

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	2 July 2024
DATE OF PANEL DECISION	2 July 2024
DATE OF PANEL BRIEFING	25 June 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Giacomo Arnott
APOLOGIES	None
DECLARATIONS OF INTEREST	Ryan Palmer - declared a conflict of interest in the matter as a Director of Newcastle Airport Pty Ltd & Greater Newcastle Aerotropolis Pty Ltd, who are neighbours of the proposed development.

Papers circulated electronically on 18 June 2024.

MATTER DETERMINED

PPSHCC-233 – Port Stephens – DA 16-2023-470-1 at 103 Cabbage Tree Road, Williamtown 2318 – Battery Energy Storage System and Associated Works (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 but is yet to be approved via a Part 5 Authorisation by AUSGRID. The Panel has considered the location of the connection in its assessment of the merits of the application.

The report before the Panel recommends approval of the application. The Panel sought clarification on the Fire Incident Management Plan and has added a condition requiring that the final plan is to be signed off by Fire & Rescue NSW.

The Panel has also reviewed the Decommissioning Strategy and added condition 9A 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 9 has been amended to require rehabilitation of the site if it is contaminated as a result of the use, as part of the decommissioning works.

The site is in a flood planning area and contains high hazard floodway and high hazard storage. The facility is to be located at a flood planning level of RL 3.0 and the structures will require specific engineered design to withstand the effects of flooding.

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 the following additional and amended conditions:

- a) Add to condition 4 the following:

“Prior to the issue of a Construction Certificate, the Fire Incident Management Plan is to be approved by Fire & Rescue NSW. The Plan is to incorporate any additional recommendations from Fire & Rescue NSW including but not limited to back to base fire alarm monitoring, if recommended.”

- b) Delete condition 9 and replace with the following:

Updated Decommissioning Strategy

“9. 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.”*

- c) Addition of new condition 9A to read:

Decommissioning and Rehabilitation

“9A. Within 3 years of the commencement of operation, the Applicant must update the Decommissioning Strategy for the development. The strategy is to be updated by the Applicant at year 10, year 20, and within 2 years prior to decommissioning and forwarded to Council. 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 decommission, rehabilitate the site and restore land capability to pre-existing production capacity in accordance with the Decommissioning Strategy.

Vegetation screening implemented under this consent is to be retained.”

- d) Amended condition 42 to delete the word ‘No’ at beginning of the condition.

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.

- Amend condition 4 – to require Fire & Rescue NSW to approve Fire Incident Management Plan.
- Delete and replace condition 9 – to require updated decommissioning strategy.
- New condition 9A – to provide further detail regarding decommissioning and rehabilitation.
- Amended condition 42 – to correct grammar.

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	 Giacomo Arnott

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-233 – Port Stephens – DA 16-2023-470-1
2	PROPOSED DEVELOPMENT	Battery Energy Storage System and Associated Works
3	STREET ADDRESS	103 Cabbage Tree Road, Williamstown 2318
4	APPLICANT/OWNER	Hunter Development Brokerage Pty Limited Andrew Howard and Susan Slade
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 (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Port Stephens Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Port Stephens Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: 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: 22 May 2024 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 12 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Ryan Palmer, Giacomo Arnott <u>Council assessment staff</u>: Courtney Sargent, Rean Lorens, Ryan Falkenmire <u>Applicants</u>: Mark Ihlein, Kerry Nichols, Aprajita Gupta, Ron Lucerne-Knight, Rob Ashdown, Ian Boake, Patrick Gardiner, Renton Parker <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> <u>Panel members</u>: <ul style="list-style-type: none"> Alison McCabe (Chair): 6 May 2024 Roberta Ryan: 7 May 2024 Tony McNamara: 21 June 2024 Giacomo Arnott: 8 June 2024

		<ul style="list-style-type: none">• Final briefing to discuss Council’s recommendation: 25 June 2024<ul style="list-style-type: none">○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Giacomo Arnott○ <u>Council assessment staff</u>: Courtney Sargent, Ryan Falkenmire○ <u>Applicants</u>: Joanna Leigh, Rob Ashdown, Jason Costa, Mark Ihlein, Aprajita Gupta, Rhys Carey○ <u>Department</u>: Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report