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Please refer enquiries to:

18 November 2024

Ms Nicole Brewer
Director, Energy Assessments
Planning and Assessment
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Via email to: nicole.brewer@planning.nsw.gov.au

Dear Nicole,

Submission in Response to the EIS on the Proposed Liverpool Range Quarry (SSD-68063715) (Proponent: ARDG Deans Quarry Pty Limited)

Thank you for providing the opportunity for Warrumbungle Shire Council ('WSC') to review and provide feedback on the EIS for the abovementioned Quarry Project proposed to be located within Upper Hunter Shire which, however, will also substantially impact Warrumbungle LGA.

1. Project Overview

It is noted that, according to the EIS, the purpose of the proposed quarry is to supply hard rock products solely for the construction, operation and maintenance of the Liverpool Range Wind Farm (LRWF) Project (SSD-6696) Modification 1 which was approved by the Department on 23rd October 2024.

Council notes that as the LRWF MOD-1 was only determined after the Quarry Project EIS was publicly exhibited, then the Quarry Project could not possibly have fully assessed all the wind farm's impacts. A key pillar of the Quarry Project EIS is that most of its impacts have already been mitigated under the LRWF MOD-1 project. A Response to Submissions report is now required from the Quarry Project proponent, to reconcile the LRWF consent conditions with its own (contemplated, anticipatory) assertions about how those consent conditions (would likely) deal with its specific impacts. Key among those impacts include roads matters discussed below.

It is understood the Quarry Project would involve, inter alia:

- a) construction of a site access road off Rotherwood Road;
- b) extraction, processing and transportation of up to 700,000 tonnes per annum of hard rock quarry products (from a total resource of

- approximately 2 million tonnes) to supply the Liverpool Range Wind Farm Project ('LRWF') during its construction phase;
- c) only supplying aggregate to LRWF and nowhere else;
 - d) a maximum project life of four years and then will be closed and rehabilitated; and
 - e) rehabilitation of the site following quarry closure after four years of operation.

2. General Comments

2.1 Cumulative impacts

There are some 11 renewable energy projects (proposed/actual) located wholly or in part in Warrumbungle LGA. Within or just outside the boundary of the CWO REZ there are some 40 proposed/ actual renewable energy projects.

Whilst WSC is generally supportive of renewable energy initiatives, the likely scope and extent of cumulative impacts arising from all these proposed or actual projects remains poorly assessed.

Inadequate action has been taken by the NSW Government to identify, quantify and compensate for the cumulative adverse environmental, social and economic impacts arising from REZ-related activities. Meanwhile, the locals who live in the REZ are having to bear these costs.

The lack of meaningful detail on cumulative impacts and how they will be remedied by the NSW Government and the developers means WSC is not in a position to make an informed, merit-based judgement as to the relative costs and benefits of the proposed Quarry Project.

WSC calls on the NSW Government to ensure its agencies and the proponent address how the proposal-specific impacts relate in the context of the overall cumulative impacts across both the Shire and the CWO REZ more broadly.

Key project-related matters of material interest to WSC include:

- a) The impact of increased traffic on Shire roads – including light and heavy – and ongoing consequential road maintenance costs;
- b) The environmental, social and economic costs (who bears them?) and benefits (for whom?) as they relate to the Warrumbungle Shire; and
- c) Securing a Planning Agreement with the proponent.

The various concerns are outlined in this submission. It is because of these unresolved and significant matters that WSC hereby lodges an objection to the Proposal. The prospect of WSC subsequently reviewing its objection is dependent on whether the Proponent and DPHI actively and substantively engages with WSC to address, to WSC's written satisfaction, the concerns listed.

The residents, ratepayers and community groupings in the Shire require WSC to be satisfied that the environmental, social and economic assets and attributes of the Warrumbungle LGA in general, and the local communities, towns and rural districts in particular, will be safeguarded and their future wellbeing enhanced.

2.2 Risk of inappropriate manipulation of the NSW planning assessment and determination process

WSC considers that there is opaqueness and a lack of transparency regarding the relationship of the Quarry Project and the LRWF and that that lack of clarity raises serious questions about the designation of each when it comes to the assessment designation of each (SSD and Modification) respectively.

The matters at hand are outlined below.

a) *Who really is the proponent of the Quarry Project?*

WSC has been advised by Tilt Renewables, the proponent of the LRWF, that:

- i. In early 2023 it was advised by DPHI that the quarry was to be part of the LRWF Modification application;
- ii. At the end of 2023 it was advised by DPHI that the quarry was NOT to be part of the LRWF Mod;
- iii. It (Tilt) is bankrolling the costs associated with the impact assessment process for the Quarry Project being promoted by Australian Resource Development Group Deans Quarry Pty Ltd; and
- iv. That **all** the quarry products are to be used on the LRWF project and nowhere else, over a four-year period coinciding with the construction of the LRWF, and then the quarry is to be closed.

