

ADDENDUM TO COUNCIL ASSESSMENT REPORT OF 7 May 2024

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-239 16-2023-383-1
PROPOSAL	Battery Energy Storage System (BESS) and associated works
ADDRESS	1154 Clarence Town Road, Seaham - Lot 1 DP 1265736 1156 Clarence Town Road, Seaham - Lot 2 DP 1265736
APPLICANT	Clear Energy Fund Transfer Pty Ltd
OWNER	John Leslie Fisher, Fishben Pty Ltd
DA LODGEMENT DATE	29/08/2023
APPLICATION TYPE	Nominated Integrated Development
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 5 of Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i> declares the proposal regionally significant development as: <ul style="list-style-type: none"> • <i>private infrastructure with a CIV over \$5m</i>
CIV	\$16,883,605.00 (excluding GST)
CLAUSE 4.6 REQUESTS	NIL
KEY SEPP/LEP	<ul style="list-style-type: none"> • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • Port Stephens Local Environmental Plan 2013 • Port Stephens Development Control Plan 2014
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	6
ORIGINAL DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Attachment 1 – Recommended Conditions of Consent • Attachment 2 – Development Plans • Attachment 3 – Cable Alignment Plan • Attachment 4 – Landscape Design • Attachment 5 – Acoustic Assessment

	<ul style="list-style-type: none"> • Attachment 6 – Ecological Assessment Report • Attachment 7 – Visual Impact Assessment • Attachment 8 – Fire Incident Management Plan • Attachment 9 – Ausgrid Comment • Attachment 10 – DPE – Water Concurrence
ADDENDUM DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Amended Attachment 1 – Recommended Conditions of Consent • Amended Attachment 2 – Updated site plans • Amended Attachment 8 – Updated Fire Incident Management Plan • Attachment 11 – Ecological Impact Clarification Letter • Attachment 12 – Details on noise panels • Attachment 13 – Rehabilitation and Recycling information
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	NIL
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	YES
SCHEDULED MEETING DATE	25 June 2024
PLAN VERSION	Job No 22158, Revision F
PREPARED BY	Rean Lourens – Consultant Town Planner
DATE OF ORIGINAL REPORT	7 May 2024
DATE OF ADDENDUM REPORT	18 June 2024

EXECUTIVE SUMMARY

The development application (DA16-2023-383-1) seeks consent for electricity generating works specifically involving the installation of a Battery Energy Storage System (BESS) and associated structures. The proposed BESS is a 4.99-Megawatt (MW) storage system that will be connected to the local Ausgrid electrical distribution network. The BESS will capture energy from the electrical grid at low demand and discharge electricity at times of high demand.

The application forms part of a larger BESS (each subject to a separate development application) that will involve the construction and installation of five (5) systems on the subject site. The capacity of the combined systems will total 24.95MW. Although each system was lodged as a separate development application, the cumulative impacts of the overall development on the site has been assessed.

The purpose of this addendum is to address the additional information requested by the HCCRPP following the deferral of DA 16-2023-383-1 (PSCHCC-239) on 15 May 2024. The reason for deferral was to request further information from the applicant regarding a range of issues identified during the initial determination meeting.

Amended plans and additional information have been submitted by the applicant to address the matters raised by the HCCRPP in the Record of Deferral.

The recommended conditions of consent have been updated to reflect the amendments made to the proposal.

The additional information has been assessed, with regard to the matters raised by the HCCRPP in the record of deferral and under Section 4.15 of the EP&A Act and is considered satisfactory. Accordingly, it is recommended that the application be approved subject to the amended draft conditions of consent.

RECOMMENDATION

That Development Application No.16-2023-383-1 for Battery Energy Storage System (BESS) at 1154 and 1156 Clarence Town Road, Seaham be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) subject to the amended draft conditions of consent.

INTRODUCTION

This addendum report provides a detailed overview of the amended plans and additional information submitted by the applicant to address the HCCRPP reasons for deferral at its determination meeting on 15 May 2024.

BACKGROUND

The reasons for deferral as detailed in the Record of Deferral are as follows:

1. *Clarification whether the 11KV underboring works on the site are part of the Part 5 Authorisation by Ausgrid or are to be part of this operated.*
2. *Clarify the extent of disturbed and undisturbed area on a plan that reconciles and explains the numbers in the Ecological Assessment Report. A plan showing the actual trees to be removed is also required.*
3. *Clarification that all engineering works are captured in the ecology report for the access road.*
4. *Clarification of the standard of road construction and detailed in the plan.*
5. *An updated Fire Incident Management Plan that reflects the application lodged and is consistent with how the site is to be operated.*
6. *Clarification of nighttime lighting (i.e. is it controlled by sensor).*
7. *Extent of access to the site during a flood and the height of the road required to access the site in the event of a flood.*
8. *Details of materials proposed for the acoustic fence.*
9. *Clarification of the status of other applications for BESS in the vicinity.*
10. *Finished RL's of the individual BESS compounds.*
11. *Potential measures that could be implemented to ensure appropriate rehabilitation and recycling at the end of the facility's operational life.*

AMENDED PROPOSAL

Amended plans and additional information have been submitted in response to the matters raised by the HCCRPP.

