10.0 Other Approvals and Conditions

The Project will be undertaken in accordance with the requirements of both Commonwealth and Queensland legislation. The primary approvals for the Project are the approval under the EPBC Act (for which this PER has been prepared) and the *Planning Act 2016* for Material Change of Use (Wind farm development) and Operational Works (clearing native vegetation).

Other than the EPBC Act., the key legislation pertinent to the permitting and approval processes and environmental management for the Project includes:

- *Environmental Offsets Policy 2012* (Commonwealth);
- *Native Title Act 1993* (Commonwealth);
- *Planning Act 2016* (Qld);
- *Environmental Protection Act 1994* (Qld);
- *Environmental Offsets Regulation 2014* (Qld);
- *Vegetation Management Act 1999* (Qld);
- *Nature Conservation Act 1992* (Qld);
- *Fisheries Act 1994* (Qld);
- *Water Act 2000* (Qld);
- *Biosecurity Act 2014* (Qld);
- *Aboriginal Cultural Heritage Act 2003* (Qld); and
- *Waste Reduction and Recycling Act 2011* (Qld).

These are described in the following sections, for their applicability to the Project.

10.1 Environmental Offsets Policy 2012

Where a proposed action is assessed as having the potential for a significant residual impact (SRI) on a MNES, following consideration of measures to avoid or minimise the potential impacts, environmental offsets are required in accordance with the Commonwealth EPBC Act *Environmental Offsets Policy 2012*. This policy states that an environmental offset must "deliver an overall conservation outcome that improves or maintains the viability of the protected matter as compared to what is likely to have occurred under the status quo". The Offsets Assessment guide, an Excel spreadsheet-based calculator, was development by the Commonwealth Government to assist in the determination of suitable offsets.

Approval for a project under the EPBC Act requires that environmental offsets and the associated Offset Management Plan are approved by the Minister for the Environment, and legally secured, prior to the commencement of any disturbance to MNES. Offsets for the Project in accordance with the *Environmental Offsets Policy 2012* are described within this PER in **Section 9.0**.

10.2 Native Title Act 1993

In accordance with Section 3 of the Commonwealth *Native Title Act 1993* (NT Act) the main objectives of the NT Act are to:

- To provide for the recognition and protection of native title; and
- To establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and
- To establish a mechanism for determining claims to native title; and
- To provide for, or permit, the validation of past acts, and intermediate period acts, invalidated because of the existence of native title.

The Project area is subject to the Jirrbal #4 Native Title Claim QUD983/2015. The terms of an ILUA between Jirrbal #4 Native Title Claim Applicants and Wabubadda Aboriginal Corporation (WAC) and CWF have been agreed with an authorisation meeting scheduled for 29 January 2022 postponed as a result of a growing number of COVID-19 cases in Far North Queensland. An authorisation meeting was subsequently held on 7 May 2022 unanimously recommending to endorse the ILUA and the ILUA fully executed (i.e. signed) by the Applicants, WAC and CWF. The ILUA provides the necessary Native Title Consent to the change of purpose to the Wooroora Station Pastoral Lease to include Renewable Energy Purposes. The ILUA for the Project was registered on 4 November 2022 and is known as the Chalumbin Wind Farm Area ILUA (National Native Title Tribunal reference QI2022/013).

A Cultural Heritage Management Agreement under the Queensland *Aboriginal Cultural Heritage Act* 2003 was executed by Jirrbal #4 Applicants, WAC and the proponent in October 2020.

10.3 Planning Act 2016

The *Planning Act 2016* (Planning Act) regulates and manages development in Queensland, providing a framework for the preparation and implementation of planning instruments. It requires the coordination and integration of State, regional and local planning outcomes. A development permit is required under the Planning Act prior to commencing assessable development.

