COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-284 – DA 2023-139
PROPOSAL	Battery Energy Storage System
ADDRESS	Lot 51 DP 776564 (981 New England Highway Aberdeen)
APPLICANT	Hunter Development Brokerage Pty Ltd
OWNER	K L & HR Day Pty Ltd
DA LODGEMENT DATE	26 February 2024
APPLICATION TYPE	Development application
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19, Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* : Private infrastructure Development with capital investment value in excess of $5-million.
CIV	$16,886,605
CLAUSE 4.6 REQUESTS	NA
KEY SEPP/LEP	• 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 • Muswellbrook Local Environmental Plan 2009
TOTAL & UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS	No public submissions were received objecting to the proposed development.
DOCUMENTS SUBMITTED FOR CONSIDERATION	• Attachment A: Draft Conditions of consent • Attachment B: Proposed Plans • Attachment C: Proposed Plans Detailed Compound Layout • Attachment D: Landscape Plans • Attachment E: Acoustic Assessment • Attachment F: Traffic Impact Assessment • Attachment G: Risk Screening Assessment • Attachment H: Fire Incident Management Plan

SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	Not applicable
RECOMMENDATION	Approval subject to conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	4 September 2024
PLAN VERSION	Current Plan Set lodged with 26 February 2024
PREPARED BY	Donna Watson (Muswellbrook Shire Council – Senior Land Use Planner)
DATE OF REPORT	13 August 2024

EXECUTIVE SUMMARY

- The site subject to this development application is Lot 51 DP 776564. The subject site is described in detail under Section 1 The Site and Locality heading of this report. Key site attributes relevant to the assessment of this application include:

    - The site has an area of 92.6ha.
    - The site is zoned RU1 Primary Production.
    - The site directly adjoins the Upper Hunter Shire Council Local Government Area.
    - The site is located in a Mine Subsidence District.
    - The site is identified as bushfire prone.

- The proposed development involves the construction and operation of a battery energy system at 981 New England Highway Aberdeen (Lot 51 DP 776564). The full scope of works is described under the Section 2 'Proposal and Background' heading of this report. The scope of works being applied for does not extend to the underground high voltage line to connect the battery system to the grid. Approval for this grid connection has been sought separately through a Part 5 'development permitted without consent application through AUSGRID as the energy authority for the electricity network.

- The Hunter and Central Coast Regional Planning Panel has previously determined a battery energy system at the same site under DA 2023/57 – this battery energy system is yet to be constructed on the land. A further development application (DA 2023/140) has been lodged with Council and is being reported to the Hunter and Central Coast Regional Planning Panel for the determination of a battery in relation to the site. Council Officers have given consideration to the relationship between this development and these other projects in their assessment of the development application.

- The proposed development is Regionally Significant development under the provisions of the State Environmental Planning Policy (Planning Systems) 2021 as Private Infrastructure Development (a term which includes electricity generating works) with a capital investment value greater than $5-million.

- The proposed development was publicly notified in line with Council's Community Participation Plan. The dates of the public notification were between 20 March and 15 April 2024. No public submissions were received during either notification period.

- Council Officers have completed an assessment of the proposed development against the relevant heads of consideration of Section 4.15 of the *Environmental Planning*

Assessment Act 1979. This assessment recommends that the development application be approved subject to recommended conditions of consent. Key findings of the Section 4.15 Assessment which informed this recommendation include:

- The proposed development is permissible with consent as development for the purpose of 'electricity generating works' under the provisions of Section 2.36 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Irrespective of conflicting provisions in the Muswellbrook LEP 2009 RU1 Primary Production land use table.

- The proposed development would be compatible with the requirements of relevant State Environmental Planning Policies (SEPPs), including, SEPP (Transport and Infrastructure) 2021, SEPP (Resilience and Hazards) 2021, & SEPP (Biodiversity and Conservation) 2021.

- With the exception of the permissibility provisions of the Muswellbrook LEP 2009 RU1 Primary Production land use table, to which the conflicting provisions of the SEPP (Transport and Infrastructure) 2021 take precedence, the proposal is compatible with all other relevant provisions contained in this environmental planning instrument.

- The proposed development is generally in accordance with the requirements of the Muswellbrook Development Control Plan 2009 (DCP) and conditions of consent have been recommended to ensure the development is carried out in accordance with certain DCP provisions.

- A Risk Screening Assessment was prepared in relation to the proposed development to inform Council in the assessment of technological hazards related to the proposal and the application of SEPP (Resilience and Hazards) 2021 provisions related to potentially hazardous development. This assessment concluded that proposal would not comprise a form of potentially hazardous development and further examination of related considerations through a Preliminary Hazard Analysis was not required.

- The proposed development would not require the removal of established vegetation. An ecological assessment was prepared by Wildthing Environmental Consulting related to the cumulative disturbance area of this battery energy storage system. The ecological assessment is supportive of the project progressing from an ecological impact perspective and notes they would not (individually or cumulatively) trigger a requirement for a Biodiversity Development Assessment Report to be prepared in accordance with related provisions contained in the Biodiversity Conservation Act 2016.

- A Noise Impact Assessment was prepared in relation to the proposed development and the adjoining site being DA 140/2023. The Noise Impact Assessment identified that the proposed battery systems may be supported from an acoustic impact perspective subject to the installation of a 3m tall acoustic barrier and noise attenuation measures being installed into the battery shipping container modules.

- A landscape plan has been prepared in relation to the proposed development. The landscaping proposed would provide a suitably dense visual screen within 5 years of its implementation where maintained. Where carried out in accordance with the landscaping proposed and having regard to the overall bulk and scale of the proposal Council Officers view that the proposal would not have a significant adverse visual impact on the locality.

- Potential cumulative impacts related to comparable battery energy systems proposed/approved on the site under DA 2023/57 and DA 2023/140 have been explored through the assessment of this application. Traffic, noise, hazard, ecology and landscaping studies accompanying the development application have had regard to cumulative impact of the combined projects. Council Officers are satisfied that the combined projects where all are carried out at the site would not give rise to any significant adverse environmental outcomes.

- The following Government Agencies and Councils Officers/Sections were consulted through the assessment of this development application:
    - NSW Subsidence Advisory
    - NSW Rural Fire Service
    - AUSGRID
    - Upper Hunter Shire Council
    - Council Community Infrastructure Roads and Drainage Engineers
    - Council Environmental Planning Officer

  No Government Agency or Officer referred the application raised an objection to the proposed development. Referral responses are discussed under the referral heading of this report. Comments received from referrals have informed draft conditions.

- The proposed development is considered to be compatible with the public interest as a development that complies with other relevant provisions of the development assessment framework and Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and as a development which would support the transition of the NSW energy grid to accommodate additional renewable power sources.

1. THE SITE AND LOCALITY

1.1 The Site

The development application relates to 981 New England Highway Aberdeen (Lot 51 DP 776564). Key site attributes related to the proposed development have been summarised in the dot points below:

- The land (Lot 51 DP 776564) has an area of approximately 92.6ha.
- An operating quarry was previously located on the south western corner of the site. The quarry was approved by Council in 2003 under DA 275/2003 and is no longer operating. The part of the subject to this proposed development is physically separated from the quarry location by approximately 1km.
- In addition to the former quarry a concrete batching plant is located and continues to operate at the premises. This batching plant predates the DA 275/2003 quarry application.
- The Hunter and Central Coast Regional Planning Panel granted consent to DA 2023/57 – this development application involved the construction of a battery on part of the site. The parameters of the approved battery are comparable to the battery proposed under this application.
- A further development applications has been lodged for battery a comparable scale to the project proposed (DA 2023/140), this application is being reported to the Panel concurrently for determination.
- Two dwellings and related residential and rural structures are located elsewhere on the site.
- The site is located in a Mine Subsidence District
- The site is identified as bushfire prone.

- The western boundary of the site adjoins the Hunter River. The Aberdeen Flood Study identifies parts of the property as being flood liable. The site subject to this application is located on flood free land approximately 800m from the parts of the land identified as flood liable.
- The site has direct vehicle frontage to the New England Highway, a Classified State Road for which Transport for NSW is the relevant Roads Authority.
- The subject site immediately adjoins the neighbouring Upper Hunter Shire Council Local Government Area to the north and west.
- The subject site adjoins land zoned:
  - RU1 Primary Production under the Muswellbrook LEP 2009,
  - RU4 Primary Production small lots under the Upper Hunter Local Environmental Plan 2013 to the west
  - The Aberdeen township and land primarily zoned R1 General Residential Upper Hunter Local Environmental Plan 2013 and the Aberdeen Wastewater treatment works zoned SP2 Special Purpose under the same environmental planning instrument.

The image below identifies the subject site.

