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Submission on the proposed State Code 23 (Wind Farm Development) and associated Planning Guidance

The Clean Energy Council (**CEC**) welcomes the opportunity to make a submission on the draft *State Code 23: Wind Farm Development* (**the draft Code**) and associated *Planning Guidance* (**the draft Guidance**).

The CEC is the peak body for the clean energy industry in Australia. We represent and work with over 1,000 of the leading businesses operating in rooftop and utility-scale solar, onshore and offshore wind, storage, hydro power, and renewable hydrogen. We are committed to accelerating Australia's clean energy transformation.

Overview

Getting the right settings in planning frameworks is essential to the success of the energy transition. Predictable and efficient pathways for projects to go from conception, through development and to approvals and construction provides confidence to project investors and also ensures a more consistent pipeline of projects to meet state targets. The predictability of the process and timeframes under the existing State Code 23 has contributed greatly to Queensland's strong track record of attracting investment in wind farms.

The *Queensland Energy & Jobs Plan* identifies the need for 25,000 MW of large-scale renewable energy generation projects to meet the state government's commitment of reaching 80% renewable energy by 2035. The *Queensland SuperGrid Infrastructure Blueprint* provides a further breakdown of this analysis, estimating that 12,200 MW of new wind generation capacity will need to be added to the system in the next 12 years. This is a significant increase from the current levels of wind capacity, which are below 1,000 MW.

Overall, we consider the draft Code and the draft Guidance to strike a reasonable balance between (a) the need to rapidly build additional wind capacity and (b) ensuring appropriate safeguards to minimise the impacts of these projects on the environment and regional communities. A few overarching comments are:

- Some of the Performance Outcomes (**PO**) could be interpreted as not allowing *any* adverse impact. For example, in PO1-3, threatened species are to be "protected from adverse impacts", and in PO18, construction activities "do not adversely impact transport networks". Since compliance with the code requires compliance with all Performance Outcomes, we submit that the focus of each PO should be on ensuring *minimal* impacts. This is the approach taken in, for example, PO8, where erosion and run-off are to be "minimised to the greatest

extent possible". The interpretation as absolute avoidance of any impact would be very impractical.

- There are many terms used in the documents that appear to be either (a) similar to each other and it is unclear whether these terms are intended to represent different standards, or (b) close but not identical to terms that are used in other regulatory documents. Clarity and consistency on definitions will help proponents align with the expectations of the Code/Guidance.
- The draft Guidance refers to a number of reports and plans that need to be developed. It would provide more clarity to include details of timing of when these plans will be required. For example, the ecological assessment report must be provided *as part of the development application* (not included in the text), whereas bird and bat management plans are needed (as stated) prior to commencement of operations.

In the remainder of this submission, we provide more detailed feedback on specific elements of the draft Code and draft Guidance.

Minimising environmental impacts

- Performance outcomes (**PO**) relating to threatened species (PO1 – PO3) do not appear to contemplate the principles of avoidance, remedy and mitigation. We suggest that the phrase "through the implementation of appropriate measures to avoid and mitigate impact" could be added at the end of each of those three performance outcomes. This would better reflect the Supporting Action PO1 in section 3.1, which states that an ecological assessment report should include "how highly sensitive part of the site have been avoided and how these risks will be mitigated or managed". This Supporting Action should also cover construction, not just "design, siting and operation", as currently drafted.
- PO4 should be changed from "…replanted to the maximum extent possible…" to "*revegetated* to the maximum extent *practicable*". (The term 'revegetated' is used in the definition of decommissioning in the Glossary.) We suggest the same change ought to be made in section 3.1 – "areas to be cleared for construction purposes will be required to be rehabilitated [or *revegetated*] to the maximum extent *practicable*". These sections could also include words to indicate that the requirement to rehabilitate or revegetate applies to areas cleared for construction *that are not needed for the safe and efficient operation of the wind farm*.
- Some sections have language that, we submit, risks exaggerating the impacts that most wind farms will have. For example:
    - The context section of part 3.1 says that "medium to large sized wind farms can involve several hundred linear kilometres of clearing and earthworks". While extensive tracks may be needed for construction, these do not always involve vegetation clearing along the entire length. A rule of thumb is that, on average, 1-1.2 km of track is needed per turbine, meaning that only the very largest wind farms would come close to "several hundred" kilometres of "clearing *and* earthworks".
    - The first sentence of 3.3 says that construction of a wind farm "necessitates significant vegetation clearing". Not all wind farms are sited in areas of heavy vegetation. We suggest this would be more accurate as "*may* necessitate".
- Supporting Action PO1:

- The final dot point of the specifies that a "detailed draft progressive rehabilitation plan" should detail "on-site rehabilitation works for the life of the development (ie. construction until decommissioning is complete)". We submit that this is too early in the process to require detailed rehabilitation plans that are intended to cover up to the end of decommissioning, noting that Supporting Action PO23 only requires detailed decommissioning plans "before the wind farm is decommissioned". We submit that the requirement in Supporting Action PO1 would be better expressed as *until decommissioning commences* rather than "until decommissioning is complete". This would be more in-line with the requirements of Supporting Action PO23.