The primary approvals under the Planning Act constitute a Material Change of Use (MCU) development permit for wind farm development and typically an Operational Works (OPW) development permit for clearing native vegetation. The MCU and OPW applications are assessed under State Code 23: Wind farm development (State Code 23) and State Code 16: Native vegetation clearing (State Code 16), respectively, by the State Assessment and Referral Agency (SARA) as part of the Department of State Development, Infrastructure, Local Government and Planning (DSDILGP).

The primary approvals process for a wind farm project under the Planning Act is well-defined; particularly where a proponent can achieve at least 1,500 m separation between any proposed wind turbine and sensitive land uses (occupied premises) to protect human health and noise amenity. This provides the proponent with an incentive to "design out" potential land use conflicts at a State-level[26] by achieving a suitable separation distance between the wind turbines and surrounding neighbours.

A development application for the Project was submitted to SARA in December 2021 under State Code 23 and State Code 16 and approved in June 2022. The development application included a series of supporting technical studies, including:

[26] The EPBC Act provides for consideration of MNES such as the WTQWHA at a Commonwealth level.

- Planning Report (the overarching planning assessment, from which the individual technical studies are generally appended), including code assessment tables;
- Aviation Impact Assessment to meet Performance Outcome (PO) 1 and PO2 of State Code 23;
- Electromagnetic Interference Assessment to meet PO3 of State Code 23;
- Shadow Flicker Assessment to meet PO4 of State Code 23;
- Ecological Assessment Report to meet PO5 of State Code 23, and broadly State Code 16;
- Traffic Impact Assessment and Transport Route Assessment to meet PO6 of State Code 23;
- Stormwater Management Plan to meet PO7 and PO8 of State Code 23;
- Landscape and Visual Impact Assessment to meet PO9 of State Code 23;
- Noise Impact Assessment to meet PO11 and PO12 of State Code 23; and
- Construction Management Plan and Preliminary Erosion and Sediment Control Plan to meet PO13 of State Code 23, and broadly State Code 16.

The technical studies listed above are required to ensure that wind farm developments in Queensland achieve a sound land use planning outcome. Specifically, the aim of the assessment under the Planning Act is to ensure that wind farms are appropriately located, sited, designed, constructed and operated to ensure:

- The safety, operational integrity and efficiency of air services and aircraft operations;
- Risks to human health, wellbeing and quality of life are minimised by ensuring acceptable levels of amenity and acoustic emissions at sensitive land uses;
- Development avoids, or minimises and mitigates, adverse impacts on the natural environment (fauna and flora) and associated ecological processes;
- Development does not unreasonably impact on the character, scenic amenity and landscape values of the locality; and
- The safe and efficient operation of local transport networks and road infrastructure.

All documentation associated with development application, including the development permit, is publicly available on the State Assessment and Referral Agency website (refer: https://planning.statedevelopment.qld.gov.au/planning-framework/state-assessment-and-referral-agency/sara-application-material, search 'Chalumbin Wind Farm').

Secondary approvals and permits for the Project may also be required under the Planning Act and other legislation; predominantly through local government processes for assessable development under the Tablelands Regional Council Planning Scheme. These are further described in **Section 10.14**.

10.4 Environmental Offsets Regulation 2014

At a State level, where actions are assessed as having the potential for a SRI on a matter of state environmental significance (MSES), offsets are required in accordance with the Queensland *Environmental Offsets Regulations 2014* (EO Reg). Prescribed environmental matters include MNES protected by the EPBC Act, as well as some matters of state and local environmental significance. Matters of state environmental significance (MSES) that are prescribed matters are listed in Schedule 2 of the EO Reg. This regulation also prescribes the Queensland Environmental Offset Policy version 1.11 (QEOP), which clarifies how environmental offsets should be delivered in Queensland.

