

Goulburn River Solar Farm

Voluntary Planning Agreement

Dated

Goulburn River Fund Pty Limited as trustee for the Goulburn River Trust ("Company")

Upper Hunter Shire Council ("Host Council")

Date:

PARTIES

1. Goulburn River Fund Pty Limited ACN 673 011 786 as trustee for the Goulburn River Trust of Level 19 'CBW' 181 William Street, Melbourne VIC 3000 ("Company");
- and
2. Upper Hunter Shire Council ABN 17 261 839 740 of 135 Liverpool Street, Scone NSW 2337 ("Host Council")

BACKGROUND

- A. The Land is primarily situated in the Local Government Area of the Host Council, located in the Upper Hunter region of NSW.
- B. As contemplated by section 7.4 of the Act ('planning agreements'), the Company wishes to pay Development Contributions and carry out Road Upgrades for the benefit of the local communities impacted by Goulburn River Solar Farm, and to do so efficiently and equitably through the management services provided by the Host Council, and in accordance with the recommendations made by the Committee in accordance with this Agreement.

OPERATIVE PROVISIONS OF THIS AGREEMENT

1 Planning Agreement under the Act

The Parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

2 Application of this Agreement

This Agreement applies to the Development Consent.

3 Operation of this Agreement

3.1 Commencement

This Agreement commences on the date of its execution by all the parties, provided that such date occurs after compliance with the public notice obligations in section 7.5 of the Act.

3.2 Termination

This Agreement remains in force until:

- (a) terminated by operation of Law,
- (b) the Parties agree in writing to terminate this Agreement, or
- (c) all the Company's obligations under this Agreement have been performed.

4 Definitions and Interpretation

4.1 Definitions

In this Agreement, the following definitions apply:

Act means the *Environmental Planning and Assessment Act, 1979*.

Administration Allowance means the annual monetary contribution of \$20,000 p.a. (increased by CPI) being part of the Development Contributions payable by the Company to the Host Council in accordance with clause 5 to cover all administrative costs incurred by the Host Council associated with administering this Agreement, including the establishment and operation of the Committee, the allocation of the Development Contributions and auditing the disbursement of the Development Contributions.

Agreement means this Voluntary Planning Agreement including any schedules and annexures.

Bank Guarantee means an irrevocable and unconditional guarantee that is not limited in time and does not expire, provided by a major Australian trading bank (including, but not limited to, BNP Paribas and Westpac Banking Corporation), containing terms and conditions reasonably acceptable to the Host Councils, to pay an amount or amounts of money to the Host Council on demand in accordance with clause 14.3 of this Agreement.

BBSW means the Bank Bill Swap rate as administered by ASX Limited, or any other short-term rate used in the financial markets as a lending reference rate as the Parties may agree.

Business Day means a day on which banks are open for general business in Sydney excluding Saturdays, Sundays and public holidays in Sydney.

Committee means a committee established by resolution of the Host Council pursuant to section 355 of the *Local Government Act 1993* in accordance with clause 6(a) of this Agreement.

Community Enhancement Fund means the portion of the Development Contributions stated in clause 5.4(b) to be used for the Public Purpose in accordance with the provisions in Schedule 2.

Commencement of construction means the date notified to the Council under clause 5.1(a) of this Agreement.

CPI means the Consumer Price Index (All Groups, Sydney) published by the Australia Bureau of Statistics from time to time or if that index ceases to be published, such other index as may be agreed between the parties.

Decommission means for the purposes of clause 5.1(e) of this Agreement, the permanent removal of solar panels and any associated above ground infrastructure however does not include decommissioning for refurbishment and Decommissioned and Decommissioning are to be interpreted accordingly.

Development means the 'Goulburn River Solar Farm' as described in the Development Consent.

Development Consent means the consent to the Development granted under the Act by the delegate of the Minister for Planning with respect to development application SSD-33964533 on [insert date].

Development Contributions means the monetary development contributions for the Public Purpose payable by the Company to the Host Council in accordance with clause 5.

Dispute is defined in clause 11.

Explanatory Note means the note exhibited with a copy of this Agreement, when this Agreement is made available for inspection by the public in accordance with the Act, as contemplated by clause 25E of the Regulation.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Host Council means Upper Hunter Shire Council

Installed Capacity means the total installed generation capacity in MW of the Goulburn River Solar Farm.

Interest Rate means the BBSW rate plus a margin of 2% per annum.

Land means the land the subject of the Development Consent, including (but not limited to) the land approved for the solar farm as indicated in Schedule 1 in this Agreement (subject to clause 4.2(n) (Development Consent prevails in the event of conflict)).

Local Government Area means “area” as defined in the *Local Government Act 1993*.

MW means megawatts of electricity as a measure of the generation capacity of the solar panels.

Public Purpose has the meaning given section 7.4(2) of the Act.

Note: Section 7.4(2) of the Environmental Planning and Assessment Act 1979 states: ‘A public purpose includes (without limitation) any of the following:

- (a) the provision of (or the recoupment of the cost of providing) public amenities or public services,
- (b) the provision of (or the recoupment of the cost of providing) affordable housing,
- (c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,
- (d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,
- (e) the monitoring of the planning impacts of development,
- (f) the conservation or enhancement of the natural environment.’

