

Explanatory Note
COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL
and
JEREMIAH WIND FARM PTY LTD (ACN 633 467 535)

Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed planning agreement (**Planning Agreement**) prepared under Subdivision 2 of Division 7.1 of Part 74 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning & Assessment Regulation 2000* (NSW).

Parties to the Planning Agreement

The parties to the Planning Agreement are Cootamundra-Gundagai Regional Council (**Council**) and Jeremiah Wind Farm Pty Ltd (**Developer**).

The Developer has made an offer to enter into the Planning Agreement in relation to State Significant Development Application No. SSD-22472709 which relates to the construction and operation of a wind energy facility known as the Jeremiah Wind Farm (**Development Application**).

Description of the Subject Land

The Planning Agreement applies to the land that is the subject of and is described in the Development Application.

Description of the Development Application

The Development Application proposes the construction and operation of a wind energy facility known as the Jeremiah Wind Farm comprising:

- up to 65 wind turbines, battery storage and associated operating infrastructure including internal access roads, site compound and crane hardstand areas;
- ancillary infrastructure as described in the Development Application;
- temporary construction facilities as described in the Development Application;
- road upgrades along the transport routes; and
- progressive rehabilitation consistent with the Jeremiah Wind Farm Development Consent,

(Development)

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement is a planning agreement under s7.4 of the Act.

The objective of the Planning Agreement is to facilitate the payment of the monetary development contributions to the Council to establish a Community Enhancement Fund (**Fund**) and provide a

mechanism for the management and allocation of money collected under the Fund (**Public Purpose**). The Planning Agreement sets the parameters for the establishment and administration of the Fund.

From commencement of construction, the monetary contributions to be paid by the Developer are \$3,500.00 per annum per wind turbine (constructed within the Council's Local Government Area) subject to indexation in accordance with clause 5.1 of the Planning Agreement, and

- allocates to Council a maximum annual administration allowance of \$5,000 (CPI indexed);
- allocates the balance of contributions as follows;
 - 70% to a community enhancement fund; and
 - 30% to a road maintenance fund.

The Community Enhancement Fund will be distributed by the Council for Local Projects (as defined in the Planning Agreement) in accordance with Cootamundra-Gundagai Regional Council's Community Donation Policy and Procedure. All funds from the initial two (2) Contribution Years will be allocated to Local Projects in and in proximity to Adjungbilly with high regard given to Local Projects in and around the Adjungbilly area at all times during the agreement. Additionally, the Planning Agreement:

- relates to the development of a wind farm on the Land;
- excludes the application of s94 of the Act to the Development;
- excludes the application of s94A of the Act to the Development;
- is not to be registered on the title to the Land;
- imposes restrictions on the Developer transferring, assigning or novating an interest under the agreement;
- provides a dispute resolution method for a dispute under the agreement, being mediation;
- provides that the agreement is governed by the law of New South Wales; and
- provides that the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) applies to the agreement.

Assessment of Merits and Purpose of the Planning Agreement

In accordance with section s.7.4, the development contributions the subject of the Planning Agreement will be applied towards the Public Purpose and ensure the provision of material public benefit(s).

The Council and the Developer have assessed the Planning Agreement and hold the view that the provisions of the Planning Agreement provide a reasonable means of achieving funding towards the Public Purpose.

This is because the development contributions the subject of the Planning Agreement will assist the Council in providing needed material public benefits to the community.

How the Voluntary Planning Agreement Promotes the Elements of the Council's Charter

The Planning Agreement promotes a number of elements of the Council's Charter under section 8 of the *Local Government Act 1993* (NSW), being the Principles for Local Government. In particular, the Planning Agreement, through the delivery of the Public Purpose and material public benefit(s) allow the Council to:

- carry out its functions in a way that provides best possible value for residents and taxpayers;

- plan strategically for the provision of adequate, equitable and appropriate services and facilities for the community, and to ensure that those services and facilities are managed efficiently and effectively;
- actively engage the local community, through public notification of this Planning Agreement.

The Impact of the Planning Agreement on the Public or any Section of the Public

The Planning Agreement will benefit the Public and local community through the delivery of the Public Purpose and material public benefit(s). The Public will have equal opportunity to put forward proposals for distribution of the Fund.

How the Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by committing the Developer to make monetary contributions towards the Public Purpose.

The Planning Agreement also promotes the public interest by promoting the objects of the Act set out in section 51.3 of the Act.

How the Planning Agreement Promotes the Objects of the Act

The Planning Agreement promotes the objects of the Act by ensuring that suitable security will be provided by the Developer to guarantee the delivery of the Public Purpose that will assist in achieving:

- the proper management, development and conservation of natural and artificial resources; and
- the provision of public services.

Whether the Planning Agreement Conforms with the Council's Capital Works Program

The Planning Agreement conforms with the Council's capital works program.

Requirements Prior to Issue of Construction, Occupation or Subdivision Certificates

Clause 5 of the Planning Agreement sets out the timing for the payment of the development contributions.

The Planning Agreement does not require the payment of any monetary contributions, or specify any requirements that must be complied with prior to the issue of any Construction, Occupation or Subdivision Certificate.

Interpretation of Planning Agreement

This Explanatory Note is not intended to be used to assist in construing the Planning Agreement. For details, see the draft Planning Agreement itself (exhibited with this explanatory note).