The amended plans and additional information include:

- Ecological Impact Clarification Letter
- Updated site plans
- Updated Fire Incident Management Plan
- Details on Noise Panels
- Rehabilitation and Recycling information

The proposal has not been amended as part of the deferral of the application.

PLANNING ASSESSMENT

This revised assessment considers only those matters relevant to the reasons for deferral. The remaining assessment remains unchanged from the original Council Assessment Report of 15 May 2024.

The issues identified during the initial determination meeting have been discussed in further detail below:

1. Clarification of the Part 5 Authorisation by Ausgrid

The applicant provided clarification on the works subject to approval under this application that is being assessed under Part 4 of the EP&A Act.

Ausgrid provided authorisation under Part 5 of the EP&A Act for the infrastructure works that connects the proposed BESS to the substation on the adjacent land. This includes the above ground works on the allotment to the north, under boring along the western boundary of the subject site, and the above ground connection to the BESS compound.

The works included in the current application therefore only relates to:

- the site preparation to level area for the concrete slabs
- the installation of the BESS equipment
- upgrading and construction of the access road.

The works allowed under the Part 5 authorisation include:

- the clearing of 12 trees along the cable alignment,
- underboring for and installation of underground cabling
- installation of above ground electrical infrastructure in the north of the site

All tree clearing and associated environmental impacts associated with the connecting infrastructure are therefore not part of the current application.

2. Clarify the extent of disturbed and undisturbed areas

The applicant provided an Ecological Impact Clarification Letter that provided a summary of the tree removal required as part of the proposed development.

As stated above, the applicant provided clarification on the scope of works included in the overall BESS development.

The construction of the BESS subject to this application will result in the removal of 13 trees (Trees 6 - 18), which includes seven (7) Koala feed trees (Trees 8 - 12).

The overall project will require the removal of:

- 23 trees, which includes 14 Koala Food Trees *Eucalyptus tereticornis* under the Port Stephens CKPOM.
- One hollow-bearing tree (Tree 23)
- 0.2ha of highly disturbed PCT 3433 - Hunter Coast Foothills Spotted Gum-Ironbark Grassy Forest. This is also a disturbed example of the EEC Lower Hunter Spotted Gum Ironbark Forest in the Sydney Basin and NSW North Coast Bioregions.
- 0.89ha of Grazed Exotic Groundcover with Scattered Trees
- known habitat for *Miniopterus australis* (Little Bentwing Bat)
- known habitat for the *Phascolarctos cinereus* (Koala)
- known habitat for a number of the addressed threatened species.

The works allowed under the separate Part 5 approval will result in the removal of 12 trees along the western boundary.

The applicant also clarified that the removal of 0.2ha of EEC as part of the overall project does not trigger the provisions of the Biodiversity Conservation Act 2016. A Biodiversity Development Assessment Report and provision of offsets against the Biodiversity Offset Scheme is therefore not required.

As stated in the original assessment report, Council's ecologist reviewed the environmental impacts. It was concluded that the loss of trees and required offset planting will result in appropriate mitigation of the impacts.

3. Clarification that all engineering works are captured in the ecology report for the access road

Further clarity was requested on the impacts of the access road construction on the existing vegetation on the site. The vegetation located to the east of the BESS compounds was of most concern, as several trees are in close proximity to the new access road formation.

Council's ecologists reviewed the initial assessment comments and agreed with the applicant that the majority of trees along the formation can be retained. The access road will therefore result in the loss of one (1) koala feed tree. It was recommended that three (3) additional conditions be included in the draft consent to further strengthen the protections to be implemented as part of the project. These include:

- Limiting excavation to no more than 200mm below the existing ground level.
- The attendance of a qualified ecologist during the excavation works associated with the access road to ensure the root systems of the affected trees are safeguarded.
- Monitoring of the trees along the access road alignment for a period of 3 years and the replacement of any trees that are impacted by the works.

It is therefore considered that the impacts resulting from the proposed access road is acceptable.

4. Clarification of the standard of road construction and detailed in the plan

The applicant provided details on the weight capacity of the proposed access road. It is understood that the delivery of equipment to the site will require the construction of the access road to carry a weight of 46T. This is understood to be sufficient to cater for larger fire fighting trucks and equipment that may be required to attend the site.

5. Updated Fire Incident Management Plan

The applicant provided an updated Fire Incident Management Plan (FIMP) that provided further clarification on the measures and procedures used to monitor equipment and deal with fire emergencies, and included:

- continual 24-hour remote monitoring of equipment
- clarification that any battery fires will be contained within the exterior casing of the batteries.
- gas suppression will be used to limit fire from escaping the exterior casing, and
- water spray to reduce heat within the batteries.

It is noted that the report states that the local NSW RFS will be the first responders as '*no specialist HAZMAT units are expected to be required*'. It is noted that NSW Fire & Rescue can also attend the site if deemed necessary by the emergency services.

The procedures and control measures are considered appropriate to limit the impact on the surrounding development during fire emergencies.

