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| **DRAFT CONDITIONS OF CONSENT**  **APPLICANT REVIEW CONTENTIONS 16 JULY 2025** | |
| **Terms and Reasons for Conditions**  Under section 88(1)(c) of the *Environmental Planning and Assessment Regulation 2021* the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below. | |
| Part A  **Deferred Commencement** | |
| **This consent does not operate until Yass Valley Council (Council) is satisfied as to the matters in Conditions 1-4 in Part A.**  **No use of the site or work is to physically commence in respect of the development until such time as Council has notified the applicant in writing that these conditions have been satisfied and the date from which this consent operates.**  **The period within which the applicant is to produce evidence to the Council sufficient enough to enable it to be satisfied as to the submission and approval of the information required by Conditions 1-4 in Part A is two (2) years from the date of determination of the development application to which this consent relates.  If the required information is not provided within this period the consent will lapse.** | |
|  | **Colours and finishes - battery containers and medium voltage power station**  Details of colours and finishes for the BESS infrastructure are to be submitted to Council and must be:   * Compatible and sympathetic to the surrounding development * Non-reflective * Such that supports reducing the visual presence within the landscape   White will not be approved.  ***Reason: To ensure that colours and finishes are appropriate to minimise visual presence and impacts within the landscape to protect the character of the area***  **Applicant:**  Suggest rewording this to remove ‘white will not be approved’ and to require submitted details to be approved by Council.  This would avoid subjectivity surrounding what classification of colours as ‘white’ and provide flexibility to ensure that final details (any other colours selected) seek to reduce the potential for visual impacts.  For example:  Colours and finishes - battery containers and medium voltage power station  Details of colours and finishes for the BESS infrastructure are to be submitted to Council and must be:   * Compatible and sympathetic to the surrounding development * Non-reflective * Such that supports reducing the visual presence within the landscape * Details of colours, finishes and construction/acoustic materials must be provided to the satisfaction of Council.   Reason: To ensure that colours and finishes are appropriate to minimise visual presence and impacts within the landscape to protect the character of the area.”  **Council Response:**  White is not considered to be preferred from a landscape perspective, and visual impact would be more appropriately mitigated through colours which are darker than white or blend more sympathetically with the background environment. Preference for the condition remain to clarify that white is not acceptable. |
|  | **Colours, finishes and construction/acoustic materials – acoustic barrier**  Details of colours, finishes and construction/acoustic materials for the acoustic barrier are to be submitted to Council and must be:   * Compatible and sympathetic to the surrounding development * Non-reflective * Such that supports reducing the visual presence within the landscape * In accordance with the recommendations of the acoustic report (v5) prepared by WastonMossGrowcott dated 16 April 2025. Verification is to be provided from an appropriately qualified and experienced acoustic consultant that materials meet the recommendations. * Bushfire Attack Level (BAL) 40 * Is to present with a ‘finished’ surface on both sides of the acoustic barrier   White will not be approved.  ***Reason: To ensure that colours and finishes are appropriate to minimise visual presence and impacts within the landscape to protect the character of the area, and the ensure that the acoustic barrier meets the acoustic attenuation recommendations of the approved acoustic report***  **Applicant:**  As per above condition suggest this be reworded to require Council approval of Colours, finishes and construction/acoustic materials.  **Council Response:**  As per above. |
|  | **Revised final landscape plan**  A revised final landscape plan prepared by a suitably qualified and experienced person (e.g. landscape architect) is to be submitted to Council for approval and is to replace the use of ‘hiko’ or ‘tube’ size pots for plantings with more mature plantings in larger pot sizes. As appropriate, a mix of pot sizes may be used in a staggered manner where it assists with achieving objective of screening in a timely manner.  A statement detailing how pot size selection has been determined suitable, and the estimated time frame for landscaping to reach a screening height is to be provided.  Species selections are to be those which are endemic to the Murrumbateman area.  ***Reason: To ensure that landscaping is appropriate to screen the proposed development, and that the pot sizes are suitable to achieve this in a timely manner***  **Applicant:**  This logic is counter to conventional wisdom with landscaping, which is that tube stock establishes better and has a better success rate than mature plantings. Planting mature plants has the potential to increase the likelihood of plantings failing. Tube stock may present a better solution to establishing effective landscaping and screening.  Suggest that this condition be reworded to require preparation of a revised final landscape plan prepared by a suitably qualified and experienced person for council approval.  To address concerns regarding establishment of screening Council may considered rewording the condition to require a justification on the selection of pot sizes and plants to be submitted with the revised landscape plan.  **Council Response:**  Applicant’s comments are noted, and it is also accepted that generally tube stock may have greater success rate than mature plantings. However, in this instance for the reasons detailed in the assessment report, it is considered that the establishment of the vegetation screening in a timely manner is important. It is noted that planting failures can be replaced. The condition could be amended as follows if the Panel considered appropriate:  ***Revised final landscape plan***  *A revised final landscape plan prepared by a suitably qualified and experienced person (e.g. landscape architect) is to be submitted to Council for approval. The use of ‘hiko’ or ‘tube’ size pots should generally be replaced with plantings for those which are more mature in larger pot sizes. However, a mix of pot sizes including ‘hiko’ or ‘tube’ size pots may be used in a staggered manner where overall landscaping proposed achieves objective of screening in a timely manner.*  *A statement detailing how pot size selection has been determined suitable, and the estimated time frame for landscaping to reach a screening height is to be provided.*  *Species selections are to be those which are endemic to the Murrumbateman area.*  ***Reason: To ensure that landscaping is appropriate to screen the proposed development, and that the pot sizes are suitable to achieve this in a timely manner*** |