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Road Maintenance Fund means the portion of the Development Contributions stated in clause 5.4(b) to be used for or applied towards the maintenance of roads in the Local Government Area of the Host Council, with preference given to Ringwood Road and Wollara Road, in the vicinity of the Development. For the avoidance of doubt, the Road Maintenance Fund is not to be used for the road upgrades and road maintenance referred to in clauses [insert] of Schedule [insert] of the Development Consent.

Road Upgrades means sealing and widening of 4.7 kilometres of Wollara Road from the end of the existing sealed section (adjacent to Lot 6 DP731205) up to the Goulburn River National Park boundary in accordance with an approval granted by the roads authority.

Strategic Reserve means any part of the Community Enhancement Fund created pursuant to Schedule 2 clause [insert].

4.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) If the day in which any act, matter or thing is to be done under this Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day.
- (c) A reference in this Agreement to 'dollars' or '\$' means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (d) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (e) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (f) A reference to a clause, part or schedule is a reference to a clause, a part or a schedule of this Agreement.
- (g) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (h) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (i) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (j) References to the word 'include' or 'including' are to be construed without limitation.
- (k) A reference to this Agreement includes the agreement recorded in this Agreement.
- (l) A reference to a party to this Agreement includes a reference to the servants, agents, and contractors of the party, and the party's successors and assigns.
- (m) Any schedules or tables form part of this Agreement.
- (n) Development Consent prevails in the event of conflict. In the event of any conflict between this Agreement and the Development Consent (for example, in the compilation of Schedule 1 (Land) to this Agreement from various parts of the Development Consent), the Development Consent prevails.

5 Development Contributions to be made under this Agreement

5.1 Provision of Development Contributions

- (a) The Company must notify Host Council of the commencement of construction in accordance with clause [insert] of Schedule [insert] of the Development Consent.

Note: Clause [insert] (notification) of the Development Consent provides:

[insert excerpt from Development Consent regarding notification]

Note: the Development Consent defines 'construction' as follows:

'[insert definition of 'construction']'

Note: the Development Consent defines 'pre-construction minor works' as follows:

'[insert definition of 'pre-construction minor works']'

Note: the Development Consent defines 'decommissioning' as follows:

'[insert definition of 'decommissioning']'

- (b) Subject to clause 14 ('Assignment'), from the date of commencement of construction notified to the Council under clause 5.1(a) of this Agreement, the Company must pay the Development Contributions, calculated in accordance with clause 5.2 to the Host Council in arrears on 1 July each year.
- (c) The Development Contributions calculated for the portion of the year between commencement of construction and 1 July will be calculated pro-rata.
- (d) The Company must notify the Host Council of the commencement of decommissioning in accordance with clause [insert] of the Development Consent.

Note: the notes to clause 5.1(a) (above) reproduce the relevant parts of clause [insert] of the Development Consent.

- (e) The Company's liability for the Development Contributions ceases upon completion of Decommissioning as defined in this Agreement.
- (f) The Development Contributions are paid for the purposes of this Agreement when cleared funds are deposited by means of electronic funds transfer by the Company into a bank account nominated by the Host Council.

5.2 Calculation of the Development Contributions

The annual Development Contributions payable by the Company to the Host Council is the greater of:

- (a) \$346 (increased by CPI) x the number of MW installed on the Land as at the due date for payment; or
- (b) \$190,000 (increased by CPI).

5.3 Reporting on Installed Solar Panels

The Company must provide to the Host Council on or before the first due date for payment of the Development Contributions under clause 5.1(b):

- (a) Written certification by a registered professional engineer reporting on the total Installed Capacity on the Land as at each due date for payment; and
- (b) The calculation (showing workings) of the Development Contributions payable.

5.4 Allocation of the Development Contributions

The Host Council shall allocate Development Contributions as follows:

- (a) It shall first allocate the Administration Allowance;
- (b) After subtracting the Administration Allowance from the relevant Development Contribution, it shall allocate 47.4% of the net balance to the Community Enhancement Fund and 52.6% to the Road Maintenance Fund or as otherwise agreed in writing between the Company and the Host Council.
- (c) The Host Council will disburse funds from the Community Enhancement Fund promptly, in accordance with Schedule 2, and only upon both the recommendation of the Committee and the resolutions of the Host Council.

5.5 Allocation of the Road Maintenance Fund

The Host Council agrees to allocate the Road Maintenance Fund for the purpose stated in the definition of Road Maintenance Fund.

5.6 Indexation of monetary Development Contributions

Where this Agreement provides that an amount is to be increased by CPI, then the amount will be increased in accordance the following formula:

$$A = B \times C/D$$

Where:

- A = the indexed amount at the time the payment is to be made.
- B = the contribution amount or rate stated in clause 5.2 of this Agreement.
- C = the CPI most recently published before the date of payment.
- D = the CPI most recently published before 29 May 2023 (being the day the Host Council accepted an offer to enter into this agreement).

For the avoidance of doubt, if C is less than D (that is, if there has been deflation over the relevant period), then A will not change.

6 Road Upgrades

- (a) The Company will fund the Road Upgrades.
- (b) The Road Upgrades will be completed prior to the Commencement of construction of the Development.
- (c) The Host Council can elect to nominate the Company to deliver the Road Upgrades on behalf of the Host Council.

