

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Select Date (When decision is uploaded on to the portal)
DATE OF PANEL DECISION	Select Date (When the decision is agreed in writing by all members)
DATE OF PANEL BRIEFING	7 August 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Granville Taylor
APOLOGIES	Kellie Scholes
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 26 July 2024.

MATTER DETERMINED

PPSHCC-207 – Muswellbrook – DA 2023-66 at 105 Merriwa Road – 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 briefing from both Council and the applicant. The Battery Energy Storage System (BESS) has a 5MW capacity and operates independently and has a separate connection to the grid. The location of the connection is shown on the plans and will be the subject of a separate Part 5 Authorisation by AUSGRID.

The application has been amended since lodgement to address flooding and acoustic issues. It is located further from the adjoining residential area than originally proposed.

The report before the Panel recommends approval of the application. The Panel in their deliberation has required references to tonnage of trucks in condition 18 and amended condition 12 to delete the option of allowing remediation to occur.

The Panel acknowledges the need for these facilities and considers that the proposal has responded to the constraints and characteristics of the site. 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 conditions in the council report and amended as follows.

- (a) Delete condition 12 and replace with the following:

Updated Decommissioning Strategy

“12. 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 and make recommendations to remediate any site contamination.

- (b) Where site contamination requiring remediation is identified by the site contamination investigation, the sites final decommissioning is required to:
- i. Undertake remediation work required by the site contamination investigation. Where such work is undertaken as part of the site decommissioning the person acting on 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.

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

- (b) Amended condition 18 (c) to read:

"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 (up to 45 tonnes and is to be inclusive of 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 set out in this application."

- (c) Delete last sentence of condition 48 and replace with:

"Vegetation screening implemented under this consent is 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 managed and 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.

- Delete and replace condition 12.
- Amend condition 18 to reference tonnage requirement.
- Amend condition 48 to require vegetation to be retained.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-207 – Muswellbrook – DA 2023-66
2	PROPOSED DEVELOPMENT	Battery Energy Storage System
3	STREET ADDRESS	105 Merriwa Road, Denman 2328
4	APPLICANT/OWNER	Hunter Development Brokerage Pty Limited Ivan Howard Burkill
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 Muswellbrook Local Environmental Plan 2009 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Muswellbrook Development Control Plan 2009 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61(3) Dark Sky Planning Guideline Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 24 July 2024 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 30 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Kellie Scholes, Granville Taylor <u>Applicant representatives</u>: Mark Ihlein, Aprajita Gupta, Ron Lucerne-Knight and Rob Ashdown <u>Council assessment staff</u>: Hamish McTaggart, Sharon Pope <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> Alison McCabe: 27 October 2023 Tony McNamara: 27 October 2023 Roberta Ryan: 27 October 2023 Granville Taylor: 20 October 2023

		<ul style="list-style-type: none">• Final briefing to discuss council’s recommendation: 7 August 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Granville Taylor○ <u>Council assessment staff</u>: Hamish McTaggart, Peter Chambers○ <u>Applicant representatives</u>: Joanna Leigh, Rob Ashdown, Rhys Carey, Jason Costa, Mark Ihlein and Aprajita Gupta○ Department: Leanne Harris
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report