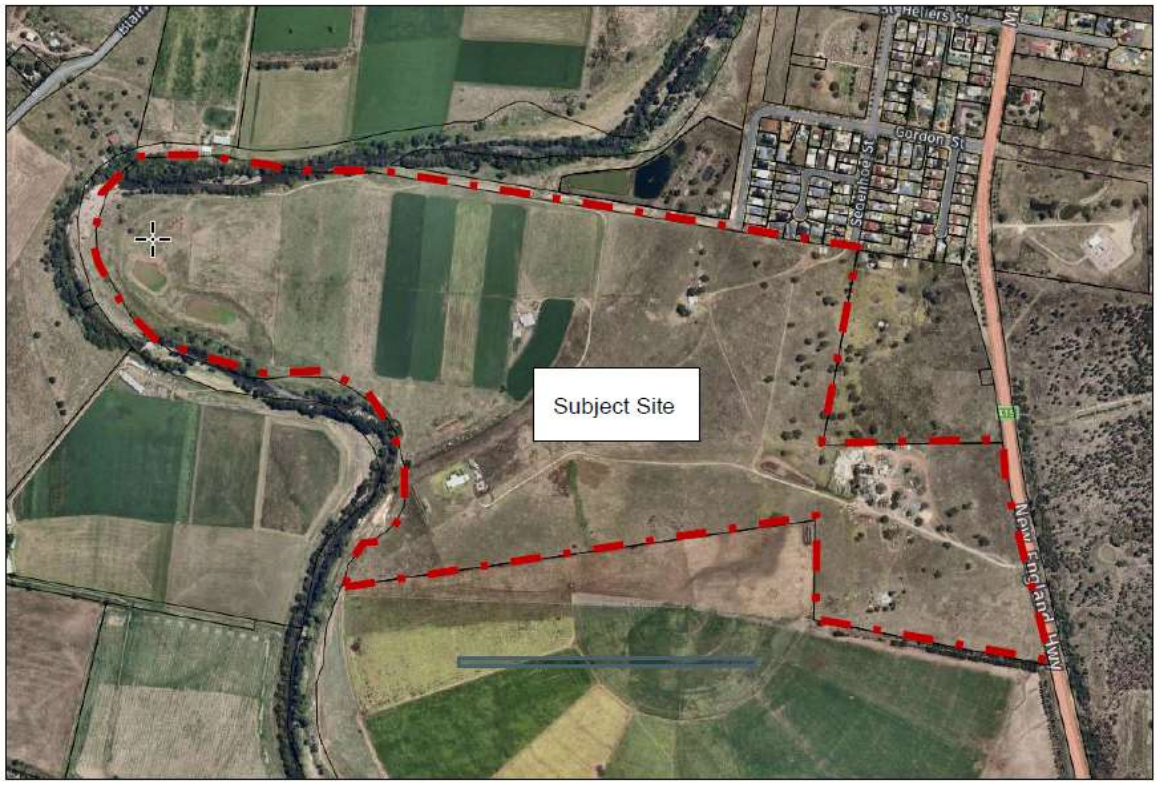


Figure 1 (Site Location Plan – (Source Council GIS Mapping)

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The proposed development involves the installation of a battery storage system (BESS) and associated structures.

The BESS proposed would be connected into the energy grid and have a capacity to store 4.98 Mega Watts of energy.

The battery system would be located on the site at its eastern New England Highway frontage setback approximately 303m from the New England Highway, 25m from the eastern property boundary and 125m from the adjoining property boundary to the north. The image below identifies the battery compound location in context with adjoining properties.

The western elevation would adjoin the battery proposed under DA 2023/140.

The proposed battery compound would be encircled by a 5m wide Asset Protection zone, which would include drainage and earthworks batters and a 10m wide landscaped area. Where the proposed battery adjoins the battery proposed under DA 2023/140 it is proposed that the asset protection and landscape areas would extend to encircle the outside parameter of that compound.

Figure 2 (Location Plan, source applicant proposed plans)

The proposed battery compound is located on a site with a slight incline toward the north-west (highest point) from the south-east (lowest point). The compound layout and elevation plans indicate that compound would remain graded in a compatible with the existing land from.

The table below references the existing contour heights from the submitted survey plans and the proposed compound RL heights from the proposed plans for each corner of the proposed compound.

Location	Existing height (approximate)	Proposed height	Difference (approximate)
North-eastern	172.70m AHD	173.45m AHD	+0.53m
North-western	174.12m AHD	174.25m AHD	+0.13m
South-eastern	171.61 m AHD	172.15m AHD	+0.54m
South-western	172.77m AHD	172.95m AHD	+0.19m

A description of the battery compound and an image of the compound layout design has been included below. The proposed compound would comprise:

- An area of 44.16m by 32.41m. Adjacent the compound perimeter would be a 10m wide Asset Protection Zone (APZ) with a 10m wide landscape area at the outside of the APZ
- Twelve (12) battery units, ten (10) of which would be installed on commissioning with an additional two (2) installed in 4 years to cover system degradation (See B1-B12 on related layout plan).
- Each battery unit would be comprised within a pre-fabricated container. Each unit would have dimensions of 9.34m Long by 1.73m Wide and 2.52m height. The units would be a white colour. Battery containers would contain batteries, individual battery control systems, battery cooling and fire suppression systems.
- A power conversion system with dimensions of 14m by 3m and 2.52m height, white colour. The power conversion system would be used to control the flow of power (when charge is taken from the grid into the system and discharged into the grid) and the conversion of DC power from the battery to AC power to be discharged into the grid. The module would include power transformer, DC to AC inverter, AC to DC rectifier and switchboard.
- A control room with dimensions of 2m by 6m and 2.52m height, white colour. The control room would be a prefabricated air conditioned building used for collection of transmission of data and the monitoring of system equipment.
- Auxilary Services with dimensions of 2m by 3m, white colour. This compartment would be used to house main distribution board and equipment to power auxiliary equipment comprised into the battery system such as lighting, cooling system and the control room.
- Storage room 3m by 3m 2.52m high colorbond shed, evening haze colour sheeting. The storage shed would be used to store spare parts, support maintenance and operational activities.
- A 20,000 Litre water tank to provide static water supply for bushfire fighting located inside the compound.
- 20,000L water tank to provide static water supply for bushfire fighting located outside the compound.
- A compacted hardstand area within the compound comprised of compacted DGB20 base material to a depth of 0.15m.
- Compound fencing comprised of 3m tall Hush Panel acoustic fencing in Windspray grey colour.

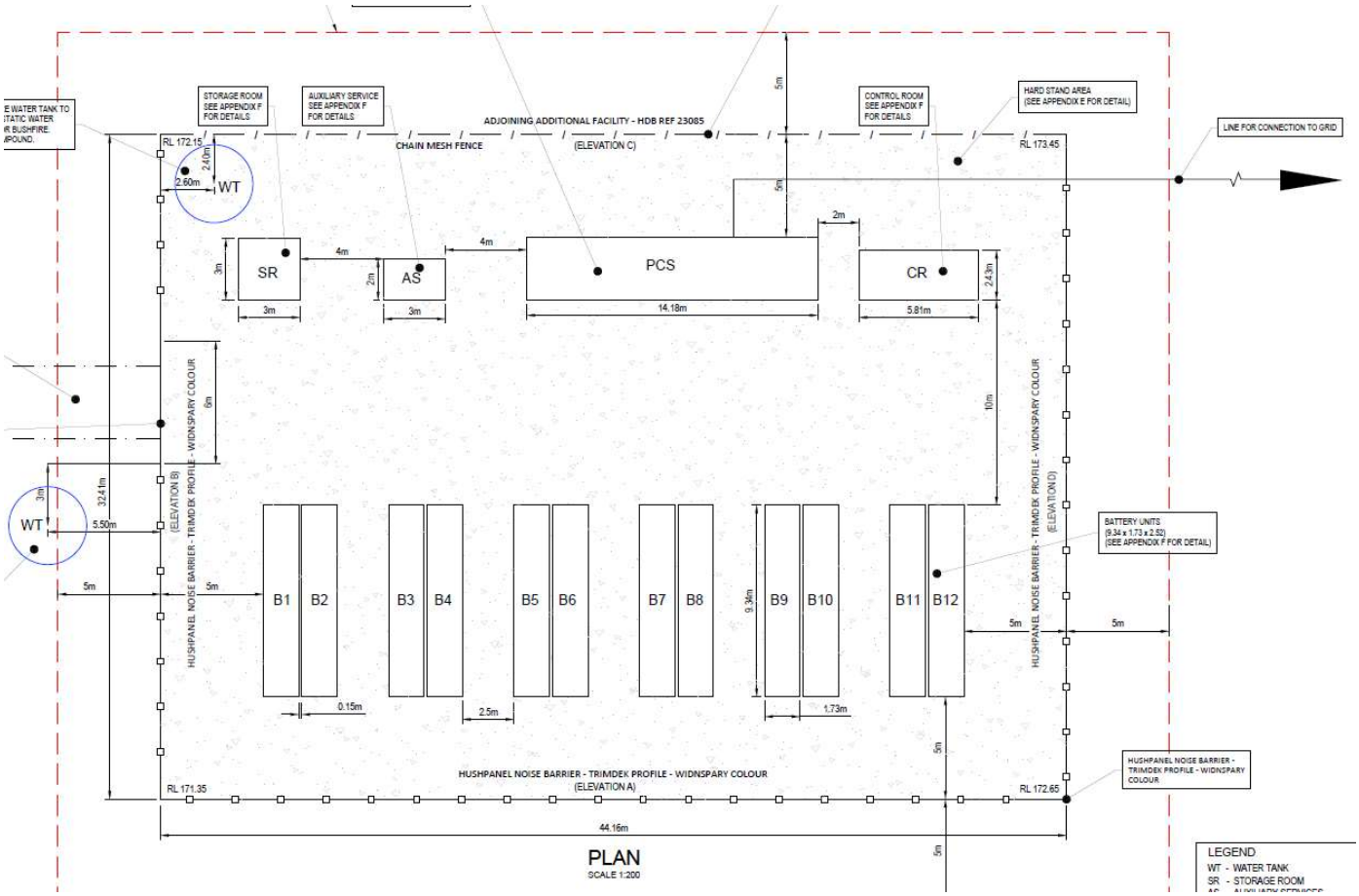


Figure 3 (Compound Layout Plan, Source applicant proposed plans)

The site and compound would be accessed from the New England Highway via an existing vehicle access that currently provides access to the property and concrete batching plant.

Internally within the site a new 4m wide access driveway would be constructed to provide a vehicle access between the existing internal access driveway and the battery compound location.

The proposed facility would be connected to the electricity grid through an underground high voltage power line. Approval for the grid connection infrastructure is being sought separately through a Part 5 application through AUSGRID as development permitted without consent under Section 2.44 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

2.2 Operational Detail

The statement of environmental effects provides the following related to the operational parameters of the proposed development:

- The proposed facility would have a capacity to store a maximum of 4.98 Megawatts of electricity.

- The proposed battery system Electricity would be taken from the grid during periods of low energy demand or when excess renewable energy is available, converting the

electrical energy into chemical energy for storage and released into the grid at times of high demand.