7 Section 355 Committee

- (a) The Host Council agrees to establish a committee under section 355 of the *Local Government Act 1993* to assist with the administration of the Community Enhancement Fund in accordance with Schedule 2.

- (b) The Host Council must ensure that any committee established under clause 7(a) includes at least one representative from the Company.

8 Auditing

- (a) Each year in which Development Contributions are made the Host Council must appoint an appropriately qualified auditor to reconcile the calculation, payment and allocation of the Development Contributions in accordance with clause 5 (including any allocations to or payments from any Strategic Reserve) and to identify any corrective payments required.
- (b) The Company and the Host Council must:
 - (i) provide access to documents and information reasonably requested by the auditor;
 - (ii) make corrective payments as recommended by the auditor.
- (c) The costs of the auditor will be paid out of the Administration Allowance.
- (d) The Host Council will make each auditor's report publicly available.

9 Application of the Development Contributions

The Development Contributions are to be applied by the Host Council for the Public Purpose in accordance with this Agreement and consistent with the Host Council's Integrated Planning and Reporting Framework under the *Local Government Act 1993*.

10 Application of sections 7.11, 7.12 and 7.23 of the Act to the Development

- (a) This Agreement does not exclude sections 7.11, 7.12 and 7.23 of the Act to the Development.
- (b) Benefits under this Agreement are to be taken into consideration in determining a development contribution under section 7.11.

11 Review of this Agreement

- (a) The Parties agree that this Agreement may be reviewed or modified and that any review or modification will be conducted in the circumstances and in the manner determined by the Parties.
- (b) No modification or review of this Agreement, will be of any force or effect unless it is in writing and signed by all the Parties to this Agreement.

12 Dispute Resolution

- (a) In the event a dispute between the Parties arises in relation to any activity, payment or item as covered in this Agreement (a 'Dispute'), a Party must not commence any court proceedings relating to a Dispute unless it complies with this clause.
- (b) The Dispute is to be resolved through the following process (as required):
 - (i) A Party claiming that a Dispute has arisen must give written notice to the other Party specifying the nature of the Dispute;

- (ii) Within ten (10) Business Days of receipt of notice of a claim of a Dispute, the Parties must endeavour, in good faith, to resolve the Dispute expeditiously by discussion between the Parties;
- (c) If the Dispute is not resolved within 60 Business Days after the initial notice of the Dispute is given under clause 12(b)(i), then the affected Party, having exhausted efforts to resolve the Dispute in accordance with this section, may, in writing, terminate the dispute resolution process and commence court proceedings in relation to the Dispute.

13 Registration of the Agreement

Pursuant to section 7.6 of the Act, the parties agree that the existence of this Agreement will not be registered on titles to the Land.

14 Enforcement and security

14.1 Enforcement by any party

- (a) Without limiting any other remedies available to the Parties, this Agreement may be enforced by any Party in any court of competent jurisdiction.
- (b) Nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; and
 - (ii) the Host Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

14.2 Interest on unpaid Contributions

The Company agrees to pay interest to the Host Council on any amount of the Development Contributions from 28 days after it becomes due for payment, during the period that it remains unpaid, on demand, or at times determined by the Host Council, calculated on daily balances. The rate to be applied to each daily balance is the Interest Rate.

14.3 Bank Guarantee

- (a) Within 12 months of the commencement of construction the Company must provide to the Host Council a Bank Guarantee in the amount of \$100,000.00.
- (b) The Company must not cancel the Bank Guarantee provided under clause 14.3(a) or do anything to cause the Bank Guarantee to be ineffective unless the Host Council has given written notice to the Company that the Bank Guarantee can be cancelled. The Host Council must not unreasonably withhold its consent to the cancellation of the Bank Guarantee and if it does agree it may require the Company to provide a replacement Bank Guarantee before the Bank Guarantee is cancelled.
- (c) The Host Council must release the Bank Guarantee or any unused part of it to the Company within 25 Business Days of the termination of this Agreement in accordance with clause 3.2.
- (d) If the Host Council reasonably considers that the Company is in breach of its obligation to pay the Development Contributions under this Agreement, it may give a written notice to the Company (a breach notice):

- i. specifying the nature and extent of the breach,
 - ii. requiring the Company to pay the outstanding monetary Development Contributions, and
 - iii. specifying the period within which the outstanding monetary Development Contributions are to be paid, being a period that is reasonable in the circumstances and not being less than 21 Business Days from the date of the written notice.
- (e) If the Company fails to fully comply with a breach notice, the Host Councils may call-up and apply the proceeds of a Bank Guarantee provided under this Agreement in satisfaction of:
 - i. any obligation of the Company under this Agreement to pay the Development Contributions, and
 - ii. any associated liability, loss, cost, charge or expense directly incurred by the Host Council because of the failure by the Company to comply with this Agreement.
- (f) Subject to this clause, the Host Council will release the Bank Guarantee if the Company's rights and obligations under this Agreement are assigned in accordance with clause 15 and a replacement Bank Guarantee is provided to the satisfaction of the Host Council.
- (g) If the Host Council calls on a Bank Guarantee in accordance with this Agreement, the Host Council may, by notice in writing to the Company, require the Company to provide a further Bank Guarantee in an amount that, when added to any unused portion of the existing Bank Guarantee, does not exceed \$100,000.00.
- (h) Nothing in this clause prevents or restricts the Host Council from taking any enforcement action in relation to:
 - i. any obligation of the Company under this Agreement; or
 - ii. any associated liability, loss, cost, charge or expense directly or indirectly incurred by the Host Council because of the failure by the Company to comply with this Agreement.

