

EXPLANATORY NOTE PURSUANT TO SECTION 205 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2021

DRAFT PLANNING AGREEMENT

Winterbourne Wind Farm (Proposed Development)

Purpose

This explanatory note supports the notification of a draft planning agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) by meeting the statutory requirements of section 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW) (**EP&A Regulation**).

This explanatory note has been prepared having regard to the *Planning agreements – Practice note – February 2021* and is not to be used to assist in construing the Planning Agreement.

Parties to the Planning Agreement

The parties to the Planning Agreement are the Minister administering the *Environmental Planning and Assessment Act 1979* (NSW) (ABN 20 770 707 468) (**Minister**), Walcha Council (ABN 24 780 320 847) (**Walcha Council**), Uralla Shire Council (ABN 55 868 272 018) (**Uralla Council**) and Winterbourne Wind Pty Ltd (ABN 59 113 000 150) (**WWPL**) as developer.

Description of the Subject Land

The Planning Agreement applies to the 'Project Land' (as defined in the Planning Agreement) (**Subject Land**).

Description of the Proposed Development

WWPL is seeking consent to construct and operate a wind energy facility on the Subject Land with up to 119 wind turbine generators, together with associated and ancillary infrastructure, as described in the Environmental Impact Statement dated 27 October 2022 and other documents in connection with State significant development application number SSD-10471.

An indicative plan of the Proposed Development is provided at the end of this explanatory note.

Summary of the objectives, nature and effect of the Planning Agreement

Objectives

The objective of the Planning Agreement is to secure public benefits in connection with the Proposed Development.

Nature

The nature of the Planning Agreement is to secure the allocation of the following funds (adjusted for inflation pursuant to the Planning Agreement) for the public purpose of facilitating the community benefit funds administered by Walcha Council and Uralla Council:

- an initial monetary contribution of \$1,000,000 (excluding GST); and
- further monetary contributions of \$750,000 (excluding GST) each 'Contribution Year' (as defined in the Planning Agreement), plus an additional \$1,000 for every installed megawatt over 600 megawatts for the Proposed Development.

The funds will be allocated in accordance with the 'Funding Allocation', which distributes 90% of the funds to the 'Walcha Community Benefit Fund' and 10% of the funds to the 'Uralla Community Benefit Fund' (as each term is defined in the Planning Agreement).

The initial monetary contribution must be paid on the 'Project Financial Close Date' (as defined in the Planning Agreement). The further monetary contributions will commence from the 'Project Operation Commencement Date' (as defined in the Planning Agreement) and ceases on the 'Project Decommissioning Date' (as defined in the Planning Agreement).

Effect

The effect of the Planning Agreement is for the public benefits to be delivered in a timely manner with the development of the Subject Land and operation of the Proposed Development (as set out in the Planning Agreement).

Assessment of the merits of the Planning Agreement

The public purpose of the Planning Agreement

The contributions to be provided pursuant to the Planning Agreement are to be used for or applied towards public purposes in accordance with section 7.4(2) of the EP&A Act. This may include the provision of, or funding, relating to, public amenities or public services, affordable housing or transport or other infrastructure.

Each Council intends to establish an advisory committee which will make recommendations in relation to the contributions made under the Planning Agreement. The community may also make nominations for the expenditure of the contributions on public purposes.

It is considered that the Planning Agreement provides for a reasonable means by which to achieve the public purpose given the extent of the statutory tools that are available to both Walcha Council and Uralla Council by which they can deliver the proposed public benefits.

How the Planning Agreement promotes the public interest and one or more of the objects of the EP&A Act

The Planning Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services that will support the existing and future population and will contribute to greater amenity and infrastructure in the locality.

The Planning Agreement promotes the objects of the EP&A Act, in particular the object identified in section 1.3(c) of the EP&A Act which is to promote the orderly and economic use and development of land.

Conformance with capital works program

As the Planning Agreement provides for the payment of monetary contributions, the Councils' capital works programs do not apply.

However, the expenditure of the contributions by each Council will not be inconsistent with each Council's respective capital works program.

The impact of the Planning Agreement on the public or any section of the public

The Planning Agreement will benefit the public and local communities by enabling improved infrastructure, facilities and services in the Uralla and Walcha local government areas. In this way the Planning Agreement promotes the public interest. The Planning Agreement will not negatively impact the public, nor any section of the public.

Requirements relating to construction, occupation and subdivision certificates

The Planning Agreement does not specify requirements that must be complied with prior to the issue of a construction certificate, occupation certificate or subdivision certificate under the EP&A Act.