- The Traffic Impact Assessment advised construction of this proposed facility and two separate facilities at the site that are subject to separate applications (DA 2023-57 – already approved) will require a team of up to 26 workers working at the site over a period of 11 weeks with hours 7am – 5pm Monday – Friday and 8am – 1pm Saturdays.

- Operational the site will largely be managed remotely. The statement of environmental effects envisions 1-2 visits for general maintenance per month.

2.3 Background

A pre-lodgement meeting was not held prior to the lodgement of this development application.

The development application was lodged on **26 February 2024**. A brief chronology of the development application since lodgement is outlined below including the Panel's involvement with the application:

Table 1: Chronology of the DA

Date	Event
26 February 2024	Application lodged
20 March to 15 April 2024	The applicant was publicly notified and advertised
3 April 2024	NSW Mine Subsidence referral advice received
10 April 2024	NSW Rural Fire Service referral advice received
18 April 2024	AUSGRID Referral advice received
May – July 2024	Additional information (updated Traffic Assessment, Fire Incident Management Plan)

2.4 Site History

The proposed development is located on a 92.6ha RU1 Primary Production zoned property. The property is located immediately south of the Aberdeen Township and the Muswellbrook Shire Council and Upper Hunter Shire Council Local Government Area boundary.

Concrete batching plant and general site history

A concrete batching facility is currently operated at the property. This concrete batching plant has been operated at the site for a substantive period, exceeding 30 years. A record of the concrete batching plant approval was not identified through the search of Council's electronic record system undertaken in the preparation of this report.

While not the initial batching plant approval Council searches identified a related previous approval which granted development consent to a quarry on a portion of the site in 2003 (DA

275/2003). The quarry was located in the south western corner of the property a significant distances from the part of the site subject to this application and sought to extract material for use in the concrete batching plant. The quarry is no longer in operation.

The location of the proposed battery facility is situated at a part of the site not used by the concrete batching plant and would have a negligible impact on the operation of that existing facility.

Additional structures located on the property include two dwellings, related outbuildings and rural property improvements. The location of the proposed development is sited separately to the dwellings and is not anticipated to impact on their habitation.

Battery applications

DA 2023/57 – The Hunter and Central Coast Regional Planning Panel granted consent to DA 2023/57 – this development application involved the construction of a battery on part of the site. The parameters of the approved battery are comparable to the battery proposed under this application. The site of this proposed battery is physically separated from the part of the site which this battery system has been approved at.

Documentation and technical studies submitted with this application has regard to potential cumulative impacts attached to this existing approved battery system.

The approved facility is yet to be constructed.

DA 2023/140 A further development applications has been lodged for battery a comparable scale to the project proposed (DA 2023/140). The site subject to this development directly adjoins the land subject to this application. This battery system has not been determined. The application is being reported to the same sitting of the Hunter and Central Coast Regional Planning as this application for determination.

Documentation and technical studies submitted with this application has regard to potential cumulative impacts attached to this existing approved battery system.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

(a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations

(i) any environmental planning instrument, and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any development control plan, and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),

that apply to the land to which the development application relates,

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

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

These matters are further considered below.

It is noted that the proposal was considered to be:

- Integrated development requiring General Terms of Approval from NSW Subsidence Advisory under the Coal Mine Subsidence Compensation Act 2017.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Muswellbrook Local Environmental Plan 2009;*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

Table 2: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Planning Systems) 2021	• The development application is Regionally Significant Development as 'private infrastructure development with a CIV greater then $5-million. The Hunter and Central Coast Regional Planning Panel is the consent authority for this development application.	Y
SEPP (Biodiversity and Conservation) 2021	• Chapter 3 - requires consideration of the relationship of a development with koala habitat protection. The subject site does not contain any trees requiring removal. Council Officers are satisfied that the proposed development would not disturb a potential koala habitat thereby requiring further consideration against the SEPP. This finding is supported by the ecological assessment prepared in relation to the cumulative impact	Y

	of this and the development proposed under DA 2023/140.	
SEPP (Resilience & Hazards)	Chapter 3: Potentially Hazardous and Offensive Development • The proposed development does not comprise a potentially hazardous development. • A Risk Screening Analysis/Chapter 3 Assessment has been submitted in relation to the proposed development. • Informal/supplementary advice was provided to the applicant's team by the NSW Department of Planning and Environment (prior to title change to Planning, Housing and Infrastructure) related to the application of the SEPP to battery energy generating developments. This advice indicated that they did not consider battery energy systems with a threshold below 30MW to be potentially hazardous. The Department's advice on this issue was confirmed by Council Officers in their assessment of DA 2023/57. Chapter 4: Remediation of Land • Section 4.6 – Council Officers are satisfied that the subject site is unlikely to be affected by any contamination requiring remediation for the development to progress in accordance with provisions related to contamination and remediation.	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Division 4 Infrastructure • Section 2.36 provisions identify the proposed development is permissible with consent as development for the purpose of electricity generating works on land zoned RU1 Primary Production. • The provisions of Section 2.7 establish that this instrument prevails in the event of any inconsistency with the Muswellbrook Local Environmental Plan 2009. Chapter 2 Division 5 • The application was referred to AUSGRID as the energy supply authority in accordance with the requirements of Section 2.48. AUSGRID comments have informed Council Officers recommendation and recommended conditions of consent.	Y
LEP	• Clause 2.3 – the proposed electricity generating works is not a permissible land use under the RU1 Primary Production land use table. Notwithstanding this the proposal remains a type of development permissible with consent in that zone through the related provisions of SEPP (Transport and Infrastructure) 2021.	Y

DCP	Relevant Sections of the DCP have been reviewed in relation to the proposal. The proposed development is considered to be compatible with: • Section 3 – Site Analysis • Section 8 Rural Development • Section 16 Car Parking and Access • Section 20 Erosion and Sediment Control • Section 24 Waste Minimisation and Management • Section 25 Stormwater Management	Y

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Planning Systems) 2021

Section 2.19 of the SEPP specifies that development identified by Schedule 6 is declared to be Regionally Significant Development for the purpose of the *Environmental Planning and Assessment Act 1979.*

Schedule 6(5) specifies the following as Regionally Significant Development:

> *Development that has an estimated development cost of more than $5 million for any of the following purposes—*
>
> *(a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities,*
>
> *(b) affordable housing, child care centres, community facilities, correctional centres, educational establishments, group homes, health services facilities or places of public worship.*

The proposed development is a type of electricity generating works with a development cost of more than $5-million. The total cost of the development is $16,883,605. It is relevant to note that the total development cost is less than the value that might otherwise cause the development to be classified as State Significant Development.

Accordingly, the proposed development is classified as Regionally Significant Development per the *Environmental Planning and Assessment Act 1979* and the Hunter and Central Coast Regional Planning Panel is the consent Authority for the application. The development application has been processed according to provisions relevant to Regionally Significant Development.

State Environmental Planning Policy (Biodiversity) 2021

This SEPP establishes provisions related to the clearing of Koala Habitat. Chapter 3 of the SEPP applies to the Muswellbrook Local Government Area. In accordance with the SEPP, a consent authority is required to have regard to whether the land concerned is a potential or core koala habitat, and where land is identified as a core koala habitat a plan of management is to be prepared in relation to that habitat in accordance with provisions set out in the SEPP.

In considering whether land is a potential koala habitat a Council may be satisfied by information obtained by it, the applicant, from a person qualified and experienced in tree identification.

An ecological assessment has been prepared in relation to the cumulative impact of the proposed development and the additional battery development proposed at the site under DA 2023/140. This report notes that through their investigation no species

of koala habitat were identified at the site. Accordingly, the ecological consultant and Council are satisfied that the site would not meet the criteria of a potential koala habitat and thereby does not require further consideration against related SEPP provisions.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3 Hazardous and Offensive Development

Chapter 3 of this SEPP establishes additional assessment criteria for the determination of development application identified as 'potentially hazardous' or 'potentially offensive development'.

A risk screening assessment was prepared by Riskcon and submitted in relation to the development application and the criteria for potentially hazardous development. This report advised that the proposed development did not meet the criteria for potentially hazardous development and thereby a Preliminary Hazard Analysis or further consideration under the SEPP provisions was not required for the development to proceed.

The applicant sought 'informal guidance' from Department of Planning and Environment around the application of their 'Applying SEPP 33' guideline. The guideline does not include thresholds of energy generation for battery energy systems as a criteria for classifying or not classifying such a system as potentially hazardous development. The report author advised that related advice had been sought from Department of Planning and Environment regarding the threshold which their hazard experts would view a battery system development to be potentially hazardous requiring a preliminary hazard analysis. Advice provided suggested that a battery system with a discharge capacity of 30MW or greater would be considered potentially hazardous, this proposed development falling below that threshold at 5MW. Correspondence between the applicant and the Department where this advice was received was provided to Council Officers.

In its recent determination of DA 2023/57, a comparable battery at the same site Council sought advice from Department of Planning, Housing and Infrastructure – Hazards Team regarding the Hazard Assessment. This development application was determined subject to conditions of consent informed by that advice. Council Officers have had regard to the advice received in the processing of that application when reviewing the risk screening and fire incident assessments and proposing related conditions of consent. i recommended conditions of consent.

Council Officer's are satisfied that the proposed development would not comprise a Potentially Hazardous Development pursuant to the SEPP and may be supported as being compatible with the SEPP requirements, where carried out in accordance with related recommendations from the NSW Department of Planning, Housing and Infrastructure – Hazards Team. These recommendations include a requirement for the submission of a Fire Safety Study (an updated report from the Fire Incident Management Plan submitted with the application) prior to the commencement of work related to the battery installation.

Chapter 4: Remediation of Land

Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

In relation to the potential for the land to be subject to any contamination requiring remediation per the SEPP, Council Officer's have noted that the part of the site subject to this development application is vacant of any prior development improvements. It is understood that historic use of the part of the site concerned has been for extensive agricultural grazing.