As stated in section 1.1.3 of the Offsets Policy, state governments can only impose an offset condition in relation to a prescribed activity if the same or substantially same impact or substantially the same matter has not been subject to assessment under a Commonwealth Act (such as EPBC Act). Offsets are therefore only required under the Queensland framework in the following two instances:

- When the prescribed environmental matters that experience significant residual impacts are not MNES, and/ or
- When residual impacts to MNES qualify as significant under Queensland definitions (as defined in the Queensland Environmental Offsets Policy Significant Residual Impact Guidelines: DEHP 2014), but not significant under Commonwealth definitions (e.g., as defined in the MNES Significant Impact Guidelines 1.1).

The Ecological Assessment Report for the Project, as submitted to SARA under the Planning Act, identified the following potential SRIs on MSES for the Project:

- Clearing of up to 3.76 ha of Of Concern Regional Ecosystem 7.3.6;
- Clearing of up to 6.63 ha of Of Concern Regional Ecosystem 7.3.43;
- Clearing of up to 170.16 ha of Of Concern Regional Ecosystem 7.12.52;
- Clearing of up to 35.01 ha of Of Concern Regional Ecosystem 7.12.57;
- Clearing of up to 23.4 ha of Of Concern Regional Ecosystem 7.12.66;
- Clearing of up to 9 ha of remnant vegetation within a defined distance of a watercourse; and
- Clearing of up to 131.75 ha of Essential Habitat.

It is anticipated that the Project's development permit under the Planning Act will require the proponent to enter into an agreed offset delivery arrangement with the Queensland Government for any significant residual impacts to MSES in accordance with the QEOP. Subject to further detailed investigations, it is expected that the direct offsets delivered under the EPBC Act will fully (or at least predominantly) acquit the offset obligations under the QEOP, through effective collocation of MNES and MSES values.

10.5 Environmental Protection Act 1994

The Queensland *Environmental Protection Act 1994* (EP Act) provides for the protection of Queensland's environment while allowing for development in accordance with principles of ecologically sustainable development. The following provisions of the EP Act may be relevant to the Project:

- Carrying out Environmentally Relevant Activities (ERAs);
- Consideration of the Environmental Protection Policies (EPPs) subordinate to the EP Act;
- Regulating the disposal of any contaminated soil and contaminated land; and
- The general environmental duty and duty to notify.

10.5.1 Environmentally Relevant Activities

Schedule 2 of the *Environmental Protection Regulation 2019* (EP Reg) lists prescribed ERAs. In order to operate an ERA, an environmental authority (EA) needs to be obtained under the EP Act.

No ERAs are anticipated for the operation of the Project; however, some ERAs have the potential to be triggered during construction activities. This would be determined by the construction methodology employed by the construction contractor. These ERAs may include:

- ERA8 – Chemical storage;
- ERA15 – Fuel burning;
- ERA16 – Extractive and screening activities; and
- ERA63 – Sewage treatment.

10.5.2 Environmental Protection Policies

Environmental Protection Policies (EPPs) may be made with regard to the environment or anything that affects, or may affect, the environment. The EP Act outlines the scope and concept for preparing EPPs to protect Queensland's environment.

Essentially, EPPs are the means of implementing the objectives of the EP Act by providing a policy framework for the determination of appropriate conditions for development permits for MCUs, for ERAs and/ or EAs. EPPs are legally enforceable, and the following are applicable to the Project:

- Environmental Protection (Air) Policy 2019:
  - Identifies environmental air quality values to be enhanced or protected;
  - States indicators and air quality objectives for enhancing or protecting the environmental values; and
  - Provides a framework for making consistent, equitable and informed decisions about the acoustic environment.
- Environmental Protection (Noise) Policy 2019:
  - Identifies environmental values to be enhanced or protected;
  - States acoustic quality objectives for enhancing or protecting the environmental values; and
  - Provides a framework for making consistent, equitable and informed decisions about the acoustic environment.
- Environmental Protection (Water and Wetland Biodiversity) Policy 2019:
  - Identifies environmental values for waters and wetlands;
  - Identifies management goals for waters;
  - States water quality guidelines and water quality objectives to enhance or protect the environmental values;
  - Provides a framework for making consistent, equitable and informed decisions about waters, and
  - Monitors and reports on the condition of waters.