| **General Conditions** | |
| **12.** | **Operational lifespan**  This development consent remains active for a maximum of 40 years from the date of issue of any occupation certificate.  Within 12 months of the development ceasing operation, it must be decommissioned as per the decommissioning strategy.  Note: This condition does not prevent the applicant from seeking to lodge a separate development application or application seeking to modify this consent to increase the operational lifespan.  ***Reason: To ensure the duration of the proposed development remains in accordance with the assessment of the submitted application and the development does not prejudice the future orderly development of land***  **Applicant Response:**  This condition appears to relate operational lifespan, lapsing of the consent and decommissioning. It may be best to provide separate condition for these.  **Council Response:**  Title of condition changed from ‘consent expiry’ to ‘operational lifespan’ as suggested by the applicant. Added note as requested by the applicant.  There is a separate condition for decommissioning below in Part G.  A separate condition relating to consent lapsing (i.e. for the purposes of Section 4.53 of the Act) is not necessary as this framework is already provided for outside of any consent conditions. |
| Part E  **During Building Work** | |
| **Construction** | |
| **59.** | **Hours of work**  Site work must only be carried out between the following times:   * Monday to Friday, 7.00am to 5.00pm * Saturday, 8.00am to 1.00pm * Sunday or Public Holiday, no site work to be carried out   Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.  ***Reason: To protect the amenity of the surrounding area***  **Applicant:**  Suggested Council Consider rewording to:  *Site works must only be carried out between:*   * *Monday to Friday, 7.00am to 5.00pm* * *Saturday, 8.00am to 1.00pm* * *Sunday or Public Holiday, no site work to be carried out*   *Site work is not to be carried out outside of these times unless otherwise agreed or approved by Council.*  ***Reason: To protect the amenity of the surrounding area.***  **Council Response:**  Not accepted and not considered that change necessary. Wording of draft condition is consistent with the NSW Standard Condition ‘Hours of Work’. |
| Part G  **Occupation and ongoing use** | |
| **82.** | **Acoustic report and noise management**  Construction and operation of the development must comply with the recommendations of Acoustic Report prepared by acoustic report (v5) prepared by WastonMossGrowcott dated 16 April 2025.  A suitably qualified acoustic consultant is required to verify that the adopted amenity criteria is being achieved at the following times:   * Prior to the issue of any occupation certificate. * At three months of operation and every 12 months thereafter for the life of the development. * Within 21 days of any time requested by Council.   Any acoustic treatment must be maintained for the life of the development.  ***Reason: To ensure that development is carried out in accordance with specific recommendations of the acoustic report for noise management, and that this continues to be achieved for the development.***  **Applicant Response:**  Requested that the monitoring during operation be changed from every 12 months to every five years during the life of the development.  **Council Response:**  The Acoustic Report has indicated that the noise impact to nearby sensitive receivers can meet project trigger noise levels, subject to mitigation with the acoustic barrier. It is noted however that the levels remain close to the project trigger noise levels. There remains some concern with the deterioration of plant equipment over time (i.e. increasing output noise levels) and whether this has potential exceed project trigger noise levels if remained unchecked. The site is not in an unconstrained environment noting there are the sensitive receivers nearby and it being within a rural lifestyle setting. In this regard, continued attention to noise monitoring is considered important.  Preference is for the condition to remain for every 12 months. There would be no objection however for it being changed to every 24 months if the SRPP considered this appropriate. |
| **87.** | **Decommissioning and rehabilitation**  Within three (3) years of the issue of any occupation certificate, a detailed decommissioning strategy for the development must be prepared and submitted to Council. The strategy is to be updated and submitted to Council at years 10, 20, 30, and within in two (2) years prior to the decommissioning (end-of-life).  The decommissioning strategy must describe in detail the measures that would be implemented to:  Decommission the development and rehabilitate the site.  Minimise and management of the waste generated by the decommissioning of the development.  Include a program to monitor and report on the implementation of these measures.  Ensure that best practice is being employed in respect to available recycling technologies and in accordance with legislative requirements.  Within 12 months of the development ceasing operation it must be decommissioned as per the decommissioning strategy.  ***Reason: To ensure that appropriate investigations are completed for end-of-life and to ensure the site is decommissioned and free of contamination and in a state to support future use.***  **Applicant:**  Concern that at three years from commissioning is too early, with other Council’s usually asking for the decommissioning plan at two years before the decommissioning works.  **Council Response:**  No objection to changing three years to 10 years for the preparation of the decommissioning strategy and this is considered to generally achieve the intent. However, it is noted that the condition as drafted was based on a decision by the Hunter and Central Coast Regional Planning Panel in relation to [PPSHCC-233](https://www.planningportal.nsw.gov.au/planning-panel/battery-energy-storage-system-bess-and-associated-works) where they had requested it be prepared at three years. |