This development application involves the establishment of a battery facility on the site with periodic on-site operation and maintenance.

Noting, the history of the site and the scope of the proposed development, Council Officers are satisfied that the site is unlikely to be subject to any significant contamination requiring remediation in order for the proposed development to proceed in accordance with the requirements of the SEPP. Accordingly, Council Officers were satisfied that the proposed development may proceed as a development compatible with the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Division 4

Chapter 2 Division 4 includes provisions related to electricity generating works and solar systems.

The provisions of Section 2.36 contained in this Chapter are of particular relevance to this proposed development.

These provisions establish that development for the purpose of 'electricity generating works' may be carried out by any person on land in a 'prescribed non-residential zone'.

Definitions established for Chapter 2 Division 4 of the SEPP (S2.35) identifies the RU1 Primary production zone as a 'prescribed non-residential zone'. The land subject to this development application is zoned RU1 Primary Production. It is also relevant to note that the S 2.35 definitions adopt the same definition of 'electricity generating works' as the Muswellbrook LEP 2009, which encompass energy storage. The proposed development is considered to be an 'electricity generating works' per the related SEPP definition.

The provisions of Section 2.36 of the SEPP establish the proposed development to be a type of development permissible on the land concerned.

Further provisions set-out in Section 2.7 of the SEPP make clear that the provisions of this SEPP prevail against inconsistencies with those provisions where they occur with the Muswellbrook Local Environmental Plan 2009 environmental planning instrument. This is relevant to observe as the land use provisions of the Muswellbrook LEP 2009 do not identify 'electricity generating works' as a type of permissible development in the RU1 Primary Production land use zone.

Chapter 2 Division 5

Section 2.48 requires the referral of certain development within a proximity to electricity substations and electricity power lines to be referred to the electricity supply authority. The electricity supply authority for the Muswellbrook LGA is AUSGRID. The proposed development was referred to AUSGRID for comment in line with this requirement. Comments provided by AUSGRID are summarised under the referrals heading of this report and have informed Council's recommended determination.

Muswellbrook Local Environmental Plan 2009

The relevant local environmental plan applying to the site is the Muswellbrook *Local Environmental Plan 2009* (MLEP'). The aims of MLEP include:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,
(a) to encourage the proper management of the natural and human-made resources of Muswellbrook by protecting, enhancing or conserving—
(i) productive agricultural land, and
(ii) timber, minerals, soils, water and other natural resources, and
(iii) areas of significance for nature conservation, and
(iv) areas of high scenic or recreational value, and
(v) places and buildings of archaeological or heritage significance,
(b) to manage the urban areas of Muswellbrook by strengthening retail hierarchies and employment opportunities, promoting appropriate tourism development, guiding affordable urban form and providing for the protection of heritage items and precincts,
(c) to promote ecologically sustainable urban and rural development,
(d) to manage development in flood-prone areas by ensuring any obstruction, re-direction or pollution of flood waters will not have adverse consequences for the environment or increase the risk of endangering life or property,
(e) to enhance the urban amenity and habitat for flora and fauna,
(f) to protect and conserve—
(i) soil stability by controlling development in accordance with land capability, and
(ii) remnant native vegetation, and
(iii) water resources, water quality and wetland areas, natural flow patterns and their catchments and buffer areas,
(g) to provide a secure future for agriculture by expanding Muswellbrook's economic base and minimising the loss or fragmentation of productive agricultural land,
(h) to allow flexibility in the planning framework so as to encourage orderly, economic and equitable development while safeguarding the community's interests and residential amenity, and to achieve the objectives of each zone mentioned in Part 2 of this Plan.

The proposal is consistent with these aims as the proposal.

Zoning and Permissibility (Part 2)

Figure 4 (Source NSW Planning Portal Spatial Viewer, accessed 29/07/2024)

Permissibility

The site is located within the RU1 Primary Production zone pursuant to Clause 2.2 of MLEP 2009

Section 2.3 of the LEP require a consent authority to have regard to the land use table for the zone to which the proposed development relates, including the types of development it specifies as being possible to carry out with or without development consent within the zone and development that is prohibited.

The land use definition relevant to the proposed development is 'electricity generating works', the land use definition has been included below:

electricity generating works *means a building or place used for the purpose of—*

(a) making or generating electricity, or

(b) electricity storage.

The land use table for the RU1 Primary Production zone does not identify development for the purpose of energy generating works as a type of development permissible with consent or without consent. The effect of this is that development for this purpose is prohibited under the land the provisions of Section 2.3 of MLEP 2009.

While prohibited under the MLEP 2009 land use zone provisions, the proposed development remains a development permissible with consent by virtue of *State Environmental Planning Policy (Transport and Infrastructure) 2021*. As referenced under the related heading above, Section 2.36 of this environmental planning instrument includes provisions which identify electricity generating works as development permissible with consent in the RU1 Primary Production zone. Provisions included in Section 2.7 of the SEPP make clear that the SEPP prevails in the instance of any inconsistency with the MLEP 2009.

Accordingly, and despite the inconsistency with the MLEP 2009 land use table, Council Officers are satisfied that the proposed development is a type of development permissible with consent through provisions of Section 2.36 *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Zone Objectives

Clause 2.3(2) of MLEP 2009 requires a consent authority to have regard to the land use zone objectives for the relevant land use zone, in this case RU1 Primary Production, when determining a development application.

The land use zone objectives from the MLEP 2009 have been included below.

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect the agricultural potential of rural land not identified for alternative land use, and to minimise the cost to the community of providing, extending and maintaining public amenities and services.*
- *To maintain the rural landscape character of the land in the long term.*
- *To ensure that development for the purpose of extractive industries, underground mines (other than surface works associated with underground mines) or open cut mines (other than open cut mines from the surface of the flood plain), will not—*
    - *(a) destroy or impair the agricultural production potential of the land or, in the case of underground mining, unreasonably restrict or otherwise affect any other development on the surface, or*
    - *(b) detrimentally affect in any way the quantity, flow and quality of water in either subterranean or surface water systems, or*

(c) visually intrude into its surroundings, except by way of suitable screening.

- *To protect or conserve (or both)—*
  - *(a) soil stability by controlling development in accordance with land capability, and*
  - *(b) trees and other vegetation, and*
  - *(c) water resources, water quality and wetland areas, and their catchments and buffer areas, and*
  - *(d) valuable deposits of minerals and extractive materials by restricting development that would compromise the efficient extraction of those deposits.*

Council Officers have made the following observations related to the proposed development's relationship with the land use zone objectives:

- The proposed development would have a modest building / compound footprint comparative to the overall site area. Accordingly, the proposal is not anticipated to have a significant adverse impact on the ability for primary production enterprises to be pursued across the broader site area or adjoining RU1 Primary Production zoned land.
- It is considered that the proposed development would have a negligible impact on the ability of primary production enterprise to be pursued on adjoining rural land.
- The proposed development has adopted a landscape plan to manage any visual impact from proposal on the rural and scenic qualities of the site.

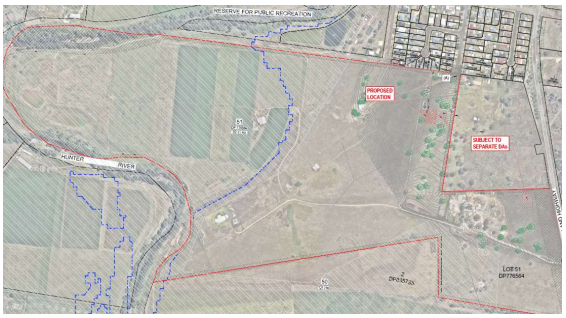
Council Officers are satisfied that the proposed development would be compatible with the RU1 Primary Production land use zone objectives and thereby is in accordance with the provisions of MLEP 2009 Clause 2.3(2).

General Controls and Development Standards (Part 2, 4, 5 and 6)

The MLEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 4: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (Cl 4.1)	80ha	No subdivision proposed	NA
Height of buildings (Cl 4.3(2))	12m	The 3m high noise barrier is the tallest proposed structure. When considered in context with the proposed earthworks the maximum building height would remain comfortably below the 12m maximum height requirement.	Yes
Floor Space Ratio (Cl 4.4(2))	NA	The subject site is not subject to a Floor Space Ratio.	NA
Flood planning (Cl 6.3)	NA	The proposed development is not located on land within the flood planning area. The image below shows the flood planning area related to the subject property informed by Upper Hunter Shire Council's Aberdeen Flood Study.	NA

		 The part of the site proposed for development is located a comfortable distance from any part of the property identified as flood liable and impacted by the 1% flood event. Inspections of the site also identified a significant incline between the lower lying flood affected parts of the property and the location of the proposed development.	
Terrestrial Biodiversity (Cl 7.1)	NA	This Section applies to land identified as 'biodiversity' by the accompanying terrestrial biodiversity map layer. As the land subject to this development application is not identified as 'biodiversity', provisions of this Section is not applicable	NA
Earthworks (Cl 7.6)		Council Officers are satisfied that the proposed development would be compatible with the relevant assessment matters where carried out in accordance with recommended conditions of consent.	Yes
	the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.	The proposed development would have a negligible impact on drainage patterns. The proposed development attaches to a large agricultural holding and would not significant alter drainage patterns or direct concentrated storm water volumes to any off-site discharge point.	
	the effect of the proposed development on the likely future use or redevelopment of the land	The volume or scope of earthworks proposed would not limit the utility of the development site post the operation of the battery for alternate land uses following its decommissioning.	
	the quality of the fill or of the soil to be excavated, or both	Earthworks are required to establish the development component of the site. It is anticipated that wherever possible soil used in the pad levelling will be sourced on-site. Where approved a standard condition of consent would be recommended to ensure any fill imported is appropriately sourced clean fill.	
	the effect of the proposed development on the existing and likely	The earthworks involved in the proposed development would cause a modest change to the site levels (maximum height change is a 0.75m).	

	amenity of adjoining properties	Accordingly, the earthworks proposed are not anticipated to have any noticeable impact on the amenity of adjoining properties.	
	the source of any fill material or the destination of any excavated material	It is anticipated that wherever possible soil used in the pad levelling will be sourced on-site. Where approved a standard condition of consent would be recommended to ensure any fill imported is appropriately sourced clean fill.	
	the likelihood of disturbing relics	The site subject has previously been cleared and disturbed for agricultural use. The likelihood of relics is considered to be low. An AHIMS search has been carried out in relation to the site which identified no recorded artifacts in the vicinity.	
	the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area	The proposed development site is not located in close proximity to any waterbody. The scope of earthworks limited when considered in context with site and the gradients of other parts of the land. The proposal is not anticipated to have a discernible impact on any watercourse, drinking water catchment or environmentally sensitive area.	

