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To Whom It May Concern

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Response to Updates to State code 23: Wind farm development and the associated planning guidance

On behalf of the Queensland Conservation Council and Cairns and Far North Environment Centre, we welcome the opportunity to provide you with a joint submission on the proposed updates to State Code 23. Environment and community organisations have been raising concerns about deficiencies in the planning framework allowing the renewables roll out to proceed with significant impacts on nature, and lack of community consultation. We see this review as an integral part of a broader planning review.

We urge the Queensland Government to take this opportunity to strengthen the code further to improve environmental safeguards, mandate community consultation and enshrine free, prior and informed consent through the following key improvements. We have also included below our recommendations for the broader planning framework review, including as set out in the Queensland Energy and Jobs Plan, to deliver a strategic and well planned renewables roll out that delivers a safe climate future, thriving nature and strong communities.

Recommendations regarding the Update to State Code 23

Avoid - Implement the Hierarchy of Environmental Protection

Whilst the environmental criteria have been expanded to include specific mention of threatened species and rehabilitation, the increased specificity will not lead to better environmental outcomes.

The title of the section of performance outcome protecting environmental values is: *Protecting areas of high environmental value and **minimising** environmental impacts*. The hierarchy of environmental protection is: avoid, minimise, mitigate and offset. The use of minimise here means that State Code 23 is not set up to start from the top of the hierarchy. The primary goal should be to avoid impacts. The importance of avoidance has been clearly articulated in the Samuels review of the EPBC Act, and highlighted by the extinction rates in Queensland. The first described performance outcome states;

“Protecting areas of high environmental value and minimising environmental impacts”

We shouldn't see the word 'minimising' in the code, it must be 'avoid'. Clarity should also be provided on when impacts must simply be avoided without discretion, to properly implement this hierarchy in decision-making. Similarly, we welcome inclusion of guidelines for erosion and run off as this is a significant omission in the assessment of wind farms particularly on ridgelines, and particularly if in reef catchments. As above, the language of this criteria should be to avoid, not minimise, impacts.

Define high environmental value

The updated code references threatened species habitat and "areas of high environmental value" as what must be protected. The code must ensure an assessment of the site as a whole. For this to occur, "high environmental value" must be defined, or risk becoming too broad to be meaningful. A definition of this will provide greater certainty to proponents and communities. Additionally an assessment of the facilitated impacts on adjacent areas of high environmental value should consider any additional steps that might be required for its protection.

Provide more guidance on adverse impacts

Projects will be assessed against whether they protect against adverse impacts, but no detail is given in the Planning Guidance as to what will be defined as adverse impacts. This should be defined, with examples to assist interpretation. In addition to better defining adverse impacts, the code should prompt an assessment of the cumulative impacts of the wind farm for a relevant area, i.e the bioregion, or spread of a particular threatened species habitat.

Add Protected Areas as sensitive sites

There is no change proposed to the list of "sensitive land uses" which require a buffer zone between them and wind farm development. Protected areas, as defined under the *Nature Conservation Act 1992* (Qld) and including World Heritage Areas, must be added as sensitive sites, and require a buffer to protect them from edge effects. We have seen projects proposed in close proximity to the Wet Tropics World Heritage Area which will have undeniable impacts on the WHA. A no-development buffer of at least 1500 metres from the boundary should be required around these to ensure the protection of biodiversity held in these protected areas. Additionally an assessment of the facilitated impacts on adjacent Protected Areas should be made alongside this buffer, to consider any additional steps that might be required for its protection.

Natural hazards consideration broader than worker safety and adjacent environments

While worker safety during construction and operation is paramount, the impact of wind farm developments on natural hazards beyond worker safety also needs to be considered. Local emergency services, particularly bushfire brigades, must be consulted during the planning process to develop a response plan which minimises fire risk and also ensures the safety of emergency services personnel. Additionally, with increasing risk and impact of fire to our important environmental values, potential impacts must be assessed. The Code should include an assessment of any increased risk of natural hazard to Protected Areas and areas of 'High Environmental Value'.

Rehabilitation guidelines for maximum extent possible

We welcome the inclusion of rehabilitation guidelines in the performance outcomes, as rehabilitating cleared land should not be a voluntary activity. The Government must define “maximum extent possible” to provide a benchmark or at least way of assessing rehabilitation plans against this criteria. The Government must also set monitoring requirements on the rehabilitation plans. Rehabilitation plans must detail re-clearing that would be required if the turbine blades or other components have to be replaced during or at the end of life. These plans should also provide a long term improvement to the site and habitat for threatened species, with clear consideration of the re-clearing detail provided.