10.6 Vegetation Management Act 1999

The *Vegetation Management Act 1999* (VM Act) is administered by the Queensland Department of Resources (DoR) and protects Queensland's biodiversity by conserving native vegetation and addressing land degradation issues.

Queensland's vegetation management framework regulated the clearing of certain native vegetation by incorporating the Regional Ecosystem (RE) classification scheme. REs are remnant vegetation communities in a bioregion that are consistently associated with a particular combination of geology, landform and soil. Remnant vegetation is defined under the VM Act as vegetation where the dominant canopy layer has greater than 70% of the height and greater than 50% of the cover relative to the undisturbed height and cover of that stratum and is dominated by species characteristic of the vegetations undisturbed canopy.

The Queensland Herbarium has mapped the remnant extent of REs for most of Queensland using a combination of satellite imagery, aerial photography and on-ground studies. RE maps are classified in the following vegetation management class and biodiversity categories depending on the percentage of original cover remaining and extent of degradation:

- Endangered
- Of concern, and
- Least concern/ not of concern

The classification of REs is relevant to identifying vegetation communications of conservation significance in a regional context and potential environmental offset requirements under the Queensland environmental offsets framework. The potential impacts of the Project to these REs will require an offset under the QEOP as detailed in **Section 10.4**.

The VM Act applies to the Project through the OPW process described in **Section 10.3**. State Code 16 is specifically designed to assess proposed clearing of vegetation that is regulated under the VM Act.

10.7 Nature Conservation Act 1992

The Queensland *Nature Conservation Act 1992* (NC Act) is administered by DES and provides the framework for the declaration and management of protected areas, and protection of wildlife listed under the *Nature conservation (Wildlife) Regulation 2006* (NC Regulation). It is the protection of wildlife under the NC Regulation that is of relevance to the Project.

The purposed of the NC Regulation is to prescribe wildlife as one of the following classes of wildlife:

- Extinct in the wild;
- Endangered;
- Vulnerable;
- Near threatened; or
- Least concern.

Threatened wildlife under the NC Act is wildlife that is prescribed as extinct in the wild, endangered, or vulnerable. Additional levels of protection are also given to near threatened species. All native flora and fauna species are protected under the NC Act and 'permits to take' protected wildlife are required from DES. Permits are required to tamper with animal breeding places; this is achieved through submission and approval of a Species Management Program under the NC Act.

DES provides open access to the Wildlife Online database, which can be interrogated to generate a list of all species recorded within a specified area. This tool is useful for determining the presence or likelihood of occurrence of threatened species in an area.

A Protected Plants Flora Survey Trigger Maps is available, which shows high-risk areas for protected plants (those considered as endangered, vulnerable and near threatened (EVNT) species) and is used to help determine flora survey and clearing permit requirements for a specified area. If the study area is located within a high-risk area, a comprehensive flora survey is required to be undertaken before any clearing can occur. This survey will need to comply with *Queensland's Flora Survey Guidelines – Protected Plants*.

If threatened plants are found to occur within the high-risk area during the field survey, and these are likely to be cleared by the proposed project, or are within 100 m of the clearing, an application for a clearing permit from DES will be required. This application will need to be accompanied by a Flora Survey Report and an Impact Management Plan for the protected plants that include appropriate avoidance, mitigation and/ or offsetting measures.

10.8 Water Act 2000

The purpose of the *Water Act 2000* (Water Act) is to protect rivers, creeks or other streams in which water flows permanently or intermittently. A person must not take or interfere with the flow of water in a watercourse, lake or spring without an authorisation or entitlement under the Water Act, issued by the Department of Regional Development, Manufacturing and Water (DRDMW).

