



STAFF REPORT

Planning and Development

Subject: *Application for a Development Agreement to permit the development of a windfarm located at PIDs 90222274, 90092578, 90092644, 90092701, 90298829, 90093055, 90295379, 90321506, 90321472, 90270018, 90321480, 90222266, 90093105, 90093287, 90093345, 90093360, 90024373, 90024498, 90093642, 90024480, 90024647, 90024613, 90024621, 90024639, 90024696, 90024795, 90024894, 90024985, 90007071, 90007089, and 90007105 within the community of Little River Harbour, Municipality of the District of Argyle.*

To: Municipality of Argyle CAO and Municipal Council for December 14, 2023

Date Prepared: December 13, 2023

Related Motions: None

Prepared by: Will Robinson-Mushkat, MCIP, LPP, Senior Planner, WSP Canada Inc.

Summary

The Municipality has received a Development Agreement (DA) application from Wedgeport Wind Farm Limited to permit the development of a windfarm consisting of a maximum of 12 turbines located on various PIDs within the communities of Wedgeport, Little River Harbour, and Comeaus Hill, Nova Scotia.

The purpose of this report is to consider entering into a development agreement to permit the proposed uses on the subject property.

Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the application.

There are financial implications for the Municipality through the taxation revenue and community benefits fund that will be generated by the proposed Wind Farm, should Council approve entering into the Development Agreement with the proponent.

Recommendation

That the Planning Advisory Committee recommends that Council:

- 1) Give notice of motion to consider the proposed development agreement (save for minor differences in form and character), as set out in Attachment C of this report, to permit the development of a wind farm located on PIDs 90222274, 90092578, 90092644, 90092701, 90298829, 90093055, 90295379, 90321506, 90321472, 90270018, 90321480, 90222266, 90093105, 90093287, 90093345, 90093360, 90024373, 90024498, 90093642, 90024480, 90024647, 90024613, 90024621, 90024639, 90024696, 90024795, 90024894, 90024985, 90007071, 90007089, and 90007105 within the communities of Wedgeport, Little River Harbour, and Comeaus Hill within the Municipality of the District of Argyle and schedule a public hearing.





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Background

Wedgeport Wind Farm LP has applied for a development agreement to permit a wind farm with a maximum of 12 freestanding wind turbines located on multiple PIDs within the communities of Wedgeport, Little River Harbour and Comeaus Hill. All the properties within the subject land assembly are designated Coastal Communities (CC) in the Municipal Planning Strategy, and zoned Coastal Community (CC) in the Land Use By-law which enables the proposed uses by Development Agreement. Adjacent properties are also within the Coastal Community (CC) Zone.

Subject Land Assembly

The subject land assembly consists of thirty-one (31) separate properties of varying sizes and configurations. Twenty-eight (28) properties are privately owned with executed agreements with the landowners regarding leasing, licensing, and easements. Three (3) of the properties are crown-land for which long-term crown tenure for the project is permitted. The properties are largely contiguous; however, Black Pond Road bisects 7 of the 31 properties as it traverses across the land assembly in a generally East to West direction from Upper Wedgeport to Little River. Black Pond Road intersects with Comeaus Hill Road, which runs in a generally North to South direction, parallel to the land assembly, from Little River to Comeaus Hill. The land assembly is largely forested and vacant. There is road access from some of the parcels from both Black Pond Road and Comeaus Hill Road. Surrounding land uses include a mix of industrial, marine, residential, and undeveloped lands.

Table 1. Land Assembly Summary

MPS Designation	Coastal Communities (CC)
Zone	Coastal Communities (CC)
Total Area	1,500 acres
Current Land Uses	Vacant forested land.
Surrounding Land Uses	Low density residential housing, marine uses, industrial uses, undeveloped and vacant lands.

Development Proposal

The applicant is proposing to develop a wind farm across the subject land assembly. The wind farm will consist of 12 modern wind turbines, new access roads, new electricity collector lines, a new substation, and a new 138KV transmission line.

Access Roads and Laydown Areas: New access roads will be developed within the subject land assembly for the purpose of installation of the wind turbines and access to the wind turbines once installed. Laydown areas will also be developed to support the installation, operation, and decommissioning of the project.

Wind Turbine Generators (WTG): Construction and installation of up to 12 WTG and turbine pads across the project area in the general area identified on the site plan. It is estimated that the wind turbines for the proposed wind farm will generate between 6 and 8MW, per turbine, depending on the model selected by the proponent.