Also, of key relevance to note, there is nothing stated or inferred in the LRWF planning agreement as recently negotiated by WSC on the Modification that suggests a planning agreement will not be sought for the Quarry Project.

The Quarry Project EIS further reinforces the messaging that Tilt Renewables (LRWF) is, in effect, in the 'driver's seat' in relation to the quarry activities, by stating as follows:

Page 94: ***"As the Project is solely for the purpose of supplying the LRWF project construction activities, any mitigation necessary to manage impacts of quarry haulage and light vehicle traffic on Council road assets would be undertaken by the LRWF project, in accordance with Development Consent SSD 6696 (as modified)."***

Page 94: ***"Potential traffic and transport impacts will be mitigated and managed through appropriate intersection design and compliance with the LRWF Traffic Management Plan (TMP)."***

Page 94-95: ***"Haulage of quarry products from the access road gate will be managed by Tilt subject to the requirements of the LRWF project development consent which include these haulage constraints."***

In considering the above information sourced from the Quarry Project EIS, WSC submits a reasonable person could reasonably believe that Tilt Renewables is, to all intents and purposes, the proponent - real or de facto - for the Quarry Project.

Based on the evidence outlined above, WSC reasonably believes that, at law, this is in fact a de facto development activity that is fairly and squarely an integral component of the LRWF - yet to be built - and thus should be assessed and determined as such, with Tilt Renewables being the proponent, and not having the development promoted via a third party as a separate SSD.

WSC looks forward to dialogue with DPHI on this matter.

b) *The Quarry Project is an SSD in its own right therefore WSC requires a Planning Agreement prior to any contemplation of consent being issued*

The Minutes of the LRWF Community Consultative Committee Meeting held on 27 August 2024 (CCC) state that **Mr Stafford from Tilt Renewables “advised the quarry is a stand-alone State Significant Development and will operate independent of the determination for the wind farm”.**

WSC has also been recently advised by Tilt Renewable management that there is now real uncertainty as to whether the Quarry Project will be approved and constructed soon enough for the LRWF to be supplied with the required aggregate, and that the wind farm may have to look elsewhere across the region for the necessary material. If that is so, what does this mean for the scope and extent of Conditions of Consent for the Quarry Project? Is a Modification being contemplated to transport the aggregate product further afield to other markets? What are the traffic impact assessment implications arising from that prospect?

Even leaving aside a potential Modification to the Quarry Project, the current EIS does not adequately assess the proposed Quarry Project as a stand-alone development. For example, the Quarry Project may commence stockpiling material (onsite or elsewhere at the LRWF project site) earlier or later than the LRWF demands it, the LRWF construction may be completed in stages over many years or decades, or there may be surplus material left over once the LRWF is completed. These factors mean the Quarry Project must be assessed as a stand-alone development that cannot rely on the LRWF Modification-01 consent already having covered its impacts, just like any other quarry project.

Critically also, the SSD consent development rights under either of the LRWF or the Quarry Project may be sold by either project owner to a third party at any time (before or after any Quarry Project consent determination, and before or after construction of either project), and this may lead to unfair advantages for either of the project proponents or the incoming purchaser, unless Planning Agreements are in force between both projects and Council, and both SSD consents fairly reflect the individual stand-alone requirements of those projects as though the other project is not certain.

Given the Quarry Project has been designated SSD status then WSC requires a planning agreement to be negotiated with the developer, namely Australian Resource Development Group Deans Quarry Pty Ltd. There is nothing contained in the LRWF modified project planning agreement that states or implies a planning agreement will not be sought for the Quarry Project.

c) *Impact assessment matters*

WSC would appreciate answers to the following questions.

1. Could Tilt Renewables please advise:
 - a) What is the extent of the funding Tilt has provided to the proponent of the quarry project – both the quantum and for what purposes?
 - b) Does the funding end at the date that project approval is granted?
 - c) Are any of the payments advance funding to cover costs related to the aggregate resource?

- d) When does Tilt expect to require aggregate for construction of LRWF – including upgrading public roads?
- e) Will such supplies be sourced from the LR Quarry from the commencement of construction of LRWF?

If 'no' to Q1 e) then from where will the aggregate be sourced?

- 2. Could ARDG Deans Quarry please advise:
 - a) When does it expect to commence supplying aggregate to the LRWF?
 - b) What are the Company's plans in the event that Tilt Renewables is forced, due to scheduling incompatibilities, to acquire aggregate from other sources?
 - c) In the event that Tilt Renewables obtains some or all of its LRWF aggregate needs from other parties, will the Company immediately cease production and close and rehabilitate the LR Quarry? Or does it plan to submit a Modification to allow product to be distributed to other, more distant markets?