15 Assignment

The Company may sell, transfer, assign or similarly deal with its interest in the Development or its rights or obligations under this Agreement to any party without the prior written consent of the Host Council.

16 Announcements

- (a) The Host Council must not make a public statement or announcement or any media release relating to this Agreement or the Community Enhancement Fund unless:
 - (i) the Host Council acknowledges the Company in the announcement (unless it is not reasonably practicable to do so in the context of the announcement); and
 - (ii) the Host Council has obtained the prior written approval of the Company.
- (b) If, despite clause 16(a)(ii), the Host Council is required by law to make a public announcement, the Host Council making the announcement will (unless it is not reasonably practicable to do so in order to comply with the requirements of law) give a copy of the text to the Company as soon as practicable prior to the public announcement being made.

17 Notices

- (a) Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- (i) delivered or posted to that Party at its address set out below; or
 - (ii) emailed to that Party at its email address set out below.

Upper Hunter Shire Council

Attention: The General Manager

Address: Upper Hunter Shire Council
135 Liverpool Street, Scone NSW 2337
PO Box 208, Scone NSW 2337

Email: council@upperhunter.nsw.gov.au

Goulburn River Fund Pty Limited as trustee for the Goulburn River Trust

Attention: The Legal Department

Address: Level 19 'CBW'
181 William Street
Melbourne VIC 3000

Email: legalnoticesaus@lightsourcebp.com

- (b) If a Party gives the other Parties three Business Days' notice of a change of its address, or email address:
- (i) any notice, consent, or invoice is only given or made by that Party if it is served or posted by way of registered post to the latest address;
 - (ii) any information, application or request is only given or made by that other Party if it is emailed to the latest email address.
- (c) Any notice, consent, information, application or request is to be treated as given, made or received at the following time:
- (i) if it is delivered by process server, when it is served at the relevant address;
 - (ii) if it is sent by registered post, two Business Days after it is posted; or
 - (iii) if it is sent by email, the earlier of:
 - (A) as soon as the sender receives a 'delivery receipt' from the recipient;
 - or

- (B) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed.
- (d) If any notice, consent, information, application or request is physically delivered, or an email delivery receipt in relation to it is received, on a day that is not a Business Day, or if on a Business Day, after 5 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

18 Costs

The Company agrees to pay the Host Council's reasonable costs of preparing, negotiating and executing this Agreement up to a total amount of \$5,000.

19 Entire Agreement

- (a) This Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed except as permitted by law.
- (b) Pursuant to clause 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Agreement.

20 Approvals and Consents

- (a) Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party.
- (b) A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions. For the avoidance of doubt, this clause 20(b) does not apply to Schedule 2 clause (c)(iv) (recommendations for grants or appointments).

21 Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

22 Governing Law and Jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

23 No Fetter

Nothing in this Agreement shall be construed as requiring the Host Council to do anything that would cause them to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

24 Joint and individual liability and benefits

Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

25 Representations and Warranties

- (a) Each of the Parties represents and warrants to the other Parties that it has power to enter this Agreement and comply with its obligations under this Agreement and that entry into this Agreement will not result in the breach by it of any law applicable to it.
- (b) Each Party warrants to each other Party that:
 - (i) this Agreement creates a legal, valid and binding obligation, enforceable against the relevant Party in accordance with its terms; and
 - (ii) unless otherwise stated, it has not entered into this Agreement in the capacity of trustee of any trust.

26 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of the Agreement is not affected.

27 Waiver

The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of that obligation or breach in relation to any other occasion.

28 GST

If any Party reasonably decides that it is liable to pay GST on a supply made to another Party under this Agreement and the supply was not priced to include GST, then the recipient of the supply must pay an additional amount equal to the GST on that supply.

29 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

30 Compliance

- (a) The Parties agree to comply with the terms set out in Schedule 3 (Compliance).
- (b) Either Party may terminate or suspend this Agreement with immediate effect if any obligation of Schedule 3 has been breached by the other Party, or if the first party

reasonably suspects such a breach, without prejudice to any other remedy the first Party may have under this Agreement or otherwise.

- (c) The provisions of paragraphs 10 (Records) and 11 (Audit and Inspection) of Schedule 3 (Compliance) shall survive the expiration or termination of this Agreement for any reason.