- Supporting Action PO4:
  - The draft Guidance states that replanting [which we submit should be *revegetation*] will help "stabilise the site following construction to minimise ongoing erosion and sediment run off". Typical construction periods of around 18 months means that at least one "wet season" will occur during the construction period. The draft Guidance could be amended to specify that *where appropriate*, revegetation should be *progressively* managed *during* construction, rather than leaving it all until post-construction. This would provide better management of erosion and run off risk, though by including the "where appropriate" clause, it acknowledges that projects in areas of higher rainfall may have different requirements that projects in more arid climates. For this reason, the preliminary rehabilitation/restoration plan could be completed 6 months into construction, rather than "prior to the finalisation of construction" as currently drafted.
  - The same change could be applied to stormwater plans required under Supporting Action PO5 – ie. required 6 months into construction.
- Overall, we would also welcome clarity on the alignment between State and Federal requirements on field surveys and the timing of management plans. Inconsistency between state requirements and Federal guidance under the *Environment Protection & Biodiversity Conservation Act* is problematic.
- In Appendix 1, the list of requirements for the ecological assessment report notes that "micro-siting is not acceptable in laydown areas and areas designated for permanent infrastructure". We submit that micro-siting should be permitted for all temporary and permanent infrastructure provided that it does not increase impacts or result in any new impacts not considered or approved by the Development Approval.

Acoustic amenity

- We welcome the clarity provided by the timing of operational noise monitoring under Supporting Action PO10 and PO11 – specifying that operational noise monitoring is required "within the first 12 months of the wind farm being *fully operational*" is a clear indication as to timing (cf. more ambiguous terms such as 'after commissioning').
- We support that acoustic amenity assessments are only required for sensitive land uses that exist or are approved at the time of the wind farm's development application (PO10 and PO11).
- We note that section 3.5 on acoustic amenity does not refer to noise involved in construction and decommissioning. We would welcome an explicit statement that these operational

thresholds do not apply during those two phases and that the assessment of acoustic amenity is for the operational period of the project (as is the case in other states). We note that construction noise is governed by s.440R of the *Environmental Protection Act 1994*, and focuses on limiting the hours during which construction activity may occur.

- Regarding the list of sensitive land use receptors, we submit that the list of land uses as articulated in the glossary of the draft Code and in Appendix 2, Part 1 of the draft Guidance should be restricted to legally built dwellings that meet a habitable standard. That is, it should not be a broad interpretation of terms such as "caretakers accommodation" – which could be a shearing shed that is only rarely used for sleeping. If a "caretakers accommodation" does not include the features of a dwelling (eg. a kitchen, a bathroom) then it shouldn't be assessed as a sensitive receptor.
- The noise requirements refer to a minimum spacing between turbines. There are many reasons why a proponent may elect to use tighter spacing than what has been specified, and it isn't clear that this minimum spacing requirement is necessary or that a justification for alternate spacing distances ought to be provided.
- Appendix 2 includes details of the use of wind masts during noise monitoring.
    - It is worth noting that wind project developers are increasingly using remote sensing devices such as LiDARs to measure wind speeds – they are cost-effective compared to tall masts; do not require planning approvals (which are sometimes costly and time-consuming); can be easily moved around sites to measure wind at a number of different locations. Some developers are looking at the possibility of using shorter masts in combination with LiDAR. The draft Guidance specifies that wind masts must be constructed to a height of not less than 60 per cent of the proposed hub height. While this is generally met at most existing development sites, this may not be the case in the future if the shift to remote sensing continues. With that in mind, we submit that the guidance should include a note that remote sensing devices can be used as an alternative to met masts to measure the wind environment at a site during noise measurements.
    - More broadly, we would welcome efforts to harmonise approval requirements (or exemptions) for temporary wind monitoring masts across the state (noting that this is likely beyond the scope of this particular review).

Scenic amenity

- We welcome that PO15 only applies in areas identified as having high scenic and landscape amenity and that the visual impact report only requires, for the purposes of planning assessment, the consideration of impacts on key public viewpoints. We note that visual assessments conducted by proponents would likely also assess private dwellings in close proximity to the project for the purposes of information discussions with project neighbours.
- We note that the designation of an area as high scenic amenity depends on state or local government planning instruments. It would be important that there is predictability and ample notice about any changes to these instruments that would affect whether a proposed project is in a high scenic amenity area. To that end, we submit that section 3.9 include a note that this only applies in areas that have been identified as high scenic amenity *at the time of a wind farm's application*.