Electricity Collector Lines: New 34.5kV electrical collector lines will be installed in the subject area to connect the wind turbines with the wind farm substation. Collector lines will be primarily above ground level, however portions of the collector lines will be below ground level because the location to enter each WTG, electrically, is below ground level.



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Substation: Electricity generated by the wind farm will be transmitted through the electrical collection system to a new substation that will be located within the subject land assembly in the general area identified on the site plan. The substation is a necessary component of the wind farm to “step up” the energy generated by the wind farm from 34.5kV to 138kV. Approximately 20km of 128 kV transmission line, owned and operated by Nova Scotia Power Inc. (NSPI) will connect the wind farm to the NSPI grid at the Tusket Substation, within the Municipality of the District of Yarmouth.

The subject land assembly is considered to be one of the optimal locations for this infrastructure and renewable energy project within Nova Scotia. This is due to the strong and proven wind resources in the area, the topographical land conditions, and the separation distance from the proposed locations of the WTG to the nearest dwellings.

Policy Analysis and Discussion

WSP has reviewed the application based on the applicable policies contained in the Municipal Planning Strategy (MPS) and regulations in the Land Use Bylaw (LUB). In our planning opinion, the proposed development is generally consistent with the intent of the MPS and LUB and is an appropriate use of the site.

The subject property is designated and zoned as Coastal Community (CC). The proposed uses are defined as “Large Scale Wind Turbine Generator” and “Wind Farm” in the LUB; these uses are only permitted by Development Agreement in the CC zone. The CC designation is applied to lands within approximately 3 km of the coastline which have traditionally been residential with scattered commercial, industrial, and institutional uses. The intent of this designation is to continue to accommodate a wide variety of uses while minimizing potential land use conflicts related to new uses.

Existing policies in the MPS allow Council to consider a development agreement for the proposed uses. MPS Policy 3.3.7 states that Council may consider wind farms by development agreement in the Coastal Community zone pursuant to Policy 13.14, Criteria for Development Agreements and Land Use By-Law Amendments.

Policy 12.10, Renewable Energy Policies, also speaks to large scale wind farm development with the Coastal Community zone; specifically:

12.10.6 To establish in the Land Use By-law provisions for regulating the use and location of Large-Scale WTG and Wind Farms in the Rural Development Zone and Coastal Community Zone only and to require a Development Agreement to enable their use.

Further, policy 12.10.10 lists criteria specific for Council to consider prior to entering into a development agreement for a Large-Scale WTG or a wind farm development. Criteria in Policy 12.10.10 generally relate to:

- Ensuring that adequate separation distances between the WTG and any existing dwellings.

The minimum separation distances from the WTG and existing dwellings are one (1) kilometre. Separations distances are regulated via the Development Agreement.

- Mitigation of noise, visual impacts, shadows, and other environmental impacts is undertaken to minimize negative impacts on the surrounding community.



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Mitigation measures to address these potential impacts are addressed both within the Development Agreement and the Environmental Assessment, approved by Nova Scotia Environment and Climate Change.

- Safety concerns are addressed, both on- and off-site;

Safety concerns are addressed within the terms of the Development Agreement.

- Required documentation is submitted by the proponent of the development.

The proponent has submitted all the documentation required at the Federal and Provincial level pertaining to this specific development.

- A decommissioning plan is included as part of the Development Agreement.

A decommissioning plan forms a section of the Development Agreement for the proposed wind farm.

- The proposed development is in accordance with the Implementation policies of the MPS.

The proposed development meets the evaluative criteria outlined in Policy 13.14 of the MPS.

A detailed review of applicable MPS Policies, including Policy 12.10.10 and Policy 13.14, is provided as **Attachment A** to this report.

Financial Analysis and Discussion

There are two separate financial components to this application that will impact the Municipality of the District of Argyle.

First, the *Wind Turbine Facilities Municipal Taxation Act of Nova Scotia* provides the legislative authority and regulations for Municipalities to collect tax revenue from the operators of Wind Farms located within the boundaries of a Municipality. The Act stipulates that the operator is liable for the taxes - regardless of who whether they own the land upon which the turbines are situated upon. The amount of revenue for the Municipality generated by through the Act is calculated based on a formula and is collected on an annual basis once the Wind Farm is commissioned and operational.