6. Clarification of nighttime lighting

The applicant confirmed that all lighting associated with the BESS compound will remain switched off outside of maintenance undertaken at nighttime. This will reduce the light spill in the area and limit impacts on wildlife in the area.

A condition has been included in the draft conditions to ensure this procedure is followed.

7. Extent of access to the site during a flood events

It is noted that the Port Stephens Development Control Plan classified the proposal as a non-habitable development and access during flood events is not required. Council's Engineers reviewed the information supplied as part of the original application and was satisfied with flood access to the development.

The applicant also provided further comment on the flood access subsequent to the deferral of the application. The applicant stated that flood water over the creek crossings will vary between 0.45m (1% AEP) and 0.7m (5% AEP). These depths are considered dangerous and crossing would not be recommended. It was also noted that the entire area will be inaccessible during a 1% AEP event as the surrounding road network will be flooded.

As stated in the FIMP, access to the site for fire fighting purposes is considered unlikely due to the battery chemistry and the mitigation measures proposed by the applicant. Fire fighting will therefore be limited to ensuring that fire does not spread to adjacent properties via grass or bushfires. As the area surrounding the BESS will be damp due to rain associated with flood events, it is doubtful that access by emergency vehicles will be required for bushfire prevention.

Flood free access is also not required to satisfy any applicable environmental planning instrument or the requirements of the Port Stephens Development Control Plan. It is therefore considered that flood free access to the proposed development is not required in this instance.

8. Details of materials proposed for the acoustic fence

The applicant provided additional details on the proposed acoustic fencing.

The fencing will consist of Colorbond panels linked by metal posts. A review by Council's Ecologist found that Koalas will find it difficult to scale the fences, however this does not completely reduce the risk of Koalas and other fauna climbing the fence and becoming stuck inside the BESS compound.

It is therefore recommended that an approved one-way Koala escape pole be installed within the BESS compound to allow for fauna to exit the compound. A condition has been included in the recommended conditions to require the installation of a fauna escape pole.

9. Clarification of the status of other applications for BESS in the vicinity

The applicant undertook a search of other BESS developments in the area and is unaware of any other active local BESS applications or approvals.

It is however noted that an application was lodged with the Council for a BESS in 2023. The application involved the installation of a BESS at 944 Clarence Town Road, Seaham (approximately 1.6km to the west of the subject site). The application was withdrawn by the applicant in late-2023.

A larger battery system is currently planned for the northeastern section of the subject site. The BESS will have a capacity of 250MW and is classified as State Significant Development. It is understood that Secretariats Environmental Assessment Requirements were issued by the Department of Planning, Housing and Infrastructure, however no further information is currently available.

As no applications are currently lodged for similar development in the area, it is not possible to assess the cumulative impact of the proliferation of BESS developments in the locality without the lodgement of an Environmental Impact Statement for assessment.

It should be noted that, if the current applications are approved, the proponents of any other similar developments will need to take into account the cumulative impacts (inclusive of the current application) as part of these subject BESS applications.

10. Finished RL's of the individual BESS compounds

The applicant provided an updated plan that shows the levels across the BESS compound.

11. Rehabilitation and recycling of project at the end of the facility's operational life

The applicant provided additional information relating to the decommissioning of the development. A 5-yearly updating of the decommissioning strategy will be required to ensure the plan remains relevant to changes in the operation of the proposal and any technological advancements.

Environmental Planning and Assessment Act 1979 (EP&A Act)

Section 4.15 Evaluation

Section 4.15(1)(a)(i) provisions of any environmental planning instrument

The amended development is consistent with the provision of the Port Stephens Local Environmental Plan 2013 (PSLEP) and all relevant SEPPs applicable to the proposal.

The original assessment against the following instruments:

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- Port Stephens Local Environmental Plan 2013

The proposal remains unchanged as a result of the amended proposal and is considered consistent with the provisions of the relevant provisions.

Section 4.15(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition

There are no draft instruments relevant to the amended proposal.

Section 4.15(1)(a)(ii) any development control plan (and section 7.11 plan)

Port Stephens Development Control Plan 2014

The proposal remains consistent with the provisions of the Port Stephens Development Control Plan 2014 (DCP).

Section 4.15(1)(a)(iia) Planning agreements

There are no planning agreements that are relevant to the proposed development.

Section 4.15(1)(a)(iv) the regulations (and other plans and policies)

There are no matters within the regulations that are relevant to the determination of the amended application.

Section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The likely environmental impacts of the development relating to the natural and built environments, and social and economic impacts remain generally unchanged from that identified in the original Council Assessment Report of 7 May 2024.

Section 4.15(1)(c) the suitability of the site for the development

The site is suitable for the amended development for the reasons identified within the original Council Assessment Report of 7 May 2024.

Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

The amended proposal does not involve any substantial change to environmental impacts or material changes from those plans originally notified. Accordingly, no further re-notification or advertising is required.

Section 4.15 (1)(e) the public interest

The amended proposal is considered to be in the public interest for the reasons identified within the Council Assessment Report of 7 May 2024.