Schedule 1

Land

- Lot 3 in Deposited Plan 750956 (Lot 3)
- Lot 30 in Deposited Plan 750956 (Lot 30)
- Lot 31 in Deposited Plan 750956 (Lot 31)
- Lot 32 in Deposited Plan 750956 (Lot 32)
- Lot 33 in Deposited Plan 750956 (Lot 33)
- Lot 57 in Deposited Plan 750956 (Lot 57)
- Lot 61 in Deposited Plan 750956 (Lot 61)
- Lot 21 in Deposited Plan 750966 (Lot 21)
- Lot 25 in Deposited Plan 750966 (Lot 25)
- Lot 26 in Deposited Plan 750966 (Lot 26)
- Lot 27 in Deposited Plan 750966 (Lot 27)
- Lot 28 in Deposited Plan 750966 (Lot 28)
- Lot 29 in Deposited Plan 750966 (Lot 29)
- Lot 30 in Deposited Plan 750966 (Lot 30 - 750966)
- Lot 38 in Deposited Plan 750966 (Lot 38)
- Lot 39 in Deposited Plan 750966 (Lot 39)
- Lot 84 in Deposited Plan 750966 (Lot 84)
- Lot 85 in Deposited Plan 750966 (Lot 85)
- Lot 5 in Deposited Plan 750966 (Lot 5)
- Lot 6 in Deposited Plan 750966 (Lot 6)
- Lot 7 in Deposited Plan 750966 (Lot 7)
- Lot 8 in Deposited Plan 750966 (Lot 8)
- Lot 9 in Deposited Plan 750966 (Lot 9)
- Lot 10 in Deposited Plan 750966 (Lot 10)
- Lot 58 in Deposited Plan 750956 (Lot 58)
- Lot 62 in Deposited Plan 750956 (Lot 62)
- Lot 63 in Deposited Plan 750956 (Lot 63)
- Lot 64 in Deposited Plan 750956 (Lot 64)

Lot 75 in Deposited Plan 750966 (Lot 75)

Lot 76 in Deposited Plan 750966 (Lot 76)

Lot 86 in Deposited Plan 750966 (Lot 86)

Lot 87 in Deposited Plan 750966 (Lot 87)

Lot 77 in Deposited Plan 750966 (Lot 77)

Lot 78 in Deposited Plan 750966 (Lot 78)

Lot 82 in Deposited Plan 750956 (Lot 82)

Lot 99 in Deposited Plan 750966 (Lot 99)

Lot 102 in Deposited Plan 750966 (Lot 102)

Lot 105 in Deposited Plan 750966 (Lot 105)

Lot 42 in Deposited Plan 750956, Folio identifier 42/750956 (Lot 42)

Lot 43 in Deposited Plan 750956, Folio identifier 43/750956 (Lot 43)

Lot 47 in Deposited Plan 750956, Folio identifier 47/750956 (Lot 47)

Lot 55 in Deposited Plan 750956, Folio identifier 55/750956 (Lot 55)

Lot 56 in Deposited Plan 750956, Folio identifier Auto-Consol 5831-78 (Lot 56)

Lot 84 in Deposited Plan 750956, Folio identifier Auto-Consol 5831-78 (Lot 84)

Schedule 2

Section 355 Committee – Operating Principles

Section 355 Committee (Local Government Act) to Administer the Community Enhancement Fund

That portion of Development Contributions destined for the single Community Enhancement Fund will be administered by a Section 355 Committee involving the Host Council, in accordance with the provisions of this Schedule.

The Committee will act as an advisory Committee for the Host Council and has no executive powers, except those expressly provided by the Host Council. In carrying out its Community Enhancement Fund allocation of monies responsibilities, the Committee recognises that primary responsibility for management of the Committee rests with the Host Council and their respective General Managers as defined by the *Local Government Act 1993*, and associated Regulations. The Committee's responsibilities are to assist the Host Council to discharge their responsibilities with due care and diligence.

The Committee shall operate in accordance with the following principles:

(a) *Membership of the Section 355 Committee*

To be a Committee of six (6) comprising:

- (i) two councillors from the Host Council (one of whom chairs the committee (voting));
- (ii) one council officer from the Host Council (non-voting);
- (iii) two community representatives from the Local Government Area of the Host Council (to be residents within ideally 30 km of the solar farm) who have not entered into a financial agreement with the solar farm company and can demonstrate the skills and experience relevant to the Committee's charter (voting); and
- (iv) one Company representative (voting).

(b) *Community projects - grant eligibility criteria*

- (i) Recipients must be an incorporated or registered not-for-profit association, or a local council or a Crown Reserve Trust;
- (ii) A grant application must be able to demonstrate in some detail the particular nature of the Public Purpose likely to accrue to the communities associated in some manner with the solar farm. Ideally the benefits are to flow to the community within approximately 30 km of the solar farm so as to truly reflect the impact of the project on the community. Grants for projects outside the 30 km radius may also be considered provided they can show a degree of benefit within the 30 km criterion; and
- (iii) The Committee has the authority to determine additional grant eligibility criteria, with Host Council approval, provided that the first two criteria listed herein are maintained.
- (iv) The Committee may recommend that part of the Community Enhancement Fund be held and dedicated to a future, large or multi-year funding commitment described in the recommendation in writing with certainty and detail (the 'Strategic Reserve').