Total Name Plate Capacity in megawatts (MW) x Wind Turbine Facility Tax Rate = Annual Revenue Generated

Under the conditions within the *Wind Turbine Facilities Municipal Taxation Act of Nova Scotia*, the wind turbine facility tax rate is subject to an annual escalator of 1%. It is anticipated that, when the proposed Wind Farm is commissioned and operational (winter 2025), the tax rate will be \$8575 per megawatt, which equates to an estimated total revenue of \$686,000.00 (assuming a total capacity of 80MW). It should be noted that these are estimates only, based on information provided by the proponent. The total amount of annual revenue generation for the Municipality through the *Wind Turbine Facilities Municipal Taxation Act of Nova Scotia*, is subject to change based on the actual amount of electricity generated on an annual basis.

Second, the proponent of the project is committed to the establishment of a Community Benefits Fund (CBF). The CBF will be funded on an annual basis by the proponent with a contribution of \$80,000.00 per year. The purpose of this fund is to support various not-for-profit causes and to be distributed within the communities that are directly impacted by the proposed Wind Farm. The CBF is proposed to be administered



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by a subcommittee of Council, comprised of residents of the communities, who are in the best position to allocate the funds to various on an annual basis. Programming for the CBF will commence the first year the proposed Wind Farm is commissioned and operational.

Public Participation

Staff have and will continue to comply with Public Participation Policies of the Municipal Planning Strategy in the processing this application. As per Section 206 of the *Municipal Government Act*, a public hearing is required for entering into a Development Agreement to hear input from the community. Notices regarding the application have been placed in strategic, highly visible points on the subject land assembly. Notice of the Public Participation Meeting (PPM) was posted on the website of the Municipality. The PPM was held on December 7th, 2023 in a hybrid (virtual and in-person) format, providing residents with an opportunity to pose questions and seek comment on the Municipal Land Use contexts of the application.

An advertisement outlining the application, indicating that it had been received and notifying the public of the public hearing will be placed in the *VanGuard* two weeks in advance of the public hearing.

Figure 3 illustrates the process followed by the Municipality for a Development Agreement Application.

Staff will mailout a notice of application to all property owners within 152 meters of the subject property and a public hearing will be held prior to the decision of Council.

The public is encouraged to request additional information and clarification from Staff leading up to the public hearing if they have any questions.

