	
LDA05	C	Elevation	Conus Landscape Architecture	05/12/2023
LDA06	C	Viewpoint 1	Conus Landscape Architecture	05/12/2023
LDA07	C	Viewpoint 2	Conus Landscape Architecture	05/12/2023
LDA08	C	View point 3	Conus Landscape Architecture	05/12/2023
LDA09	C	View point 4	Conus Landscape Architecture	05/12/2023
LDA10	C	View point 5	Conus Landscape Architecture	05/12/2023
LDA11	C	Maintenance Specification	Conus Landscape Architecture	05/12/2023
23046(SD) - 1	B	Compound Site Detail Layout Plan	HDB Town Planning	08/11/2023
23012(SD) – 2	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 3	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 4	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 5	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 6	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 7	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 8	B	Elevations	HDB Town Planning	08/11/2023
23012(SD) – 9	B	Elevations	HDB Town Planning	08/11/2023

Document Title.	Ver. No.	Prepared By.	Dated.
Flood Risk Assessment		BMT Commercial Australia	11 December 2023
Noise and Vibration Impact Assessment	1	Mott MacDonald	7/12/2023
Operational Information Report	NA	Hive Connective Intelligence	Not Dated

Traffic Impact Assessment	E	Intersect Traffic	3/5/2024
Decommissioning Strategy	NA	Hive Connective Intelligence	NA
SEPP (Resilience and Hazards) Report	A	Riskon Engineering	12/10/2023
Fire Incident Management Plan	3	Riskon	2/7/2024
Waste Minimisation Management Plan		Hive Connective Intelligence	18/12/2023
Proposed Lighting Requirements	C	Powerlyt	13/12/2023

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Reason: *To ensure all parties are aware of the approved plans and supporting documentation that applies to the development*

(2) Structure building height limitation

As set out in the email dated 20 March 2023 the maximum building height of the power conservation system (identified as PCS on approved plans) and the auxiliary equipment building (identified as AE on approved plans) is to be a maximum of 2.52 metres.

Reason: *Confirm building height and ensure development is carried out in accordance with this development application.*

(3) Battery Capacity

The total battery storage associated with the development must not exceed a total delivery capacity of 5 Megawatts.

Note: this condition does not prevent the applicant from seeking to lodge a separate development application or modification to increase the battery storage system capacity.

Reason: *to ensure the proposed development is carried out in accordance with the approved plans and documentation*

(4) Decommissioning

Within 12 months of the development ceasing operation, the development must be decommissioned. Decommissioning is to be completed generally in accordance with this development consent, the updated decommissioning strategy approved as a requirement of this consent or a further updated version of that plan submitted to Council and endorsed in writing and current industry standards at the time of the decommissioning works.

Reason: *ensure the development is carried out in accordance with the approved plans and decommissioned at the end of its operating life.*

(5) AUSGRID Electricity Grid Connection

As referenced in correspondence from the applicant dated 17 August 2023 and AUSGRID email dated 16 August 2023 this development application does not relate to works involved in connecting the battery energy storage system to the electricity grid including Ausgrid distribution network extensions and augmentations (including any overhead or underground powerlines switchgear and associated assets that are proposed to form part of the Ausgrid distribution network).

Approval is to be obtained for related works from AUSGRID and under Part 5 of the Environmental Planning and Assessment Act 1979. In progressing any works with AUSGRID the person acting with this consent is to have regard to the correspondence issued by AUSGRID dated 24 July 2023 under Clause 45(2) of the SEPP (Infrastructure) 2007 related to this development.

Reason: *Confirm scope of the development and reference approval requirements for grid connection through AUSGRID.*

GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 4.47 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(6) Compliance with General Terms of Approval

The development is to be carried out in accordance with the General Terms of Approval issued by the following approval bodies and referenced below:

- a. NSW Department of Planning and Environment – Water, General Terms of Approval Reference IDAS-2024-10035, dated 9 April 2024.

These General Terms of Approval have been stamped with Council's Approval Stamp and form part of this Notice of Determination.

The General Terms of Approval should be referred to throughout the carrying out of development, in particular when preparing detailed designs to support a Construction Certificate or applying for an Occupation Certificate to ensure compliance with any relevant agency requirements.