(c) *Role of the Committee*

The Committee's role is to:

- (i) Annually review the draft operational plan of the Host Council (as publicly exhibited in accordance with section 405 of the Local Government Act 1993) to ensure the said plans apply land use planning standards to the land within 30 km of the solar farm that are consistent with those applied beyond 30 km, subject to any differences in land use type, biophysical characteristics and socio-economic activity;
- (ii) Review the suitability of grant application forms and information for applicants, and the information and briefing to be provided to incoming members of the Committee,

- and to recommend changes where appropriate;
 - (iii) Publicly call for applications for funding for projects to benefit the local community;
 - (iv) Evaluate funding applications and make grant recommendations to the Host Council;
 - (v) Allow a grant applicant the opportunity to address the Committee, providing there has been prior registration to speak and the address is conducted in accordance with standard meeting protocols;
 - (vi) Check that allocations are made from the Community Enhancement Fund as recommended, and that any allocations to and payments from the Strategic Reserve are accounted for
 - (vii) Check that the planning agreement giving rise to the Committee is permanently accessible on the websites of the Host Council, that activity pursuant to the planning agreement is included in the annual reports of the Host Council, and that citizens have access to the history of grants (and outcomes) pursuant to the planning agreement; and
 - (viii) Review the effectiveness of completed grants and of the performance of the Committee each year, and recommend changes to the Host Council where appropriate, so that the Community Enhancement Fund provides as much ongoing public benefit as possible.
- (d) *Public Notice for nominations for appointment to the Committee, applications for grants and reporting on allocated grants*

The Committee will be responsible for advertising when grant applications for funding are being invited, together with the due date. The public notice should be displayed in various locations including (but not limited to):

- (i) on the Host Council's website;
 - (ii) in the Host Council's office reception areas – hard copy;
 - (iii) in local newspaper(s) (where available);
 - (iv) on social media as deemed appropriate by the Committee; and
 - (v) on the solar farm company website.
- (e) *Meeting quorum and procedure*
- (i) Members of the Committee not able to attend in person will have the option to attend via teleconference;
 - (ii) A quorum is all five (5) voting members including two Councillors from the Host Council;
 - (iii) The Committee will meet at least six monthly.
 - (iv) Meetings will be open to the public and meeting details publicised, however speaking rights to non-member attendees will be at the discretion of the chairperson.
 - (v) Minutes of Committee meetings will be placed on the Host Council's websites.
- (f) *Public Purpose*

Community-initiated projects potentially eligible for merit allocation of Development Contributions from the Community Enhancement Fund must be for a Public Purpose and include (but are not limited to) provision of:

- projects for the conservation or enhancement of the natural environment;
- provision of public domain infrastructure and services such as recreational, sporting and community facilities as well as disabled access, car parking, toilets, footpaths, and streetscapes;
- funds for improving rural community mobile phone and internet services;
- support to assist medical practitioners reside in local towns;
- mobile outreach health services;
- support to assist medical specialists fly in from the city to run clinics;
- support for physical health programs, for example obesity/diabetes/drugs;
- support for mental health programs;
- support for the construction and management of aged care units and to assist the financially disadvantaged gain entry into such facilities;
- support for the provision of Council-run aged care/community transport vehicles;
- child care and preschool facilities;
- improvements to drainage structures and waste management services;

- upgrades and recurrent expenditure funding of public facilities such as libraries, community halls, aquatic centres and childcare facilities;
- monitoring of the planning impacts of development and project-related technical resource capacity;
- masterplans for LGA development;
- tourist displays, including (but not limited to) with regard to indigenous and non-indigenous regional heritage; and
- renewable energy projects.

Note: As at the date of this agreement, section 7.4(2) of the *Environmental Planning and Assessment Act 1979* states:

'A public purpose includes (without limitation) any of the following:

(a) the provision of (or the recoupment of the cost of providing) public amenities or public services,

(b) the provision of (or the recoupment of the cost of providing) affordable housing,

(c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,

(d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,

(e) the monitoring of the planning impacts of development,

(f) the conservation or enhancement of the natural environment.'

(g) *Further operating principles*

The Committee may from time to time propose additional operating principles, providing that the additional principles are consistent with the above principles, and the additional principles shall apply upon ratification by the Council.

Schedule 3

Compliance

In this Schedule:

- 1.1 **“Affiliate”** means, with respect to any person, any other person that directly or indirectly through one or more intermediaries Controls or is Controlled by or is under common Control with that person provided that in the case of the Company, the term “Affiliates” shall not include BP plc nor any subsidiaries of BP plc which are not subsidiaries of Lightsource BP Renewable Energy Investments Limited (including in the event that BP plc becomes a 100% owner of Lightsource BP Renewable Energy Investments Limited).
- 1.2 **“Anti-Corruption Laws”** means the laws and regulations set out in paragraph 4.2 of this Schedule.
- 1.3 **“Control”** means the possession, directly or indirectly through one or more intermediaries, of more than 50% of the outstanding voting stock of, or the power to direct or cause the direction of the management policies of, any person, whether through ownership of stock, as a general partner or trustee, by contract or otherwise.
- 1.4 **“Facilitation Payments”** means small bribes or grease payments or any other payments made to a Public Official to facilitate routine, non-discretionary governmental actions that:
- (a) the Public Official ordinarily performs; and
 - (b) a Party is otherwise entitled to under the laws of the relevant country.
- 1.5 **“Lightsource bp Code”** means the Lightsource bp Code of Business Conduct & Ethics for Counterparties which is found at: <https://www.lightsourcebp.com/code-of-business-conduct-and-ethics-for-counterparties/> (as updated from time to time).
- 1.6 **“Lightsource bp Group”** means the Company and its Affiliates.
- 1.7 **“Person”** means any person whosoever (including private individuals and Public Officials).
- 1.8 **“Public Official”** means:
- (a) any minister, civil servant, politician, director, officer or employee or other official of any government or any department, agency or body, and/or of any government-owned or controlled company, any company or enterprise in which a government owns an interest of more than thirty percent, and/or of any public international organization;
 - (b) any person acting in any official, legislative, administrative or judicial capacity for or on behalf of any government department, agency, body, or public international organization, including any judges or other court officials, military personnel and customs, police, national security or other law enforcement personnel; and
 - (c) any close family member of any of the foregoing.
- 1.9 **“Related Parties”** means, with respect to a Party:
- (a) any employee, director, Affiliate, sub-contractor (including any person to whom any part of the performance of any of the obligations under this Agreement is sub-contracted or delegated), supplier, developer, agent, consultant, contractor and advisor of that Party;