3. Securing Development Contributions via a Planning Agreement

As the sphere of government directly responsible for the day-to-day governance of Warrumbungle LGA, the issues WSC has to manage are significant and diverse. Whether it be roads and bridges, water and sewerage systems, waste, community buildings, recreation or day care facilities, the availability and quality of this infrastructure and social services has a significant influence on the quality of life and wellbeing of its citizens and ratepayers.

WSC seeks development contributions from the Proponent via a Planning Agreement that acknowledges the tangible and intangible environmental, social and economic costs arising from the proposal. Such funds will be applied to a public purpose that will ensure the provision of a public benefits, as per the EP&A Regulation.

As the Warrumbungle LGA will be impacted by the proposal, it requires a Planning Agreement to be negotiated with it prior to any contemplation by the NSW Government of the granting of development approval. In addition, WSC requires the Agreement's financial Key Terms to be included as a specific condition within any project consent. Without a Planning Agreement, the negative impacts of the stand-alone development on Council's roads will not be mitigated or offset as required under the EP&A Act.

As acknowledged in the EIS (page 31 Engagement) WSC advised the proponent of its planning agreement requirements in April 2024. The EIS then suggests the relevant section in the document that addresses the planning agreement matter is 'Section 6.8'.

Page 94 of the EIS seems to suggest that the developer does not support a planning agreement, noting *"As the Project is solely for the purpose of supplying the LRWF project construction activities, any mitigation necessary to manage impacts of quarry haulage and light vehicle traffic on Council road assets would be undertaken by the LRWF project, in accordance with Development Consent SSD 6696 (as modified). Accordingly, a requirement for the quarry to contribute towards road upgrades or maintenance (e.g., via a haulage levy or VPA) would not be appropriate as it would effectively constitute 'double-dipping'."*

Page 94 goes on to add that *“Potential traffic and transport impacts will be mitigated and managed through appropriate intersection design and compliance with the LRWF Traffic Management Plan (TMP).”*

Page 94-95 adds *“Haulage of quarry products from the access road gate will be managed by Tilt subject to the requirements of the LRWF project development consent which include these haulage constraints.”*

To be clear, as per the Minutes of the LRWF Community Consultative Committee Meeting held on 27 August 2024 (CCC) where Mr Stafford from Tilt Renewables “advised the quarry is a stand-alone State Significant Development and will operate independent of the determination for the wind farm”, WSC believes securing a Planning Agreement is entirely reasonable given it is a SSD.

4. Road and Traffic Impacts

For the reasons stated in the Introductory paragraph and Planning Agreement sections above, securing a Planning Agreement is vital to ensure the developer mitigates or offsets its impacts on Council roads serving the development.

More than 2.8 million tonnes of material being transported by Council roads to the LRWF project (a relatively short distance) has been modelled using Austroads methods to represent potentially several-to-tens of millions of dollars of future damage, which Council would be required to pay for rehabilitation and maintenance of road pavements.

As the LRWF MOD-1 consent was determined after the public exhibition of this Quarry Project EIS, both the quarry developer (in its EIS) and Council have had limited time to review the actual consent requirements to ensure that any gaps in impact assessment between the two SSD projects are adequately mitigated or offset. The Quarry Project’s Response to Submissions is required to address the roads consent conditions, including maintenance and upgrades to be provided by each developer.

Council recommends consent conditions which require full upgrade of all the Council-owned roads between the quarry site and the LRWF sites. As the commercial arrangements between the LRWF and Quarry Project are not public, it is only fair on the LRWF project developer that the Quarry Project must also bear consent conditions requiring such upgrades – given those upgrades are integral to enabling the quarry traffic to safely traverse public roads and offset the damage caused by them.

5. Waste Management


Please note that as the capacity of the waste management facilities in Warrumbungle Shire are fully committed, there is no capacity to handle any of the project’s waste.

6. Water Management

It is noted from the EIS that the Quarry Project expects to require 15 ML of water per year. Apparently this volume is inclusive of 12 ML that is intended to be used for dust suppression and 3 ML that will be used to meet process demands. It is understood these demands will be met by surface water runoff captured on-site and groundwater from a local bore located on Lot 5 DP 883170 owned by the quarry site landholder.

If you have any queries regarding the abovementioned matters, please don't hesitate to contact Council on 02 6849 2000.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Lindsay Mason', with a long horizontal flourish extending to the right.

**LINDSAY MASON
ACTING GENERAL MANAGER**