Reason: *Prescribed legislation*

OPERATIONAL CONDITIONS IMPOSED UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION
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(7) Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason: *Prescribed legislation*

(8) Carrying out of demolition work

Any demolition work is to be carried out in accordance with the relevant provisions of Australian Standard 2601:2001: Demolition of Structures.

Reason: *Prescribed legislation*

(9) Bushfire Protection requirements

The following bushfire protection measures are to be provided to the development.

- 1) A Fire Management Plan (FMP) shall be prepared for the Battery Energy Storage System BESS development. The FMP shall be prepared in consultation with NSW RFS Hunter Valley Fire Control Centre. A copy of this plan is to be provided to Muswellbrook Shire Council. The FMP shall include:
 - 24 hour emergency contact details including alternative telephone contact;
 - Site infrastructure plan;
 - Fire fighting operations plan including
 - methods and resources to manage and extinguish Battery Fires.
- 2) The BESS development footprint is to be managed as an Asset Protection Zone in accordance with Appendix 4 of 'Planning for Bush Fire Protection 2019'.
- 3) To allow for emergency service personnel to undertake property protection activities, a 10 metre defendable space (APZ) that permits unobstructed vehicle access is to be provided around the perimeter of the BESS development including associated infrastructure.
- 4) Property access roads to the BESS must comply with the following requirements of Table 7.4a of 'Planning for
 - a. property access roads are two-wheel drive, all-weather roads;
 - b. the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges and causeways clearly, indicate load rating.
 - c. there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available;
 - d. minimum 4m carriageway width;
 - e. property access must provide a suitable turning area in accordance with Appendix 3;
 - f. curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
 - g. the minimum distance between inner and outer curves is 6m; and
 - h. the cross fall is not more than 10 degrees.
- 5) A 20,000 litre water supply (tank) fitted with a 65mm storz fitting shall be located adjoining the internal property access road (BESS) within the required APZ.

Reason: *Ensure compliance with Planning for Bushfire Protection 2019 and NSW Rural Fire Service requirements.*

CONSTRUCTION CERTIFICATE REQUIREMENT

(10) Construction Certificate Requirement

No works shall commence on site until a Construction Certificate has been issued for either part or all of the works. If a certificate is issued for part of the works, it must cover the works being undertaken onsite.

Reason: Prescribed legislation

ANCILLARY MATTERS TO BE COMPLETED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

(11) Fire Safety Study

Prior to the issue of a Construction Certificate for the battery storage (this requirement does not extend to a partial Construction Certificate for part Construction Certificate for preliminary works that are outside the scope of the hazard studies), the Applicant must prepare a Fire Safety Study for the battery storage, to the satisfaction of the Council and meet the requirements of Fire and Rescue NSW. The study must:

- a) be consistent with the Department's Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline;
- b) describe the final design of the battery storage;
- c) include reasonable worst-case fire scenario to and from the battery storage and the associated fire management;
- d) identify measures to eliminate the expansion of any fire incident including:
 - adequate fire safety systems and water supply;
 - separation and / or compartmentalisation of battery units; and
 - strategies and incident control measures specific to the battery storage
 - design.

Following approval by Council, the Applicant must implement the measures described in the Fire Safety Study.

Documentation is to be provided to the Certifying Authority with any Construction Certificate application demonstrating compliance with this requirement.

Note: to satisfy 'meet the requirements of Fire & Rescue NSW' above, the Applicant should provide confirmation in writing from Fire & Rescue NSW that the Study meets the requirements of Fire & Rescue NSW as required by the Department's Hazardous Industry Planning Advisory Paper No. 2 'Fire Safety Study' guideline. In undertaking the Fire Safety Study, the Applicant must be consistent with the Fire Safety Guideline, Technical Information, D22/107002, Large-scale external lithium-ion battery energy storage system- Fire Safety Study Guidelines, FRRNSW Version 01, 26 July 2023.

Note: When reviewing the Fire Safety Study submitted in accordance with this requirement Council may confer with the Department of Planning Housing and Industry – Hazards Teams as an available State Government resource with technical skills in the application of Hazardous Industry Planning Advisory Paper's and take any related advice under consideration in its endorsement of this document.