- (b) any other person who performs or has performed services for or on behalf of the Party;
and
- (c) any other intermediary engaged by or on behalf of that Party.

2. CODE OF CONDUCT

- 2.1 In connection with the Host Council's performance and exercise of its rights and obligations under this Agreement or any related transaction, the Host Council agrees to act consistently with and adhere to (and shall procure that its Related Parties act consistently with and adhere to) the principles set out in the Lightsource bp Code.

3. COMPLIANCE WITH LAWS

Each Party shall observe and abide by and shall procure that its Related Parties observe and abide by all applicable laws, statutes and regulations, in relation to the performance and exercise of rights and obligations under this Agreement.

4. ANTI-BRIBERY AND CORRUPTION

- 4.1 The Host Council acknowledges that the Company has a zero-tolerance policy toward bribery, corruption and Facilitation Payments, and that the Lightsource bp Group has obligations under the Anti-Corruption Laws with respect to service providers (including their Related Parties) in connection with its business.
- 4.2 Without limiting the generality of paragraph 3 of this Schedule each Party shall observe and abide by and shall procure that its Related Parties observe and abide by any applicable anti-bribery, anti-corruption, anti-tax evasion and anti-money laundering laws and regulations including any laws which may come into force during the period of the Agreement and including any secondary legislation under such laws in relation to the performance and exercise of rights and obligations under this Agreement.
- 4.3 Each Party will not (and will procure that its Related Parties will not) offer, give or agree to give any Person or solicit, accept or agree to accept from any Person, anything of value, either directly or indirectly, in connection with this Agreement in order to obtain, influence, induce or reward any improper or illegal advantage including any Facilitation Payment.

5. CONFLICTS OF INTEREST

- 5.1 Each Party shall disclose:
- (a) any actual or apparent conflict of interest between personal, professional, social, financial, or political interests or activities which are inconsistent or interfere in any way with the interests of the other Party or the duties and obligations owed to the other Party or appear to do so, including using the other Party's information and resources for improper gains; and
 - (b) any relationship between that Party or its Related Parties and a Public Official which may affect or be perceived to affect the Agreement or the business of the other Party.
- 5.2 In the event such a conflict of interest exists, or an apparent or potential conflict is identified, it must be promptly disclosed to the other Party and, if possible, prior to engaging in the relevant activity.

6. ETHICAL LABOUR AND SUPPLY CHAIN

6.1 The Host Council acknowledges that the Company:

- (a) is committed to acting ethically and with integrity in all its business dealings and relationships in line with the principles set out in the Lightsource bp Code; and
- (b) aims to ensure that forced labour, trafficked labour, child labour and modern slavery are not taking place anywhere in its business or supply chain,

and, having read the Lightsource bp Code, agrees that it shall (and shall procure that its Related Parties shall) act in a manner consistent with the values and statements set out therein.

6.2 Without prejudice to the generality of paragraph 6.1 of this Schedule:

- (a) the Host Council confirms that it and its Related Parties shall conduct its business in a manner that respects the rights and dignity of all people and internationally recognised human rights, including:
 - (i) not employing, engaging or otherwise using forced labour, trafficked labour or child labour;
 - (ii) not engaging in or condoning abusive or inhumane treatment of workers;
 - (iii) providing equal opportunities, avoiding discrimination and respecting freedom of association of workers, in each case within the relevant national legal framework; and
 - (iv) mitigating or avoiding adverse impacts to communities arising from its activities to the extent practicable; and
- (b) the Host Council warrants, to the best of its knowledge, for itself and on behalf of its Related Parties that:
 - (i) it has policies concerning ethical labour and human rights in place and an appropriate complaints procedure to deal with any issues relevant to or any breaches of such policies;
 - (ii) it does not employ, engage or otherwise use any child labour;
 - (iii) it does not use forced labour in any form (prison, indentured, bonded, or otherwise);
 - (iv) its employees are not required to lodge official identification or travel papers or deposits at any time in connection with the work they perform for it;
 - (v) it does not employ, engage or otherwise use trafficked labour;
 - (vi) it provides a safe and healthy workplace, presenting no immediate hazards, and emergency healthcare in the event of accidents or incidents to those working on its premises;
 - (vii) any housing provided to its employees is safe for habitation;
 - (viii) it provides access to clean water and food to its employees;

- (ix) it does not discriminate against any employees on any ground (including race, religion, disability or gender);
- (x) it does not engage in, or support the use of, corporal punishment, mental, physical, sexual or verbal abuse and does not use cruel or abusive disciplinary practices in the workplace;
- (xi) it pays each employee at least the minimum wage, or a fair representation of the prevailing industry wage (whichever is the higher) and provides each employee with all legally mandated benefits, in each case as relevant to the jurisdiction in which the relevant employee works;
- (xii) it complies with the laws on working hours and employment rights in the countries in which it operates; and
- (xiii) it does not prevent or prohibit any employee from, nor does it discriminate against any employee for, exercising any right to join and/or form independent trade unions or any right or freedom of association.

