

Explanatory Note – Draft Voluntary Planning Agreement for the Tomago Battery Energy Storage System Project – SSD 57107216

Introduction

- 1 The purpose of this explanatory note is to provide a plain English summary to support the public notification of the draft Voluntary Planning Agreement (**Agreement**) for the Tomago Battery Energy Storage System Project, prepared in accordance with Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**).
- 2 This explanatory note was prepared jointly by AGL Macquarie Pty Limited (**Developer**) ABN 18 167 859 494 and Port Stephens Council (**Council**) ABN 16 744 377 876 under clause 205 of the *Environmental Planning and Assessment Regulation 2021* (NSW).

Parties to the Agreement

- 3 The parties to the Agreement are the Developer and the Council.

Description of the Proposed Development

- 4 On 8 November 2024, the Developer was granted Development Consent in respect of the State Significant Development application number SSD 57107216 by the delegate of the Minister for Planning and Public Spaces. The Development Consent was granted under section 4.38 of the Act (**Development Consent**) for the construction and operation of the Tomago Battery Energy Storage System Project (**Development**).
- 5 The Development will involve a 500 megawatt (MW) and up to 2,000 MW-hour Battery Energy Storage System (**BESS**), transmission lines, a high voltage substation, temporary and permanent ancillary infrastructure.
- 6 The Development is expected to significantly benefit the State and the local community, with key benefits including:
 - (a) improved electricity network security and increased energy storage within NSW;
 - (b) alignment with Commonwealth and NSW renewable energy policy positions;
 - (c) support for increased renewable power generation during daytime peak periods, placing downward pressure on wholesale electricity prices in accordance with the Integrated System Plan;
 - (d) creation of up to 200 direct jobs during the Development construction phase, and up to six jobs during operation.
- 7 The Developer has made an Offer to Council to enter into a voluntary planning agreement with respect to the Development.

Description of the Land

8 The Development is located on land the subject of the Development Consent, including land that is owned by the Developer, specifically Part Lot 5 and Lot 6 in Deposited Plan 1286735 (**Land**) known as 6 and 6A Old Punt Road, Tomago.

Summary of Objectives, nature and effect of the Agreement

9 The Agreement requires the Developer to provide Development Contributions as detailed in Schedule 2 of the Agreement to the Council in connection with carrying out the Development and to enable the Council to use the Development Contributions for public purposes.

10 The Agreement provides that the Developer will pay to the Council:

- (a) a one-off lump sum payment of \$200,000, upon successful registration of the Development on the National Electricity Market; and
- (b) an annual payment of \$200 per MW of installed capacity, commencing from the commencement of Operations and ending on the earlier of either the cessation of operations of the Development or the 20th anniversary of the commencement of operations. For any portion of the operations period that is less than one year, the Developer will only be required to pay its development contribution for that year on a proportional basis. This annual contribution amount will be adjusted in accordance with the Consumer Price Index – Sydney all Groups.

Assessment of the merits of the Agreement including the impact on the public

11 The Agreement will enable the Council to provide community enhancements in the area surrounding the Development, such as (but not limited to) road upgrades and maintenance, environmental projects and/or community infrastructure projects, for one or more of the following public purposes:

- (a) delivering community-wide benefits from the Development;
- (b) supporting the work of existing and future community organisations;
- (c) encouraging local community innovation and support for issues of community significance; and
- (d) developing strong relations with the local and wider communities.

12 Under the Agreement, the Council also has the opportunity to provide comments or recommendations to the Developer on the allocation of future grant payments under AGL's Community Grant Program. These recommendations are intended to guide the Developer toward supporting community projects or groups within the Port Stephens Local Government Area that would benefit from financial contributions, thereby promoting broader community advancement.

13 For the above reasons the Agreement is in the public interest.

Promotion of the public interest and one or more of the objects of the Act

14 The Agreement requires that the Council use the Development Contributions for public purposes in accordance with section 7.4(2) of the Act, and in doing so this Agreement promotes the following objects of the Act:

- (a) the provision and co-ordination of community services and facilities; and
- (b) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats.

Promotion of the Council's Charter under chapter 3 LGA

15 The Agreement promotes elements of the Council's charter under chapter 3 *Local Government Act 1993* (NSW) (**LGA**) in that it enables the Council:

- (a) provide effective and efficient services to meet the diverse needs of the local community in a way that provides the best possible value for residents and ratepayers;
- (b) work with others to secure appropriate services for local community needs; and
- (c) to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development.

Identification of the planning purpose served by the Agreement and assessment of whether the Agreement provides a reasonable means of achieving that purpose

16 The Agreement promotes the public interest by ensuring that an appropriate contribution is made towards the improvement of infrastructure as well as environmental, amenity or community projects within the local government area. The payment of the Development Contributions are considered a reasonable and effective means of achieving this purpose.

Interpretation of Agreement

17 This explanatory note is a summary only and must not be used to assist in construing the Agreement.