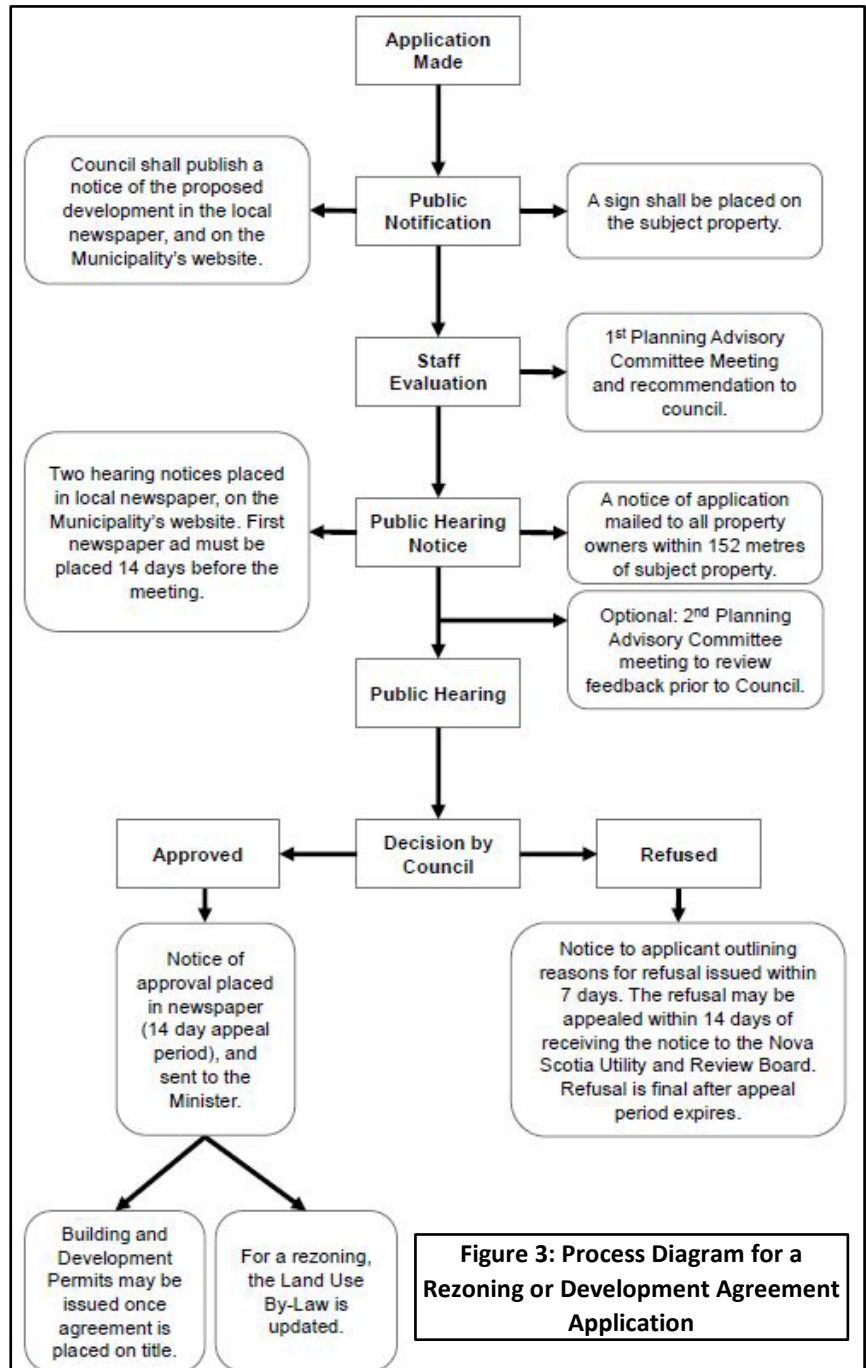


Figure 3: Process Diagram for a Rezoning or Development Agreement Application



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Right to Appeal

Under the terms of the *Municipal Government Act*, the approval, or refusal to approve, a Development Agreement may be appealed to the Nova Scotia Utility and Review Board by: an aggrieved person, the applicant, an adjacent municipality, a village in which the affected property is situated, and the Director. Appeals must be filed within fourteen (14) days after the notice of Council's decision is published in a newspaper of record.

Conclusion

The application to allow an oyster grading operation and warehouse facility is generally consistent with the Municipality's land use policies and regulations in the Municipal Planning Strategy and Land Use Bylaw and it is recommended that Council enter into a development agreement with the property owner for the proposed uses. As currently drafted, the development agreement allows oyster grading and storage and warehousing in addition to the uses permitted in the underlying Coastal Communities zone. The applicant has no current plans to expand the uses beyond the existing buildings, and any further expansion of these uses would require an amendment to the development agreement.

Options

In response to the proposed development agreement, the Planning Advisory Committee may:

1. Recommend that Council approve the proposed Development Agreement as currently drafted (see recommendation above), save for minor differences in form and character;
2. Provide an alternative direction such as requesting further information on a specific topic or approval subject to modifications;
3. Recommend that Council refuse the proposed Development Agreement, and in doing so, provide reasons why the proposed development does not reasonably carry out the intent of the MPS.

Attachments

Attachment A - Policy Evaluation Table

Attachment B - Environmental Assessment Approval, Nova Scotia Environment and Climate Change

Attachment C - Draft Development Agreement



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Attachment A: Policy Evaluation

The proposal may be considered by Council through the following applicable policies of the Municipal Planning Strategy for Argyle (MPS):