Reason: *Ensure the proposed development is carried out in accordance with the Department's Hazardous Industry Planning Advisory Paper Guidelines hazard management Guidelines and guidance provided by the Department of Planning, Housing and Infrastructure Hazards Team which has informed Council's assessment of related considerations*

(12) Updated Decommissioning Strategy

Prior to the issue of a Construction Certificate the decommissioning strategy is to be updated to include requirements for:

- a) A site contamination investigation to be prepared by an appropriately qualified person, prior to the battery decommissioning. This investigation should identify any site contamination present at the site that would limit potential future uses, make recommendations to remediate any site contamination.
- b) Where site contamination requiring remediation is identified by the site contamination investigation it is to be requirement for the sites final decommissioning to either:
 - I. Undertake remediation work required by the site contamination investigation. Where such work is undertaken as part of the site decommissioning the person acting with this consent is to ensure that they have obtained any approval relevant for the carrying out of that work which may be required under the NSW planning system at the time of decommissioning, or
 - II. Register a Section 88B Instrument over the any part of the site identified as being affected by contamination remediation which references the parts of the site affected by contamination and restricts the use of the site for any purpose identified as unsuitable for the land in its contaminated state by the contamination investigation.

The updated decommissioning strategy is to be submitted to Council for approval, once approved the current remediation strategy will be endorsed with Council's approval stamp. Documentation demonstrating compliance with this requirement is to be provided to the Certifying Authority prior to the issue of a Construction Certificate.

Reason: *to ensure that appropriate investigations are completed at the end of the developments life to ensure the site is free of contamination and in a state to support future use.*

(13) Acoustic Attenuation Requirements

Prior to the issue of a Construction Certificate detailed design information is to be submitted to the Certifying Authority detailing the 'acoustic treatments' to be carried out to the BESS battery containers to achieve the 'Scenario 2' modelling outcomes of the Noise and Vibration Impact Assessment prepared by Mott MacDonald dated 13 December 2023. The detailed design documentation is to be accompanied by certification from an appropriately qualified Acoustic Engineer confirming that the 'acoustic treatments' will achieve acoustic attenuation outcomes in line with the recommendations of the Mott Macdonald Noise and Vibration Impact Assessment Report.

Reason: *to ensure compliance with the proposed plans and does not have an adverse acoustic impact.*

(14) Section 7.12 Contributions

Pursuant to section 4.17(1) of the Environmental Planning and Assessment Act 1979, and the Muswellbrook Shire Council Section 94A Development Contributions Plan 2010, a contribution of \$169,000.00 shall be paid to Muswellbrook Shire Council, being 1% of the cost of carrying out the development.

Documentary evidence demonstrating payment of the above contribution to Council is to be provided to the Principle Certifying Authority prior to the issue of a Construction Certificate.

Reason: *Prescribed under the Muswellbrook Section 94A Contributions Plan*

(15) Sediment Control Plan

Prior to the issue of a Construction Certificate for any Stage of the development a sediment and erosion management plan is to be submitted to and approved by the Certifying Authority. As a minimum, control techniques are to be in accordance with Muswellbrook Shire Council's Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

1. all details to protect and drain the site during the construction processes;
2. all sediment control devices, barriers and the like;
3. covering materials and methods;
4. a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained

Reason: *Required by the Muswellbrook Development Control Plan 2009*

(16) Outdoor Lighting Installations

Lighting included on the plans and documentation submitted to the Certifying Authority with the Construction Certificate application is to be in accordance with the lighting plan document titled 'CEFT – Hive 10 BESS Project Proposed Lighting Requirement', Australian Standards AS/NZ 1158.3.1:2005 Lighting for Roads and Public Spaces Pedestrian Area Lighting and Public Spaces Pedestrian Area (Category P) Lighting – Performance and Design Requirements AS 4282.1997 Control of the Obstructive Effects of Outdoor Lighting.

All outdoor lighting is to be installed with a sensor so not to permanently illuminate the site and is to be designed and positioned to minimise any adverse impact on the amenity of the occupants of adjoining and nearby residential premises.