7. COMPLIANCE WITH INTERNATIONAL TRADE REGULATIONS

- 7.1 Each Party shall comply with, and shall ensure that its Related Parties comply with, all applicable export control, trade embargo and other foreign trade control laws, rules and regulations (“**Trade Restrictions**”).

8. SANCTIONS

Each Party represents and warrants that neither it nor its Related Parties are subject to restriction under any national, regional or multilateral trade or financial sanctions under applicable trade control laws and regulations.

9. OBLIGATION TO DISCLOSE

The Host Council shall on an on-going basis through the Term of this Agreement:

- (i) inform its Related Parties that they are required to act in accordance with the obligation set out in this Schedule;
- (ii) monitor compliance with the obligations set out in this Schedule; and
- (iii) immediately disclose in writing to the Company details of any breach of any obligation set out in this Schedule.

10. RECORDS

- 10.1 The Host Council shall, during the term of this Agreement and for a minimum of six years from the end of the calendar year in which the Agreement is completed or terminated, maintain complete and adequate records (which are, where applicable, in accordance with internationally recognised accounting principles and traceability protocols) of all operations related to this Agreement (and any related transaction) and all purchase orders, invoices, charges and transactions related thereto.

11. AUDIT AND INSPECTION

- 11.1 The Host Council hereby grants (and shall procure that each of its Related Parties grant) to the Company (or its agent, as appropriate) the right upon reasonable notice (unless to

investigate a reasonably held suspicion of breach, in which case no notice shall be necessary) to:

- (a) enter the Host Council's premises or facilities (or those of its Related Parties) and the site of any works or operations carried out under or in connection with this Agreement and any transactions related thereto to inspect and audit:
 - (i) any of the Host Council's records, documents and/or other evidence (or those of its Related Parties) in connection with this Agreement and any transactions related thereto; and
 - (ii) any operations which are or have been carried out in connection with supplies or services provided pursuant to this Agreement and any transactions related thereto; and/or
- (b) require, subject to compliance with law, that the Host Council delivers (or procures that the relevant Related Party delivers) to the Company (or its agent, as appropriate) copies of any relevant documents and/or other information requested by the Company (or its agent, as appropriate),

for the purposes of monitoring the compliance by the Host Council (or the relevant Related Party) of the warranties and obligations set out in this Schedule.

- 11.2 The right granted pursuant to paragraph 11.1 of this Schedule is granted from the date of this Agreement until the expiry of six years from the end of the calendar year in which the Agreement is completed or terminated.
- 11.3 The Company shall use its reasonable endeavours to conduct any inspections and audits carried out in accordance with paragraph 11.1 of this Schedule in a manner which will result in a minimum of inconvenience to the Host Council.
- 11.4 The Host Council shall:
 - (a) provide reasonable assistance with any inspection or audit carried out in accordance with paragraph 11.1 of this Schedule;
 - (b) provide to the Company (or its agent, as appropriate) any relevant documents and/or other evidence requested by the Company (or its agent); and
 - (c) procure access to such other premises or facilities relating to this Agreement and any transactions related thereto as the Company (or its agent) shall reasonable require.
- 11.5 If the Company so chooses, but with no obligation to do so, it may engage with the Host Council on the results of any inspection or audit conducted pursuant to paragraph 11.1 of this Schedule and discuss measures and timeframes for improvement and/or rectification of any issues arising from such inspection or audit.
- 11.6 The Company shall be entitled to suspend or terminate this Agreement with immediate effect if:
 - (a) the Company (or its agent) become aware, by whatever means including but not limited to conduct of a monitoring or verification exercise, that the Host Council or any of its Related Parties is in breach of any of the provisions of this paragraph 11 of this Schedule;

- (b) the Host Council (or any of its Related Parties) refuses, prevents or obstructs the Company (or its agent) from monitoring or verifying compliance by the Host Council or Related Parties with the obligations set out in this Schedule; or
- (c) The Company (or its agent) engages with the Host Council in accordance with paragraph 11.5 of this Schedule to improve and/or rectify any issues arising from such monitoring and/or verification, but no resolution satisfactory to the Company is achieved within such timeframe as the Company (or its agent) specifies in writing as part of such discussions.

EXECUTED AS A DEED

Company

Executed by Goulburn River Fund Pty Limited ACN 673 011 786 as trustee for the Goulburn River Trust in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by authority of its directors:

Signature of Director

Signature of Director/company secretary

Name of Director
(BLOCK LETTERS)

Name of Director/company secretary
(BLOCK LETTERS)

Host Council

Executed for and on behalf of Upper Hunter Shire Council by the General Manager pursuant to a resolution of Council passed at the Ordinary Meeting held on

General Manager

I certify that I am an eligible witness and that the delegate signed in my presence

Signature of witness

Name of witness

Address of witness