The proposal is generally consistent with the LEP.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft proposed planning instruments with provisions related to the assessment of the proposed development.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Muswellbrook Development Control Plan 2009* ('the DCP')

A summary of the relevant Sections of the Muswellbrook Development Control Plan has been included below alongside an assessment of the proposed development against the related controls.

Section 3 Site Analysis

Council Officers are satisfied that the proponent has adequately considered the provisions of this Section and prepared the documentation accompanying the development application in accordance with the requirements of this Section.

Section 8 Rural Development

The table below measures the proposed development against the relevant DCP controls specified by this Section of the DCP.

MUSWELLBROOK SHIRE COUNCIL DCP SECTION 8 RURAL AND ENVIRONMENTAL ZONE DEVELOPMENT

DCP REQUIREMENTS	COMPLIES	PLANNING COMMENT
8.2.1 Scenic Protection and Building Location	**Yes**	Controls referenced in this part of the DCP attach to supporting scenic qualities of the rural landscape and minimising the impact of new development on those qualities. Council Officers are satisfied that the proposed development would be compatible with the controls referenced in this part. The bulk and scale of the proposed development is not so substantive to be considered intrusive and would be screened through proposed landscaping. The landscaping plan prepared includes visual representations of the proposed development and landscaping at the site reinforcing that where the proposal is carried out in accordance with the landscape plan proposed it will not be a visually intrusive development.
8.2.2 Setbacks *(i) setback 50m from any public road* *(ii) setback 10m any property boundary* *(iii) A suitable buffer area is established in the vicinity of agricultural operations that may occur on adjoining land.*	**Yes**	i)The proposed compound will be setback approximately 303m front the New England Highway, which is in excess of the minimum 50m building line setback. ii) The proposed compound would be setback 25m from an adjoining property boundary. This complies with the minimum side setback requirement. iii) the proposed development is not anticipated to affect or be affected by any adjoining agricultural activity. Accordingly, an increased buffer for the management of adjoining agricultural enterprise is not considered necessary.
8.3 Colours and Materials	**Yes**	This Section of the DCP encourages muted earth tones and natural colours for development in rural areas and discourages highly reflective materials. As discussed through the assessment the proposed facility would be fenced by 3m hush panel fencing. The fencing height would obscure the visibility of structures within the compound externally and be the key aspect of the development visible (where observed) through the landscaping. The applicant has proposed the – 'windspray' colour – a muted grey colour. The colour as displayed from the fencing providers colour palate has been shown below.  Windspray® Council Officer's raise no objection to the colour schemes compatibility with the

		requirements of this part, particularly when considered in context with the landscaping to be installed outside the fence perimeter. It is considered that a grey colour would be preferable as a backdrop to the landscaping as a pose to a green or brown colour.
8.2.4 Car Parking and Access	**Yes**	There is existing vehicle access from the New England Highway to the existing site this access will be extended internally to the proposed facility. Council's DCP does not provide a rate of off-street car parking applicable to the specific type of development proposed. A Traffic Impact Assessment has been submitted and has regard to the parking provisions in Council's DCP and considers the development to be classified as 'industrial development'. Informed by the operational requirements of the development, Council Officers are satisfied that the development would not require the construction of any dedicated car parking area and may be supported on the understanding that there is ample space available for informal parking within and outside the battery compound for employees attending the premises to undertake periodic maintenance. Operational information provided to Council advises that expected maintenance requirements would be limited and in the vicinity of 1-2 site visits a month once operational.
8.3.1 Topography	**Yes**	This Section of the DCP requires development in the RU1 Primary Production zone to have regard to the existing topography of the subject site and rural landscape qualities. Earthworks required to establish a level pad for the compound would not be excessive or significant reshape the topographic profile of the site. The maximum change from existing ground level would be in the vicinity of 0.75m. The proposed earthworks are described in more detail under the 'Description of the Proposal' heading of this report. Council Officers are satisfied that the scope of the proposed earthworks would be reasonable within the sites rural context, respectful to the sites existing topography and landform and compatible with the requirements of this DCP Section.
8.3.2 Vegetation	**Yes**	The proposed development does not involve the disturbance of any established vegetation. An ecological assessment has been prepared by Wildthing Environmental Consulting against current ecological legislative context including the Biodiversity Conservation Act 2016. In addition to this project this assessment has

		regard to battery projects proposed at the site under DA 2023/57 and DA 2023/140. This report is supportive of the proposed development from an ecological context as a development consistent with the current ecological impact assessment framework. Accordingly, Council Officers are satisfied the proposed development is compatible with the provisions of this Section of the Muswellbrook DCP which reference the ecological assessment considerations of 2009 at the time of the DCP's adoption.
8.3.3 Riparian Buffers	**Yes**	The proposed development would not be located on waterfront land. Accordingly, the proposal would be consistent with the requirement of this DCP sub-section.
8.3.4 Management of Rivers, Creeks, Streams and Drainage	**Yes**	The proposed development would not be located on waterfront land. Accordingly, the proposal would be consistent with the requirement of this DCP sub-section.
8.3.5 Services	**Yes**	The proposal requires minimal services with the exception of a connection to the electricity grid which has been considered through the assessment of this application.

Section 8 Summary comment
Having regard to the considerations and commentary in the above table, Council Officers are satisfied that the proposed development would be consistent with Section 8 of the DCP – **Complies.**

Section 16 Car Parking and Access
This Section of the DCP does not prescribe a rate of off-street car parking relevant directly applicable to the battery systems proposed.

A Traffic Impact Assessment has been prepared in relation to the proposed development which references the DCP provisions for general industrial development and undertakes a merit assessment of off-street car parking requirements. This merit assessment is informed by the limited operational staffing requirements of the proposed battery facility which is anticipated to require 1-2 staff visits per month.

This assessment notes that there is ample opportunity on-site, both within and outside of the battery Council for staff to park vehicles when undertaking this maintenance. Council Officers have accepted this and given the facilities limited staff visits are supportive of the proposed development progressing as a development compatible with the requirements of this Section of the DCP without the requirement of any off-street parking.

Complies

Section 20 Erosion and Sediment Control

This Section of the DCP requires specifies requirements related to the preparation of erosion and sediment control plans and their implementation through the carrying out of development.

The proposed development involves a modest scope of earthworks, when considered in context with the site's rural location and the subject site does not adjoin any areas with recognised sensitive environmental qualities. There are no high risk factors that present an uncertainty to the ability for appropriate erosion and sediment control measures to be implemented through the carrying out of the development. In this regard, Council Officers are satisfied that the development can comply with this Section of the DCP and can be administered through standard related conditions of consent. This strategy is consistent with Council's general approach to administering compliance with the DCP provisions setout under this part and related conditions of consent are included as draft conditions of consent.

Complies – to be administered through conditions.

Section 24 Waste Minimisation and Management

This Section of the DCP requires site waste minimisation management plans to be prepared for the carrying out and implementation of development.

Given the proposed development largely relies on pre-fabricated technical components and having regard to its limited operating scope minimal waste streams are anticipated. A waste minimisation management plan has been submitted in relation to the proposed development which promotes recycling where possible.

Complies

Section 25 Stormwater Management

The preamble of this Section of the DCP references that its application is structured toward approaches to manage stormwater in the urban areas of the Shire. While the site is not located in the urban area, principles and objectives of this DCP section are of some relevance to considering the management of stormwater associated with the development. In particular, the overflow disposal controls of sub-section 25.2.4 which reference requirements for developments to be designed so as to not adversely affect neighbouring properties by way of intensification, concentration or inappropriate disposal of stormwater across property boundaries.

Related to this Section of the DCP and the method of stormwater management and disposal Council Officers note:

- The proposed development is situated in a rural locality.
- Site contours naturally direct stormwater from the proposed development back toward the balance of the 90ha property which itself falls toward the Hunter River.
- The proposed development and the gravel compound area would establish a new hardstand area and result in increased stormwater runoff from the disturbed area.
- Stormwater from the compound area would be captured by a swale drain which would encompasses the proposed compound.
- Stormwater from the swale drain would discharge at the rear of the property via a level spreader at two locations (spreader design information is included in the proposed compound plans). The topography of the site would direct any discharge from the spreader away from neighbouring boundaries and toward the balance of the 92ha property.
- Having regard to the scale, design and operation of the proposed development Council Officers are satisfied that there would not be a need to consider stormwater quality improvement devices as part of the proposal and stormwater management system.

In view of the above considerations related to the stormwater management system proposed Council Officers are satisfied that the proposed development would remain compatible with this Section of the DCP.

Complies

Development Contributions Plan

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Muswellbrook Section 94A Development Contributions Plan (2010)*

Muswellbrook Section 94A Contribution Plan (2010) requires the payment of a Section 7.12 Contribution (former Section 94A) at a rate of 1% of the total estimated cost of the development.

The total estimated cost of the development is $16,883,605

Under the provisions of Council's Section 94A Plan a Section 7.12 Contribution of $168,836.05 would be applicable to the proposed development.

Where approved Council Officer's would recommend a condition of consent requiring payment of the related contribution prior to the issue of a Construction Certificate.