Reason: *Minimise light pollution and ensure lighting is installed in accordance with Australian Standards.*

(17) Construction Management Plan

Before the issue of a Construction Certificate, a construction management plan must be prepared, and provided to the Certifying Authority. The plan must include the following matters:

- a) a Safe Work Method Statement;
- b) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- c) the proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- d) the location and operation of any on site crane;
- e) Provisions for public safety;
- f) Pedestrian and vehicular site access points and construction activity zones;
- g) Details of construction traffic management including:
 - i. Proposed truck movements to and from the site;

- ii. Estimated frequency of truck movements; and
 - iii. Measures to ensure pedestrian safety near the site;
- h) Detail any hardstand or gravel setdown areas for trafficable areas or material storage during construction works.
- i) Details of bulk earthworks to be carried out;
- j) The location of site storage areas and sheds; and
- k) Dust, noise and vibration control measures.

All work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Plan. A copy of the approved Construction Management Plan shall be kept on the site at all times and made available to any officer of Council upon request.

Reason: *to ensure construction is carried out in a manner that minimises potential environmental impacts and complies with local authority requirements.*

(18) Internal Vehicle Access

The plans submitted to the Certifying Authority with the Construction Certificate application shall include design details for the extension/upgrade of the internal vehicle access from the existing driveway to the battery energy storage system compound location. The vehicle access design shall:

- a) Be generally in accordance with the proposed plans;
- b) Have a minimum width of 4m;
- c) The access base pavement design is to be informed by an appropriately qualified engineer. The pavement design shall be comprised of an appropriate base course material and seal to support the movement of largest vehicle type anticipated to access the site (which is to be inclusive of a NSW Fire and Rescue and NSW RFS Emergency response vehicles) and provide an appropriate level of dust control and erosion management in context with the anticipated frequency of site visits and maintenance inspections setout in this application.
- d) The site access detail design is to have regard to and achieve the minimum design requirements of S6.8.2 of Planning for Bushfire Protection 2019 and the requirements specified by condition 9 to support access for emergency service personnel.
- e) The site access shall be maintained at all times

Reason: *to ensure the appropriate design and construction of the sites internal vehicle access.*

(19) Construction Traffic Management Plan

Prior to the issue of a Construction Certificate a Construction Traffic Management Plan is to be prepared in relation to the development and approved by Council's Roads and Drainage Department in writing.

The Construction Traffic Management Plan shall:

- Be prepared by an appropriately qualified traffic engineer.
- Be prepared in accordance with the recommendations of the Traffic Impact Assessment.
- Have regard to road safety matters referenced by the TfNSW correspondence dated 5 April 2024 so far as they relate to the construction period.

- Be prepared in accordance with relevant NSW Safe work guidelines.
- Include a Traffic Control Plan related to the use of the site access. Any Traffic Control Plan should give consideration to and propose where relevant:
 - Safety signage for construction workers.
 - Temporary hazard/construction signage along the Golden Highway.
- Include temporary all weather parking/set-down area for all weather parking during construction work.
- Detail the timing of the site access upgrade work. It is Council's recommendation that the site access upgrade is carried out in the initial stage of the construction work. Where this would not be the case the Construction Traffic Management Plan shall incorporate temporary site access treatments to ensure sediment is not transported onto the public road from construction vehicles and manage any soil erosion at the access point during construction work.

Where the Traffic Management Plan requires the placement of any signage or traffic controllers on the Golden Highway relevant approvals are to be obtained from Transport for NSW and/or Council under the Roads Act 1993.

The construction Traffic Management Plan is to be implemented at all times during the carrying out of construction work.

Reason: ensure traffic is appropriately managed during the construction of the development.

(20) Site Access Design

Prior to the issue of any Construction Certificate a detailed design plan is to be prepared for the upgrade of the site access intersection with the Golden Highway and submitted to Council's Roads and Drainage Engineers for approval.

The site access design is to be prepared generally in accordance with the recommendations of the approved Traffic Impact Assessment, Australian Standards and Auspec standards and in accordance with Council's Rural Access Design Standard Drawing SD No: 0041/1 Rural Property Access. A sealed pavement design by a suitably experienced geotechnical engineer is to accompany the proposed access design for all expected vehicle loads. Any modification to the existing crash barrier will be subject to any requirements from TfNSW, and assessment of the existing table-drain functionality and discharge arrangements as part of the intersection upgrade.

Documentary evidence demonstrating compliance with this requirement is to be submitted to the Certifying Authority with any Construction Certificate application.

Reason: Statutory requirement.