Approvals under the Water Act only apply to watercourses as defined in the Act as a river, creek or other stream, including a stream in the form of an anabranch or a tributary, in which water flows permanently or intermittently, regardless of the frequency of flow events. These can be, either in a natural channel, whether artificially modified or not, or in an artificial channel that has changed the course of the stream. However, a watercourse does not include a drainage feature. Watercourse determinations are undertaken by DRDMW and for the Project area the one "watercourse" defined under the Water Act is Blunder Creek.

Water related development is regulated by the Water Act in conjunction with the provisions of the Planning Act. This includes:

- Riverine Protection Permit - a permit to excavate or place fill in a watercourse, lake or spring will be required should the works not comply with the "Riverine Protection Permit Exemption Requirements" (WSS/2013/726 v2.01 dated 13 November 2019). The Riverine Protection Permit (RPP) exemption requirements set out area limit and vegetation requirements. It is expected that a RPP will be required for the crossing of Blunder Creek associated with the Project.
- Operational Works for taking or interfering with water from a watercourse, lake or spring or from a dam constructed on a watercourse lake or spring. This may be required for construction works across waterways within the Project area.
- Water Licences are authorities to take water and/or interfere with water. Such a licence may be required for water sourced by the Project's construction contractor.

10.9 Fisheries Act 1994

The purpose of the *Fisheries Act 1994* (Fisheries Act) relevant to the Project is for the management and protection of fish habitat, including the ongoing provision of fish passage in waterways. Permits may be required under the Fisheries Act for the construction of any temporary or permanent waterway barriers, including bridges and culverts.

Authority to construct a waterway barrier may be obtained through two main pathways, including:

- Complying with the Accepted Development requirements for waterway barrier works; or
- Obtaining development approval for waterway barrier works.

The Department of Agriculture and Fisheries (DAF) has published the Accepted development requirements for operational work that is constructing or raising waterway barrier works (ADR) (DAF, 2018) which specifies the requirements for development that is operational work that is constructing or raising waterway barrier works for the works to proceed without an operational works permit. Each crossing of a "waterway for waterway barrier works" within the Project area will need to be assessed against the ADR prior to a determination about the specific permits required under the Fisheries Act.

10.10 Aboriginal Cultural Heritage Act 2003

The purpose of the *Aboriginal Cultural Heritage Act 2003* (ACH Act) is to recognise, protect and conserve Aboriginal Cultural Heritage and is administered by the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP). The ACH Act defined aboriginal cultural heritage as anything that is:

- a significant Aboriginal area in Queensland;
- a significant Aboriginal object; and
- evidence of archaeological or historic significance of Aboriginal occupation of an area of Queensland.

A significant Aboriginal area or object must be significant to Aboriginal people because of either or both of the following:

- Aboriginal tradition; and
- The history, including contemporary history, of any Aboriginal party for the area.

The ACH Act establishes a duty of care requiring all persons carrying out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.

The ACH Act provides for the Minister to gazette duty of care guidelines outlining what constitutes reasonable and practicable measures for ensuring activities minimise harm to Aboriginal cultural heritage.

There is no offence for not complying with the duty of care guidelines, provided the action does not result in damage to Aboriginal cultural heritage. Complying with the guidelines affords strict compliance with the cultural heritage duty of care, thus affording some protection for the proponent.

All personnel involved in the construction of the project must take all reasonable and practicable measures to ensure that an activity they are involved in does not harm Aboriginal cultural heritage.

A Cultural Heritage Management Agreement (CHMA) has been agreed with by Jirrbal #4 Applicant, Wabubadda Aboriginal Corporation and the proponent. This CHMA sets out how cultural heritage will be investigated and managed for the duration of the Project.

10.11 Biosecurity Act 2014

Under the *Biosecurity Act 2014* (Biosecurity Act), there are seven categories of restricted matter (i.e. restricted matter may include matter such as plants, animal diseases, invasive fish, insects, invasive animals and weeds).