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- **Section 61(3) The Dark Sky Planning Guideline if applicable** - The proposed development is not located within the Local Government Areas referenced by this Clause. Through the provisions of the Dark Sky Planning Guideline a Council is still required to have regard to the Guideline when determining a Regionally Significant Development which is 'likely to affect the night sky' within in 200km of the Siding Springs Observatory. While the Guideline does not provide a comprehensive description of what types of development should be considered 'likely to affect the night sky'. In relation to the proposed development and the application of the Guideline to the proposal Council Officers note the following:
  - The proposed development would be situated on or at the absolute periphery of the 200km radius. Related information has not been provided by the applicant, however using Six Maps Spatial Viewer, Council Officers have measured the distance between the subject site and Siding Springs Observatory at approximately 199.7km.
  - The proposed development would be lit with low level illuminating lights installed at the top height of the battery (below 3m compound fence height) and facing downward.

- Council Officers are of the view that illumination levels would not conceivably be any more intensive than various types of residential, commercial development or industrial development that would typically not be 'Regionally Significant' or Designated and as such may proceed in the locality of Aberdeen and Muswellbrook, within the 200km radius without regard to the Dark Sky Planning Guideline.

Having regard to the scope of the proposal and its location on the periphery of the 200km radius Council Officers are satisfied that the proposal is not a type of development 'likely to affect the night sky' in context with their impression of the intended application of the Guideline and thereby are satisfied that the proposal may proceed without further consideration of the Guideline or Section 61(3) of the Regulation.

The provisions of the 2021 EP&A Regulation do not present any other matters requiring considered evaluation as part of the assessment of this application. The proposal may proceed as a development compatible with the matters for consideration prescribe through the EP&A Regulation 2021.

3.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- **Context and setting** – The proposal is considered to be generally consistent with the context of the site. Council Officers are satisfied that the application has had regard to and addressed related aspects of Council's DCP

  Related to the proposal's siting and the consideration of its impacts on the rural locality Council Officers note:
  - Council Officers are satisfied that the proposal has been designed in a manner compatible with the provisions of Section 3 – site analysis of Council's DCP.
  - Council Officers are satisfied that the proposal would be compatible with controls established under Section 8 of Council's DCP related to respecting the scenic qualities and managing the scale of development with landscape qualities in the RU1 Primary Production zone.
  - In correspondence related to the development application Upper Hunter Shire Council requested consideration be given to landscape screening to minimise the visual impact of the proposed development on surrounding properties and public land. Council Officers are satisfied that suitable screening treatments through the combination of compound fencing and landscape treatment have been proposed.
  - A landscape plan has been prepared to detail landscape screening related to the proposed development. The landscape plan has regard to cumulative works proposed under DA 2023/140 for an adjoining battery system. Council Officers are satisfied that suitable screening treatments through the combination of compound fencing and landscape treatment has been proposed.
  - An assessment of the visual impact of the proposed development has been completed by the applicant's team and is detailed as part of the landscape plan for the proposal. The visual impact assessment has regard to visual impact and landscape treatments proposed for additional battery facilities proposed at the site under DA 2023/57 and DA 2023/140. Council Officer's are satisfied

that the siting of the proposal would not give rise to any significant visual impacts.

- A landscaping plan has been prepared in relation to the proposed development. Where implemented the proposed compound fencing surrounding the facility would be largely obscured from public view once the landscaping is established and matured (which is anticipated to take 5 years). Where carried out in accordance with the landscape plan Council Officers are of the view that the development wouldn't negatively impact on the landscape setting where viewed from a public space or adjoining residence.
- Council Officers have recommended conditions of consent to ensure the landscaping is appropriately maintained and that reviews are undertaken of the landscape establishment and any landscaping adjustment within the 5 year landscape establishment horizon , and thereafter where required at the direction of Council.

In view of the above considerations Council Officers are satisfied that the proposed development would not have a significant adverse impact on the pre-existing local context and setting.

- **Access and traffic** – the proposed development would be serviced by the sites existing vehicle access to the New England Highway with no formalised off-street car parking proposed. An extension to the internal access driveway is required to connect the BESS facility to the sites existing internal driveway that connects to the New England Highway access.

  A Traffic Impact Assessment was prepared by Intersect Traffic related to the combined traffic from the proposed development and the two (2) additional separately proposed BESS projects for the site.

  The Traffic Impact Assessment submitted that the combined construction traffic from the three (3) facilities. Key findings from the Traffic Impact Assessment have been referenced below:

  - *The development during construction of the Project will generate up to an additional 26 vehicle movements to and from the site during the weekday AM and PM peak periods but only 2 vtph during the operation of the Project. Construction of the BESS site is expected to take a total of 11 weeks.*
  - *The existing peak hour traffic volumes on the state road network (New England Highway) are below the minimum two-way mid-block capacity threshold of 1,480 vtph for the New England Highway. Traffic volumes on the New England Highway will remain below these thresholds during the construction and operation of the Project therefore the Project will not adversely impact on mid-block traffic flows on the New England Highway.*
  - *Sidra Intersection modelling has demonstrated the site access off the New England Highway will operate satisfactorily during construction and operation of the Project.*
  - *Therefore, the additional construction and operational traffic generated by this development will not adversely impact on the safety, efficiency, or effectiveness of the local and state road network.*
  - *The existing site access is suitable for use for the construction and operation of the Project as it is compliant with Australian Standard and Austroads requirements for the state road environment.*
  - *There is sufficient area on-site to accommodate the expected peak parking demand generated by the construction stage of the Project with the provision of a temporary on-site car parking area for at least 5 spaces.*
  - *The Project will not generate any increase in public transport demand therefore no nexus exists for the provision of new services or improved infrastructure resulting from the Project. Similarly, the Project will not generate any additional pedestrian or bicycle traffic therefore no nexus exists for the provision of additional pedestrian paths or cycle ways near the site.*

  The Traffic Impact Assessment was reviewed by Council Roads and Drainage Engineers who indicated that they were satisfied with this technical study and that the

application may be supported without requirement of additional access improvements or off-street parking.

The proposed development was not referred to Transport for NSW (TfNSW) as the development was proposing to utilitise the existing access to the New England Highway. Development Application 57/2023 was referred to Transport for NSW and conditions included in the determination.

Having regard to the TIA findings and advice from Council Engineers, the Assessing Officer is satisfied that the proposed development may proceed from a traffic and parking perspective without requirement for any upgrade work to the New England Highway site access or construction of formalised off-street parking.

- **Utilities** – the applicant has submitted that the proposed development does not require any utility service connections outside of a connection to the electricity grid. Council has consulted with AUSGRID (energy supply authority) through the assessment of the application – additional related commentary is included under the referrals heading of this report. The applicant has included AUSGRID certified plans which confirms an opportunity for the proposed facility to be connected to the energy grid. The grid connection infrastructure has not been put forward as part of the scope of this project. The applicant has advised that the underground grid connection is to be constructed as development permitted without consent under Section 2.44 of the State Environmental Planning Policy (Transport and Infrastructure) 2021.

  Related to other potential servicing needs the applicant has not proposed a water supply or on-site toilet to support operation staff. Noting that the facility once operational would require no more than 1-2 staff visits a month Council Officers have not raised objection to the progression of the development without service amenities.

  Water would be required at the site to fill the on-site firefighting detention and likely for periodic plant watering. With no connection point to reticulated water would need to be sourced (most likely by being carted to the site). Where water is supplied through this method the periodic carting of water is not anticipated to significantly alter traffic attached to the proposed development and have an impact outside of that anticipated by the Traffic Impact Assessment.

  Council Officers are satisfied that proposed development has access to suitable utility services to support its operation.

- **Heritage** – the subject site does not comprise a heritage item and is not located within a heritage conservation area.

  The subject site is considered unlikely to contain items of aboriginal cultural significance not previously identified and which may be disturbed through the carrying out of works. Related to this point Council Officers note:
  - An Aboriginal Heritage Information Management System (AHIMS) database search was carried out in relation to the subject site which recorded the results of which indicated no aboriginal sites or declared paces on or near the subject site.
  - The site has been previously disturbed and cleared of established vegetation related to previous agricultural use of the land.
  - A Notice of the development application was forwarded to the Wanaruah Local Aboriginal Land Council in line with Council notification practices. No objection was received in relation to the proposal or its potential to affect significant local aboriginal sites.

In view of the above, Council Officers are satisfied that the proposed development would not have an impact on items of heritage significance or affect any known aboriginal site. There is a low likelihood that previously unidentified relics are located within the subject site and may proceed from a heritage impact perspective. A standard condition of consent is recommended to remind the applicant of their legislated obligations in the event of an archaeology finds during the carrying out of works.

- **Flora and fauna impacts** – an ecological assessment was prepared by Wildthing Environmental Consulting in relation to this project and the additional battery project proposed at the site under separate applications (DA140/2023 and DA 2023/57).

  This report had regard to legislation informing the assessment of ecological impacts including the Biodiversity Conservation Act 2016.

  The assessment identified that the proposed development did not meet any of the criteria under the Biodiversity Conservation Act 2016 under required a Biodiversity Development Assessment Report. The Ecological Assessment has supported the proposal from an ecological perspective. The conclusions of this report have been referenced below for the panel's information.

  > *In conclusion, installing a Battery Energy Storage System (BESS) and associated infrastructure and Bushfire requirements at 981 New England Highway, Aberdeen will result in an incremental reduction of remnant habitat, within the subject land and local area, however, is unlikely to have a significant impact on any addressed threatened species, endangered populations or threatened ecological communities considered within this report.*

  In view of the findings of the related ecological assessment, the proposed plans and inspections of the site by Council Officers which confirmed an absence of any notable vegetation Council Officers are satisfied that the proposed development may proceed from an ecological perspective.

- **Noise and vibration** – A Noise Impact Assessment was prepared by Mott McDonald in relation to the project.