(21) Section 138 and ROL Permit

Prior to the issue of any Construction Certificate the person acting with this consent is to obtain all relevant approvals under the Roads Act 1993 for the upgrade of the site access intersection.

A Section 138 permit is to be obtained from Council Roads and Drainage Engineers and a Road Occupancy License from Transport for NSW.

Documentary evidence demonstrating compliance with this requirement is to be submitted to the Certifying Authority with any Construction Certificate application.

Reason: *Statutory requirement.*

(22) Probable Maximum Flood Height

The applicant shall ensure that the finished ground level of the battery compound pad is established at a height above the Probable Maximum Flood Event.

In line with the requirements of the Flood Risk Assessment the finished flood level of the battery compound is to be not less than:

- i. **115.75m AHD** - when measured at the eastern boundary of the compound.
- ii. **116.50m AHD** – when measured at the western boundary of the compound.

Details submitted in association with the Construction Certificate application are to demonstrate compliance with this requirement. The details are to be approved by the Certifying Authority as satisfying this requirement prior to the issue of a Construction Certificate.

Note: a survey report is required under related subsequent conditions to demonstrate compliance with the minimum finished ground level requirement has been achieved.

Reason: *Appropriately manage flood risk and ensure compliance with approved plans.*

(23) Long Service Levy

Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the Construction Certificate.

Reason: *Statutory requirement.*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO COMMENCEMENT
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(24) Sediment and Erosion Control

Prior to the commencement of works Sediment and erosion controls are to be installed at the site in accordance with the approved Erosion and Sediment Control Plan.

All required erosion and sedimentation techniques are to be maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

Reason: *Ensure compliance with Development Control Plan.*

(25) Site Sign

A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

1. stating that unauthorised entry to the work site is prohibited;
2. showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
3. showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the building work or demolition work is being carried out but must be removed when the work has been completed.

This condition does not apply to building works being carried out inside an existing building.

Reason: *Prescribed EP&A Regulation 2000.*

(26) Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council property damaged during the development. The applicant shall submit in writing and photographic record, any existing damage to Council property before commencement of work.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. If no documentation is received prior to commencement of work it will be assumed that the infrastructure was undamaged and the applicant will be required to restore all damaged infrastructure at their expense.

Reason: *Ensure any damage public utilities from construction is restored by applicant.*

(27) Site Facilities

- (a) If the development involves building work or demolition work, the work site must be fully enclosed by a temporary security fence (or hoarding) before work commences.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians.
- (c) Any such hoarding or fence is to be removed when the work has been completed.
- (d) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (e) Toilet facilities must be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the work site.
- (f) Each toilet provided must:
 - be a standard flushing toilet, connected to a public sewer, or
 - if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or
 - an approved temporary chemical closet.
- (g) The provision of toilet facilities must be completed before any other work is commenced.
- (h) A person having the benefit of this certificate who causes an excavation that extends below the level of the base of the footings of a building on an adjoining allotment of land must at their own expense and where necessary:
 - protect and support the building from damage, and
 - If necessary, underpin and support the building in accordance with the details prepared by a professional engineer.

- (i) A person having the benefit of this certificate who causes the excavation must, at least 7 days before commencing this work, give notice of intention to do so to the owner of the adjoining allotment of land and provide particulars of the proposed work.
- (j) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site.

Reason: *To ensure adequate Construction facilities.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK
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(28) Flood Height Certification

The finished floor level of the battery compound is to be established above the height of the Probable Maximum Flood Event in accordance with the proposed plans and related conditions of consent.

At the completion of earthworks related to the establishment of the battery pad and prior to the placement of any batteries within the compound a survey report is to be prepared and submitted to the Certifying Authority demonstrating that the finished ground level of the battery compound is not less than the with the following minimum heights:

- i. **115.75m AHD** - when measured at the eastern boundary of the compound.
- ii. **116.50m AHD** – when measured at the western boundary of the compound.

The survey report demonstrating compliance with the above is to be submitted to the Certifying Authority prior to proceeding with the installation of any battery.