Decommissioning planning needs to occur to extend the greater extent possible

The performance outcome for decommissioning must require planning at the assessment stage. The plan should include details of how the decommissioning would occur, what the cost would be, and indicate the facilities that would be used for effective decommissioning. Additionally the outcome to recycle components “to the greatest extent possible” is too weak. There needs to be recycling content requirements developed by the Government to ensure that the capability and industry to recycle components is developed.

Community engagement

The “social” assessment proposed in the updates to State Code 23 only considers the impacts of workers camps on primarily the physical infrastructure of the town. Although important, this is not the major concern of most communities in Queensland when a wind farm development is pursued. The revised planning guidelines acknowledge that *“community stakeholders have become increasingly critical of the fact that most wind farms are code assessable and therefore proponents have no statutory requirement to consult.”* However there is no proposed update to change this and overcome this risk to social licence of wind projects. Instead, proponents are only *“strongly encouraged to proactively engage with local communities prior to lodging a SARA application as well as during the assessment of an application”*. This does not provide any protection or access to information for communities.

The Clean Energy Council’s referenced guidelines are voluntary only, there can be differences in the way the guidelines are interpreted, and there is no recourse for CEC or the community to hold companies to account if they fail to meet these guidelines, even if they are a signatory.

We strongly recommend the Government mandate impact assessment for wind farms which reach a certain threshold of environmental or social impact, which for environmental impacts could be defined by reference to area of habitat cleared, or value of the environmental area, for example. We understand this amendment must be made to the *Planning Regulation 2017* (Qld). Currently wind farms are largely assessed via code assessment, meaning no community engagement is actually required, even for the most impactful projects.

Community engagement should be underpinned by the three universal [Community Rights in Environment Decision-making](#) set out in [Principle 10 of the Rio Declaration](#):

- Transparency: the community’s right to accurate and timely information

- Integrity: the community's right to meaningfully participate in environmental decision-making
- Accountability: the community's right to access justice

The IAP 2 framework provides an existing benchmark, and a way to assess projects' consultation processes. This framework could be used within State Code 23 as a way to measure and standardise consultation requirements across projects.

Ensure that free prior and informed consent and self-determination are upheld for First Nations of Country proposed to be impacted

Cultural heritage protection is central to the ambition of Aboriginal and Torres Strait Islander peoples from all across Queensland. Protection of cultural rights of First Nations is required under section 28 of the *Human Rights Act 2019* (Qld). Under the current code, there are no requirements for the identification and protection of cultural heritage. Cultural heritage is central to the identity, culture and wellbeing of Aboriginal and Torres Strait Islander peoples and the code must require assessments of cultural heritage where development is being proposed. In general, more connection is required between the *Aboriginal Cultural Heritage Act 2003* (Qld) and *Torres Strait Islander Cultural Heritage Act 2003* (Qld) and the application, assessment and decision making processes required under the Planning Act framework in Queensland to ensure cultural heritage is appropriately recognised and protected through major development decisions.

Broader Planning Review Recommendations

Our overarching concern is that renewable energy projects are being proposed in areas that are unsuitable for development due to high biodiversity value. While the review of State Code 23 is essential, it will only be effective in overcoming inappropriate development if it comes alongside other planning reforms. We need a planning system that works across the board to manage the cumulative impacts on native species, ecosystems and communities of the renewable roll out.

Regional and statewide planning and mapping

Planning has many layers and will be affected by bioregional planning, e.g. for the EPBC reforms, state, regional planning, Queensland Renewable Energy Zones and local government planning. It is important that these different tools are coordinated to ensure mapping and planning at a regional and Queensland-wide level results in good siting for development that protects the environment and community. Additionally at a state level, planning needs to occur to ensure that transmission development leads to infrastructure development into appropriate areas. Where we site transmission will directly affect where wind energy infrastructure is sited. A coordinated mapping approach to assess cultural heritage, biodiversity and land use values around the state must be undertaken to identify areas which are not suitable for development and ensure a successful transition. 'Key resource areas' have long provided protection for areas under Queensland planning laws of areas of most interest to the mineral resource industry, and so there is an existing template for this type of state-wide planning.

Planning Regulation updates

As stated above, the above recommendations need to be supported by changes to the *Planning Regulation 2017* that ensures that these sensitive areas are avoided, and communities and First Nations people are meaningfully consulted. The Planning Act framework currently allows most wind farms to be code assessed without formal community involvement via submission opportunities. Some wind farm proposals will inevitably have higher impacts than others. It is important that for wind farms which trigger a certain level of impact to the community, environment or cultural heritage, impact assessment must be triggered. A requirement for community consultation, through impact assessment, is likely to achieve better community, environment and industry outcomes for developments with high potential impact.

We urge the Queensland Government to accelerate and coordinate regional planning instruments and coordinated state-wide mapping of the best sites for low impact renewable energy, alongside changes to the Planning Regulation, to ensure a successful transition for nature and people.