  The modelling undertaken with the Noise Impact Assessment identified that the project required acoustic treatments to mitigate noise and ensure the project did not exceed noise trigger levels identified for the project applying the NSW EPA's Noise Policy for Industry guideline. It should also be noted that the noise assessment gave the project a 5db(A) penalty in its modelling to factor in an additional degree safeguarding related to the tonality (rather than the actual noise volume) of the system and perception that the low tonal mechanical noise to have 'annoying' characteristics.

  The Assessment presented two modelling / design scenarios:
  1. A scenario where acoustic fencing was applied to the development, and
  2. A scenario where acoustic fencing was applied in addition to acoustic treatments to BESS battery containers and PCS Inverter Container.

  The modelling undertaken suggested scenario 2 was required to achieve compliance with Noise Policy for Industry guideline. In response to these findings the applicant has proposed an acoustic barrier fence in line with the related Noise Impact Assessment recommendations. The acoustic consultant put forward a range of possible solutions to alter the acoustic plant in a manner that would achieve compliance with the modelled scenario and noise guideline in Section 5.3 of that report. The report is included as an Attachment to this Section 4.15 assessment.

  While a number of possible measures to alter the plant to manage noise were put forward, a final related design was not provided to Council. Reasoning as to why that

detailed information was not prepared at a DA stage is discussed in Section 5.5 of the acoustic assessment. The reasoning largely relates to the need to consider other technical design aspects of the plant including fire safety when finalising alterations. The report also acknowledges that there may be alternate design measures to those put forward in Section 5.3 that could also achieve a suitable noise control outcome for the development.

Having regard to this report and its conclusions Council Officer's are of the view that the proposed development may progress from a noise impact perspective where a combination of acoustic fencing and acoustic treatments to the plant are incorporated into the proposed development.

After having regard to the plant's acoustic treatment options and recognising that other technical matters will inform the final design implemented, Council Officers have not objected to the submission of the detail design at the Construction Stage which is in line with the report's conclusions. Conditions have been included in the draft conditions for the Panel's consideration and possible implementation where the application is determined by approval.

- **Lighting/illumination** – the applicant has provided a 'Proposed Lighting Requirement" document which outlines the lighting requirements for the development

  This report states that the battery will be lit permanently during the night by low-level lighting with additional soft white lights for security and maintenance which can be switched of.

  The colour and temperature of lights is proposed to be 4000K with all lights installed mounted on the BESS and PCS and will be facing downward**.** Where lighting is installed in such a manner light spill would be minimised and unlikely to be at nuisance levels.

  Council Officers are satisfied that the proposed development may proceed from a lighting perspective subject to related recommended conditions of consent to ensure lighting it is installed in accordance with appropriate Australian Standards and industry best practice.

- **Natural hazards** – natural hazards have been considered through the assessment of the proposed development. Council Officers are satisfied that there are no site specific hazards which restrict the carrying out of the development.

  The site is located within a Mine Subsidence district and Council referred the application to the NSW Subsidence Advisory. A response was received on 2 April 2024 which advised that the site is an unrestricted Guideline 8 and Subsidence Advisory approval is not required.

  The site is also located in an area identified as Bushfire Prone and a Bushfire Threat Assessment was submitted. Council officers referred to application the NSW Rural Fire Service for advisory comment. This referral advised that the application may be supported from a bushfire safety perspective and provided recommended conditions of consent.

- **Technological Hazards** –

  <u>Hazardous Materials & Fire Safety</u>
  Potential technological hazards attached to the operation of the proposed facility have been considered in hazard assessment documentation prepared by Riskon

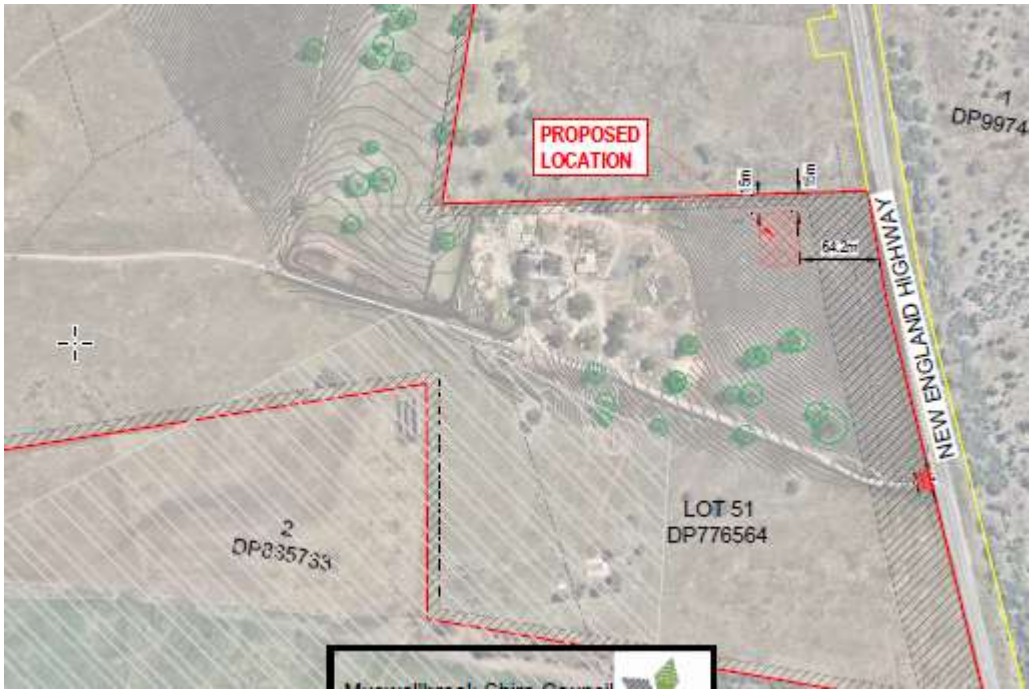
Engineering. A risk screening document prepared in relation to the proposed development identified that the proposed development did not comprise a type of potentially hazardous development requiring further consideration of technological hazards in line with related provisions within the SEPP (Resilience and Hazards).

While the proposal was not identified to comprise a potentially hazardous development a Fire Incident Management Plan was prepared in relation to the proposal in line with provisions of Hazardous Industry Planning Advisory Papers owning to specific risk issues attached to battery fires. The conclusions of this report are included below:

> *A Fire Incident Management Plan per the HIPAP No. 2 guidelines was prepared for the site. The analysis performed in the FIMP was based on credible fire scenarios to assess whether the protection measures at the site were adequate to combat the hazards associated with the quantities and types of commodities being stored. Based on the assessment, it was concluded that the proposed designs in conjunction with existing fire protection adequately manage the risks.*

- **Social and Economic Impact** – Owning to the limited operational workforce it is perceived that there would be limited local economic opportunity related to the siting of the development in Muswellbrook Shire LGA. While Council's Assessing Officer perceives the proposal wouldn't have significant local social or economic outcomes it is recognised that the proposed facility would contribute in a modest way to modernising and decarbonising of the energy grid which is an undertaking of significant social and economic importance at a State and National level.

- **Cumulative impacts** – two (2) additional electricity generating battery systems have been proposed at the same site under the separate applications referenced below:
    - **DA 2023/57** – this battery system has been approved by the Hunter and Central Coast Regional Planning Panel this application. The application involved a battery compound comparable to that proposed under this application including 12 battery modules. This battery was approved at a part of the site physically separate from the location of this proposed development. The Construction of the approved development is yet to commence at the site. An image indicating the location of the battery system approved under DA 2023/57 is included below.



- **DA 2023/140 –** this battery system remains under assessment and is being reported to the Hunter and Central Coast Regional Planning Panel concurrently with this application. The battery system proposed under this application is comparable to that proposed under this application including 12 battery modules. The battery system is proposed on the land immediately adjacent to this development application and where approved the battery facility proposed under this application and DA 2023/140 would be incorporated into a single fenced and landscaped compound. An image identifying the location of the battery system proposed under DA 2023/140 is included below.

In assessing this development application Council Officers have explored potential cumulative impacts attached to a scenario where this DA is approved on the land alongside the batteries proposed and described under DA 2023/57 and DA 2023/140. Potential cumulative impacts attached to the approval of the three battery systems at the site have been explored under the sub-headings below.

Cumulative Traffic considerations – the traffic impact assessment prepared in relation to the proposed development has regard to the cumulative traffic of each of the three (3) proposed battery systems at the site. The outcomes of the Traffic Impact Assessment are examined in greater detail under the access and traffic likely environment sub-heading of this report. Informed by the Traffic Impact Assessment Council Officers are satisfied that traffic when considered in context with these additional projects would not have a significant adverse impact.

Cumulative Ecological considerations – the ecological assessment submitted with this development has had regard to ecological considerations attached to the three (3) proposed battery systems at the site. This report concludes that the combined projects may be supported from an ecological impact perspective. Additional commentary related to ecological considerations is provided under the flora and fauna likely environmental impact sub-heading.

Cumulative Hazard and Safety – the risk screening assessment submitted with this development application includes a consideration of the projects cumulatively in context with the relevant risk screening thresholds for potentially hazardous development. Related to this item of consideration the report concludes.

'In addition, the cumulative impacts were assessed considering the adjacent BESS developments which indicated the combined dischage capacity would remain below the threshold and that additional assessment based on cumulative impacts would not be required.
As the facility is not classified as potentially hazardous or offensive, it is not necessary to prepare a Preliminary Hazard Analysis for the facility as Chapter 3 of SEPP (Reslience and Hazards) does not apply'.

Council Officers are satisfied that when considered in conjunction with the additional battery projects the proposed development would not exceed a hazard threshold that would differently inform the assessment of the application against the provisions of SEPP (Resilience and Hazards) 2021.

Cumulative visual Impact – visual impacts attached to the proposed development are commented on in depth under the Context and Setting sub-heading of this report. Owning to the size and scale of the proposed development visual impacts attached to the proposal are anticipated to be modest and would be further mitigated through the implantation of the related landscape plan.