Reason: *Appropriately manage flood risk and ensure compliance with approved plans.*

(29) Restriction on the import of fill

The only fill material that may be received at the development site is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*; or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*; or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Reason: *Ensure any fill is appropriately sourced.*

(30) Discovery of Aboriginal Heritage

If Aboriginal objects are uncovered during work, excavation or disturbance of the area, work must stop immediately. The Environmental Protection and Regulation Group of the OEH is to be contacted. Aboriginal archaeological excavation must be co-ordinated

with any proposed investigation of non-indigenous material.

Reason: *Ensure protection of items of cultural heritage in accordance with relevant legislation.*

(31) Construction Hours

Subject to this clause and unless otherwise directed by the NSW Environmental Protection Authority, site works are to be carried out during the following hours:

- i. between Monday to Friday (inclusive)—7.00am to 6.00pm
- ii. on a Saturday—8.00am to 1.00pm
- iii. Sundays and Public Holidays – no work permitted unless authorised in writing by Council or the NSW Environmental Protection Authority.

Reason: *To ensure that development works do not negatively impact neighbouring amenity after hours.*

(32) Waste Minimisation Management Plan

All works are to be carried out in accordance with the approved waste minimisation management plan.

Reason: *to ensure compliance with the Muswellbrook Shire Council Development Control Plan.*

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE
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(33) Occupation

Buildings are not to be used or occupied until a final inspection has been carried out and an occupation certificate has been obtained from the Principal Certifying Authority.

Reason: *Prescribed legislation*

(34) Installation of stock proof fencing

Prior to the issue of an Occupation Certificate a stock proof fence is to be installed around the outside perimeter of the landscaped area.

Reason: *to ensure the landscaping is adequately protected from stock and animal damage and to assist in the establishment and maintenance of the required landscaping.*

(35) Internal Site Access

Prior to the issue of an Occupation Certificate the internal site access is to be extended between the existing site access and battery energy storage system compound in accordance with the proposed plans and related conditions of consent.

Reason: *to manage erosion and provide suitable safe site access*

(36) Stormwater drainage

Prior to the issue of an Occupation Certificate the internal stormwater table drains are to be fully constructed in accordance with the approved plans, relevant Australian Standards and grassed to prevent erosion.

Reason: *to ensure appropriate stormwater and erosion management.*

(37) Site Emergency Response Plan

Prior to the issue of an Occupation Certificate a Site Emergency Response Plan is to be prepared by an appropriately qualified person in accordance with the requirements of Hazardous Industry Planning Advisory Paper (HIPAP) No.1 and the recommendations of the Fire Incident Management Plan.

A copy of this plan is to be provided to Council for approval. The requirements of the plan are to be adhered to at all times.

(38) Bushfire Protection Measures

Prior to the issue of any Occupation Certificate all bushfire protection measures required by the conditions of this consent (see condition 9) and the approved Bushfire Assessment Report are to be complied with and documentation demonstrating compliance submitted to the satisfaction of the Certifying Authority.

The bushfire protection measures are to be maintained at all times.

Reason: *ensure compliance with Planning for Bushfire Protection 2019.*

(39) Installation of landscaping

Prior to the issue of any Occupation Certificate landscaping is to be installed at the site in accordance with the approved Landscape Plan, the requirements of this consent or as otherwise directed by Council in writing.

Reason: *ensure compliance with the proposed plans and mitigate the visual impact of the development.*

(40) Acoustic Mitigation Measures

Prior to the issue of any Occupation Certificate all acoustic mitigation measures required by the pre-construction certificate conditions of this consent and the recommendations of the Mott MacDonald Noise and Vibration Impact Assessment dated 13 December 2023 are to be fully installed and Certification documentation confirming their satisfactory completion provided to the Certifying Authority by an appropriately Acoustic Engineer.

Reason: *Ensure appropriate noise attenuation in accordance with the proposed plans.*

(41) Operational Contact Information

Prior to the issue of an Occupation Certificate the person acting with this consent is to

establish phone and email contact numbers/addresses for facility and provide details of that contact information through the following:

- a) A contact sign is to be installed at the front of the property and on the facility compound referencing the contact name/position, phone number and email address for the facility. Signs installed in accordance with this requirement shall be no bigger 2.5m2.
- b) The contact information has been circulated via a mailbox drop to neighbouring residents.
- c) The contact information is to be provided to Muswellbrook Shire Council, local emergency services, NSW Rural Fire Service, AUSGRID and other agencies or individuals which the site operator considers may have an interest in receiving this contact information.