Decommissioning

- The requirement in PO23 that decommissioning be done "in a timely manner" is vague. We suggest replacing this with "in accordance with approved decommissioning plans".
- The definition of decommissioning in the Glossary in the draft Code specifies that any above-ground infrastructure is to be removed and that "roads… are covered and revegetated to return the ground to its former state". On-farm roads or access tracks are often upgraded sections of the landholders existing track network. Even where new tracks are created, landholders will in many circumstances prefer to keep these access tracks once the wind farm is decommissioned. They may also want to retain project warehouses (eg. to use as a shed). We submit that the definition of decommissioning should allow for the roads and some above-ground infrastructure to remain, subject to agreement with the landholder.
- Section 3.12 refers to decommissioning returning the ground to "its former state". In many situations, this will be either very difficult or impossible (eg. if rock blasting has been used). This could be better articulated as "to the extent practical" or "as close to previous conditions as practical" or "in keeping with surroundings".
- The material recycling element of PO23 would be better as "to the greatest extent practical" rather than "to the greatest extent possible".

Other issues

- PO8, which covers erosion control and run-off, could be re-worded from "development is stabilised following construction" to the more explicit "areas cleared for construction are progressively stabilised during construction, where possible and appropriate…". This is more specific about which areas require stabilising, and notes that this is often best done progressively, as construction allows, rather than all at the end.
- PO18, which covers transport issues, should specify "*necessary* local and state-controlled road intersection upgrades" to limit the potential scope of this section to those upgrades that are required for the specific purpose of enabling construction with minimal adverse impact.
- We strongly support the change from the Planning Guidance released in February 2022, which excluded transmission lines to connect to the grid from the definition of what constitutes a wind farm. The exclusion in the previous Guidance meant that wind farms were not treated as a whole, so we welcome its removal. Establishing a transmission line that allows a wind farm to connect to the power grid is an essential component of the project and should therefore be assessed as part of the wind farm application. If the wind turbines are Code-assessed but the transmission line to connect to the grid proceeds under another pathway with less predictable timeframes for decision, then the significant advantage of having the Code assessment ceases to exist, because the entire project will potentially be held up by the assessment of the transmission line.
- In the Pre-lodgement section:
    - The language in the opening paragraph has been changed from "identifying potential issues ahead of lodgement" to "ascertaining SARA's preliminary views on the acceptability of site layouts". We suggest reverting to the previous language: site

layout is a narrower scope and proponents may be seeking early SARA input on a range of matters.
    - We note that the draft Guidance strongly encourages proponents to engage with local communities prior to lodging a SARA application. We support this encouragement, and the CEC has previously released industry guidance on best practice community engagement. We also note that the Queensland government is developing a Community Engagement Renewable Energy Developer Guide that will provide more detail on expectations on top of the draft Code's requirements.
    - To avoid ambiguity or confusion, the second last dot point in the Pre-lodgement section should specify that the s22A relevant purpose determination refers to the *Vegetation Management Act 1999*. On this point, we submit that s22A determinations should allow for micro-siting of project layouts.
- Supporting Action PO12:
    - The detailed electromagnetic interference report could be required prior to the erection of turbines, rather than prior to commencement of operations. This is because it is preferable to create the baseline without turbines being present (even if not spinning).
- We support the inclusion of PO13 and Supporting Action PO13 (shadow flicker) in its current form, which is broadly consistent with existing industry practice.
- We support the inclusion of PO14 and Supporting Action PO14 (social impacts).
- The supporting information relating to PO21 and PO22 (aviation) should specify that assessable low-flying activities should be limited to those that already exist at the time of the wind farm lodging its application.

Terms requiring clarification

- 'Avoidance of adverse impacts', 'avoidance of unacceptable impacts' and 'avoidance of unacceptable adverse impacts' are all used. These terms are not defined in the draft Code or the draft Guidance and are not standard terms in the *Planning Act 2016* or the *Planning Regulation 2017*.
- The draft documents refer to 'watercourses', but the *Fisheries Act 1994* uses 'waterway' to include 'any river, creek, stream, watercourse, drainage feature or inlet of the sea'.
- 'Landscape heritage area' is not defined, and it is unclear whether this is intended to be the same as a 'designated landscape area' (under the *Aboriginal Cultural Heritage Act 2003*) or 'heritage place' (as defined in the *Heritage Act 1992*).
- The definition of 'threatened species' refers to the Nature Conservation Act 1992, but this legislation uses the term 'threatened wildlife' (which includes plants). We assume these are intended to be equivalent, but suggest it is worth having consistent language.
- The term 'owner' is used in various places in the document. It is worth avoiding the ambiguity of whether this is referring to the land owner or the project owner (or proponent).
- We suggest that the term "workforce accommodation" in the Glossary of the draft Code be re-worded as "temporary workers' accommodation", to be consistent with the language in the definition of "wind farm" elsewhere in the glossary. Note (b)(ii) in the "wind farm" definition indicates that a wind farm includes the use of the premises for buildings/structures including *temporary workers' accommodation*.

Thank you again for the opportunity to comment on the draft Code and draft Guidance. As noted above, we broadly consider the proposed documents to strike an appropriate balance. The CEC would be happy to participate in any further discussions to support the finalisation of these documents.

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