From a cumulative perspective the proposed development would be physically separated from the battery approved under DA 2023/57, while the battery proposed under DA 2023/140 would visually appear to form part of a single battery compound reducing its overall apparent scale and impact. Council Officers do not have any reservation with the cumulative impact of the development in context with these additional site battery projects.

Cumulative noise Impact – The Noise Impact Assessment submitted in relation to the development application gives consideration to potential cumulative noise emissions from all three battery projects proposed at the subject site. This is directly referenced in the scoping and conclusions section of this report. The advice provided the report is supportive of the proposed development subject to the recommended mitigation measures. Further related commentary is provided under the Noise and vibration sub-heading of this assessment report.

Cumulative Impact Summary Comment – informed by the above Council Officers are satisfied that potential cumulative impacts related to the batteries proposed under DA 2023/57 and DA 2023/140 at the site related to traffic, ecology, safety/risk, visual impact and noise impact have been appropriately considered in the assessment of this development application. Accordingly, Council Officers are satisfied that the combined projects in a scenario where all three are granted development consent would not have any significant adverse environmental impact.

- **Decommissioning** – a decommissioning plan has been put forward which indicates works involved to decommission the facility and restore the site at the conclusion of the project. This plan provides a general overview of decommissioning and the return of the site to an open grassed area.

  No objection is raised to the direction of the decommissioning strategy. It is also acknowledged that the strategies and technologies currently in place around site decommissioning and likely battery recycling may significantly change between now and the date of the projects conclusion. This being the case, Council Officers have had an interest ensuring the decommissioning strategy remains in line with industry best practice and promotes material recycling wherever possible. A related condition of consent has been put forward which has been informed by conditions imposed by the Panel its determination of comparable battery applications in Muswellbrook Shire LGA.

- **Construction** – construction of the proposed facility is not anticipated to have significant environmental impacts. Construction would be subject to conditions requiring works to occur during daylight hours.

  The construction of these facility would occur over an expected 11 week period. Anticipated workforce for the construction of the facility combined with the two (2) additional facilities put forward in relation to the site would be 26 individuals. Construction traffic estimates have been included in the Traffic Impact Assessment for the combined projects. This modelling anticipates an additional 26 vehicle movements to and from the site in peak am and pm periods through the 11 week period. Modelling undertaken and the conclusions of the Traffic Impact Assessment referenced under the access and traffic sub-heading above indicate that the site intersection has capacity to operate successfully during the construction period.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

3.3 Section 4.15(1)(c) - Suitability of the site

Council Officers are satisfied that the site characteristics are conducive to the proposed development. In forming this view Council Officers have observed:

- The proposed development is permissible with consent at the subject site and RU1 Primary Production land use zone through the provisions of the SEPP (Transport and Infrastructure) 2021.
- The subject site is identified as bushfire prone. The provisions of Planning for Bushfire Protection 2019 have been considered through this assessment and related comments provided by NSW RFS confirming that the proposed development may proceed from a bushfire safety perspective.
- A Nosie Impact Assessment was carried out in relation to the proposed development which was supportive of the proposal progressing from acoustic impact perspective subject to related noise attenuation measures.
- AUSGRID have been consulted through the assessment of the development application and related design details are advanced related to the connection of the proposal to the energy grid.
- Landscaping has been incorporated into the proposed development to enhance the appearance of the proposed development and manage its visual impact on the existing landscape.

3.4 Section 4.15(1)(d) - Public Submissions

The proposed development was publicly notified in line with the requirements of Council's Community Participation Plan. Public notification through Council's website, Facebook and the written notification of adjoining land owners between 20 March 2024 and 15 April 2024.

No submissions were received during this notification.

3.5 Section 4.15(1)(e) - Public interest

The proposed development is compatible with the public interest. The proposed development would:

- Support the energy grid and the renewable energy transition.
- Comply with the relevant local assessment provisions established by the Muswellbrook LEP 2009 and Muswellbrook DCP 2009.

- Be carried out in a manner that is unlikely to result in any significant adverse environmental impacts.
- Create economic activity related to the battery storage offered to the energy grid, the construction of the development and its operational maintenance.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 3: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			**NA**
Referral/Consultation Agencies			
NSW Rural Fire Service	S4.14 – EP&A Act Development on bushfire prone land	An advisory referral was sent to NSW RFS on 28 March 2024. NSW RFS raised no objection to the proposed development and include recommended conditions to be included in the determination.	Y
Electricity supply authority	Section 2.48 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* Development near electrical infrastructure	The proposed development was referred to AUSGRID on 2 April 2024 as the electricity supply authority relevant to the Muswellbrook LGA. In correspondence dated 17 April 2024 AUSGRID provided correspondence which raised no objection to the application and recommended a number of conditions to be included in the determination.	Y
Upper Hunter Shire Council	The proposed development directly adjoins the boundary with a neighbouring Local Government Area, Upper Hunter Shire Council. Accordingly the application was referred to the Upper Hunter Shire Council for comment.	The proposed development was notified to Upper Hunter Shire Council. No response was received to this referral. Upper Hunter Shire Council previously raised comments related to DA 2023/57 which informed the assessment of that	Y

		application. The outcomes of this assessment have informed the design of this proposal.	
Integrated Development (S 4.46 of the EP&A Act)			
NSW Subsidence Advisory	S22 of the Coal Mine Subsidence Compensation Act 2017 – the site proposed for development is located within a mine subsidence district. The proposed development was referred to NSW Subsidence Advisory as the regulatory authority for that legislation to consider.	NSW Subsidence Advisory advised in correspondence dated 3 April 2024 that the development is considered to be exempt under their Guideline 8 approval document. Accordingly, the proposed development is not integrated development and may proceed under the Coal Mine Subsidence Act 2017.	Y

4.2 Council Officer Referrals

The development application were not referred to Council officers for technical review as their comments are the same as what was provided for DA 57/2023. The comments received for DA 57/2023 are outlined in **Table 6.**

Table 4: Consideration of Council Referrals

Officer	Comments	Resolved
Community Infrastructure (Roads and Drainage)	The proposed development was referred to Council Roads and Drainage Engineers. Council Engineers provided comments related to the updated proposal dated 15 March 2024. These comments made no objection to the proposal and put forward recommendations considered below and related comments regarding their consideration: 1. Driveway to be constructed to a standard to suit heavy vehicles. Planning comment: related conditions have been put forward to ensure that the internal driveway access (that is not pre-existing) is appropriately constructed, sealed and maintained. 2. All driveways to be covered by easements. Planning comment: all driveways will be located on the same property as the proposed battery. The part of the site containing the battery will not be subdivided into separate ownership and thereby no easements are required to maintain the facilities use of the site access. 3. Stormwater swale drains to be fully grassed to prevent erosion.	Y

	Planning comment: a related condition of consent has been included in the draft conditions of consent for the Panels consideration. 4. Overland flow which may erode the driveway are to be controlled of table drain arrangements. Planning comment: related conditions have been put forward around the construction and ongoing management of the site access. 5. Prior to construction on road reserve the applicant is to adhere to Road Occupancy License and S138 permit requirements. Planning comment: the proposed development does not involve any additional work on the New England Highway road reserve. Accordingly, no recommended conditions have been put forward requiring a ROL or S138 permit.	
Environmental Planning Officer	The proposed development was referred to Council's Environmental Planning Officer, a key aspect of the role of this position is to review and provide advice from Council to State Significant Development Projects and ongoing mining and energy generating projects within the Muswellbrook Shire LGA. Council's Environmental Planning Officer did not raise any objection to the project as amended advice which assisted in the drafting of conditions of consent.	Y

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan.

The application was initially notified between 20 March and 15 April 2024.

No public submissions were received during either notification period.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

In forming this view Council Officers note:

- The proposed development is permissible with consent under the provisions of the State Environmental Planning Policy (Transport and Infrastructure) 2021, which take precedence over related conflicting provisions in the Muswellbrook LEP 2009 land use table.
- The proposed development would be in accordance with all other relevant provisions of the Muswellbrook LEP 2009.

- The proposed development would be compatible with the requirements of relevant SEPPs.
- The proposed development would be compatible with the provisions of the Muswellbrook DCP.
- An Acoustic Impact Assessment has been prepared in relation to the proposed development which identifies that the proposal may be supported from an acoustic impact perspective subject to recommended mitigation measures including acoustic fencing.
- A Traffic Impact Assessment has been submitted and reviewed by Council Officers, it is considered that the proposal may be supported from a traffic impact and management perspective.
- A landscape plan has been prepared to screen the proposed development. This landscape plan has been informed by a visual impact analysis. Council Officers are satisfied that the landscaping proposed would provide suitable visual relief and that the proposal may be supported from a visual impact perspective.
- A risk screening analysis has been undertaken in relation to the proposed development to consider potential hazards related to the proposal. Council Officers have reviewed potential hazards and are satisfied that the proposal may be supported from a safety management perspective subject to related recommended conditions.
- Potential cumulative impacts attached to the approval of the proposed battery system at a site where two (2) additional battery systems have been proposed has been considered through the assessment of this development application. Technical information and studies submitted informing this development application have regard to a scenario where all three (3) battery energy systems are approved at the site. Council Officers are satisfied that where approved alongside the battery system approved under DA 2023/57 and proposed under DA 2023/140 the combined projects would not give rise to any significant adverse environmental outcomes.

6. RECOMMENDATION

That the Development Application DA No 2023/139 for a battery energy storage system (electricity generating works) at Lot 51 DP 776564, 981 New England Highway, Aberdeen be approved pursuant to Section 4.16(1)(a) or (b) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent included as Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent
- Attachment B: Proposed Plans
- Attachment C: Proposed Plans Detailed Compound Layout
- Attachment D: Landscape Plans
- Attachment E: Acoustic Assessment
- Attachment F: Traffic Impact Assessment
- Attachment G: Risk Screening Assessment
- Attachment H: Fire Incident Management Plan