Where the contact information is updated through the lifetime of the development relevant updated correspondence is to be issued advising of the new contact number and related signage updated.

Reason: *Ensure contact information available to the community and emergency services in relation to the facility.*

(42) Operational Complaint Handling Procedure

Prior to the issue of an Occupation Certificate the person acting with this consent is to establish a complaint handling procedure and provide a copy of that procedure to Council for approval. The procedure shall:

- a. Establish a procedure and organisational responsibilities for actioning the investigation and response to complaints received in relation to the operation of the premises.
- b. A record keeping system for keeping a record of complaints received, including key information on complaint source, type (i.e., noise, odour, traffic incident etc.), complaint particulars, investigation details, and response.
- c. Ensure an initial response is provided to complaints within a week, where contact information is provided.
- d. Access to records related to complaint management are to be provided to Council on request.

Reason: *Ensure appropriate complaint management procedure is established for the operation of the development.*

(43) Site Intersection Upgrade

Prior to the issue of an Occupation Certificate the person acting with this consent is to carry out the upgrade of the site access intersection in accordance with the related conditions of consent and the recommendations of the Traffic Impact Assessment.

Reason: *Ensure safe access to the site to support the development operation*

(44) Landscaping Management

An appropriately qualified landscape architect or environmental consultant is to be engaged to complete periodic (at timelines established in this condition) landscape establishment and management review.

The landscape establishment review shall:

- Review the landscaping against the approved landscape plan,
- Recommendations or outcomes of any previous landscape establishment review,
- Identify any aspects of the landscaping that has failed or is struggling to establish,
- Have regard to seasonal or environmental factors,
- Have regard to the 1 and 5 year plan elevation detail provided in the landscape plan and the performance of the landscaping establishment toward achieving the level of screening required,
- Make recommendations around any updated landscaping maintenance, establishment or replanting requirements which in the opinion of the professional is required to achieve the screening/aesthetic outcomes of the approved landscape plan, and
- Where alternate vegetation types are proposed to assist in achieving the outcomes of this plan, species of vegetation should be native species wherever possible.

At the completion of any landscape establishment and management review a report including any recommendations for the landscape maintenance for the next calendar period is to be prepared. A copy of that report is to be provided to the applicant and Council. The recommendations of any such report are to be implemented unless otherwise directed otherwise in writing by Council.

Landscape Establishment and management Reviews in accordance with this condition are to be completed at the following milestone dates from the issue of the Occupation Certificate:

- a) 6 months,
- b) 1 year,
- c) 3 years,
- d) 5 years, and
- e) After the completion of the final 5 year period where Council has observed issues or failings related to the maintenance or management of the landscape plan and issues a written direction for the completion of a further review.

Reason: *Ensure landscaping installed and established in accordance with the proposed plans and to manage visual impact.*

(45) Landscaping Management

Landscaping must be maintained at all times in accordance with the approved landscape plan, the Maintenance Specifications included in that landscape plan, the requirements of this consent and any related written direction issued by Council. If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

Reason: *Ensure landscaping installed and established in accordance with the proposed plans and to manage visual impact.*

(46) Lighting Maintenance

At all times the outdoor lighting installed at the premises is to be maintained in a manner to minimise impact on adjoining land. Outdoor lighting is to be installed and maintained in accordance with the approved outdoor lighting plan and the provisions of Australian Standard AS 4282:1997 Control of the Obstructive Effects of Outdoor Lighting.

Where the person acting with this consent becomes aware of a complaint or issue with outdoor lighting affecting the amenity of adjoining premises reasonable steps are to be taken to address the issue and minimise the impact of any light spill on adjoining land.

Reason: *Manage any lighting off-site light spill related to the proposed development.*

(47) Fire and Emergency Management

The Recommendations of the Fire Incident Management Plan (subject to any updates in line with related conditions of consent) and the Site Emergency Response Plan are to be adhered to at all times.

Reason: *Ensure implementation of relevant public safety requirements.*

(48) Decommissioning and Rehabilitation

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 the land capability to pre-existing production capacity.

Vegetation screening implemented under this consent may be retained.

Reason: *Ensure rehabilitation is managed in line with the requirements of the Hunter and Central coast Regional Planning Panel.*