Restricted invasive plants may fall into category 1, a combination or all of Categories 2 to 5 (listed below). Under each Category the restricted invasive plant has listed restrictions. The specific restriction requirements also apply to a person when dealing with restricted invasive plants unless they have a restricted matter permit.

Restricted invasive plant categories and restrictions:

- Category 2: the invasive plant must be reported within 24 hours Biosecurity Queensland on 13 25 23.
- Category 3: the invasive plant must not be distributed either by sale or gift or released into the environment.
- Category 4: the invasive plant must not be moved.
- Category 5: the invasive plant must not be kept.

The construction and operation of the Project will be undertaken in such a way that the obligations of the proponent under the Biosecurity Act are upheld.

10.12 Waste Reduction and Recycling Act 2011

The purpose of the *Waste Reduction and Recycling Act 2011* (Waste Act) is to reduce the amount of waste generated through the implementation of the waste management hierarchy (avoid, reduce, reuse, recycle, recover, treat, dispose). The Waste Act also requires state and local governments to prepare strategic waste management plans.

Waste generated during construction and operation must be managed in accordance with the Waste Act and the *Waste Reduction and Recycling Regulation 2011*.

The Waste Act imposes a levy on waste delivered to a leviable waste disposal site. Some waste types are exempt from the waste levy, including clean earth. Clean earth does not include acid sulfate soils (ASS), unless the ASS has been appropriately treated.

The Waste Act will be applicable to the construction and operation of the Project; the respective Construction Environmental Management Plan and Operation Environmental Management Plan will require compliance with the Waste Act.

10.13 Other State Approvals

The construction and operation of the Project will require permits and approvals under other Queensland legislation, including (but not necessarily limited to):

- *Building Act 1975* for the construction of all temporary and permanent structures; and
- *Plumbing and Drainage Act 2018* for construction of all temporary and permanent plumbing and drainage installed as part of the Project.
- *Land Act 1994* for permits to occupy or use state land (e.g. unallocated state land, a road, reserve or stock route); and
- *Transport Infrastructure Act 1994* for road works/ road access works approvals, road corridor permits and traffic control permits for work within a State-controlled road.

10.14 Tablelands Regional Council Planning Scheme and Local Laws

The Project will require secondary permits and approvals from Tablelands Regional Council (TRC), following receipt of the primary MCU and OPW development permit. These are subject to ongoing discussion and scoping with TRC, but may include (depending on the construction contractor's selected methodology):

- Development Permit for MCU – for borrow pits, temporary batching plants and possibly a construction accommodation facility;

- Development Permit for Reconfiguring a Lot – associated with the lease for the Project over the Glen Gordon (freehold) property, as leases of 10 years or greater in duration are considered to be assessable development under the Planning Act;
- Development Permit for OPW associated with a MCU – for earthworks, access works and stormwater works; and
- Permit under Local Law No. 1 – alterations or improvements to local government controlled areas and roads, for upgrade works to and within the Wooroora Road corridor.

10.15 Development Permit Conditions – Required Plans

The Project requires the following plans to be prepared for submission to DSDILGP and other stakeholders, in accordance with the conditions of the Development Permit issued under the Planning Act:

- Vegetation and Fauna Management Plan;
- Bird and Bat Management Plan;
- Bushfire Management Plan;
- Safety and Emergency Management Plan;
- Construction Environmental Management Plan;
- Noise Impact Assessment;
- Noise Monitoring Plan;
- Noise Monitoring Report;
- Operational Strategy;
- Decommissioning and Rehabilitation Management Plan;
- Complaint Investigation and Response Plan;
- Rehabilitation Plan for Vegetation Clearing;
- Cleared Vegetation Plan;
- Erosion and Sediment Control Plan;
- Pre-and Post-Construction Assessments of TV and Radio Reception Strength;
- Project Layout Plan;
- Wind Monitoring Tower/Meteorology Masts Marking Plan;
- Traffic Impact Assessment (State-controlled Roads); and
- Traffic Impact Assessment (Local Government Roads).