<p>COASTAL COMMUNITY ZONE</p> <p>The mainland portion of the Coastal community zone including those inshore islands with connections to the mainland are primarily residential. Institutional, recreational, agricultural and forestry uses are dispersed among the communities and are a traditional element in built-up areas. The communities do have concerns about intensive livestock operations such as mink ranches, and for Heavy Industrial uses, which have potential to disrupt the quality-of-life of nearby residences.</p> <p>Council will designate all lands and islands within the Coastal Communities designation excluding the Marine Industrial and Coastal Wetlands designations as Coastal Communities (CC) on the Generalized Future Land Use Maps. Within this designation Council will accommodate a diversity of residential, commercial, institutional, recreational, agriculture, forestry, light industrial uses.</p>	
Applicable MPS Policies	Staff Comments
<p>Policy 3.3.1: It shall be the policy of Council to designate sections of the mainland and all islands as Coastal Communities (CC) on the Generalized Future Land Use Maps to accommodate growth and development in a manner similar to the Rural Centres.</p>	<p>The subject land assembly is within this designation and zone.</p>
<p>Policy 3.3.3: It shall be the policy of Council that the intent of the Coastal Communities (CC) designation and zone is to accommodate a wide range of residential, institutional, commercial, industrial, agricultural, recreational and utility uses.</p>	<p>The subject site is within this zone, and the proposed use of the site is a wind farm, which is considered an utility use permitted via Development Agreement</p>
<p>Policy 3.3.4: It shall be the policy of Council to establish a Coastal Community Industrial (CCI) Zone in the Coastal Communities designation in the Land Use By-law to accommodate all existing Heavy Industrial Uses and their accessory uses.</p>	<p>N/A</p>
<p>Policy 3.3.7: It shall be the policy of Council that Council may consider the following uses by development agreement, pursuant to the requirements of Policy 13.14, in the Coastal Community (CC) Zone:</p> <p>ggg) Wind farm</p>	<p>The subject land assembly is within this zone, and the proposed use of the site is a wind farm</p>
<p>Policy 12.10.4 To encourage the growth and development of all alternate energy resources including wind turbine generators and to establish policy framework and Land Use By-law provisions to enable the development of varying sizes and scales of wind turbine generators in areas of the Municipality.</p>	<p>The proposed Wind Farm actively meets the policy objective of the Municipal Planning Strategy</p>
<p>Policy 12.10.5 To establish in the Land Use By-law definitions of and provisions for regulating the use and location of Large Scale, Small Scale and Micro Scale wind turbine generators.</p>	<p>The proposed use meets the definition of a Large Scale wind turbine generator. The draft Development Agreement contains provisions for the regulation and use.</p>



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<p>Policy 12.10.6 To establish in the Land Use By-law provisions for regulating the use and location of Large-Scale WTG and Wind Farms in the Rural Development Zone and Coastal Community Zone only and to require a Development Agreement to enable their use.</p>	<p>A Development Agreement has been drafted that regulates the use and location of the proposed Wind Farm/Turbines within the Coastal Community (CC) zone.</p>
<p>Policy 12.10.7 To establish in the Land Use By-law provisions for regulating the use and location of Small-Scale WTG in all zones except the Coastal Wetlands (CW) Zone and to require a Site-Plan approval to enable their use.</p>	<p>N/A</p>
<p>Policy 12.10.8 To establish in the Land Use By-law provisions for regulating the use and location of Micro Scale WTG in all zones except the Coastal Wetlands (CW) Zone and to require a Development Permit approval to enable their use.</p>	<p>N/A</p>
<p>Policy 12.10.9 To review the policies and provisions regulating the use of wind turbine generators in the Municipality from time to time.</p>	<p>N/A for this specific application. This is a policy general to the MPS and LUB.</p>
<p>Policy 12.10.10 To consider the following criteria prior to entering into a development agreement for a Large Scale wind turbine generator or wind farm development:</p> <p>a) That new large-scale wind turbine generators be separated from dwellings, excluding seasonal dwellings or camps, a minimum of one (1) kilometre.</p> <p>b) That mitigation of noise, visual impacts, shadow effects and environmental impacts of wind turbines is undertaken to minimize any potential negative effects of the development on the community.</p> <p>c) That safety concerns are addressed both on site and off site for matters of electrical safety, ice throw, blade throw, turbine collapse, and emergency response. A required setback from a wind turbine to a lot line may be amended if an impact study shows that a lesser or greater setback is appropriate to mitigate safety concerns.</p> <p>d) That all documentation required for the Canadian Environmental Assessment Act and the Nova Scotia Environment Act for the proposal is included in the documentation submitted by the proponent.</p> <p>e) That all documentation required by the Department of National Defence, Environment Canada, Navigation Canada, Transport Canada, Canadian Coast Guard, and Nova Scotia Department of Natural Resources is included in the documentation submitted by the proponent.</p> <p>f) That a decommissioning plan be included in the development agreement to be enacted after two years of the cessation of electrical power generation on the site.</p>	<p>a) This is a requirement of the Development Agreement, and the location of the turbines is noted on the site plan.</p> <p>b) Regulations both within the Development Agreement and the Approved Environmental Assessment account for the mitigation of these potential impacts</p> <p>c) Safety concerns are addressed via the minimum separation distances required by Policy 12.10.10. Signage notifying individuals of the safety hazards posed by wind turbines are required at each access point, as per the terms of the draft Development Agreement</p> <p>d) This documentation has been received and is included as an appendix to this report.</p> <p>e) All required documentation has been submitted.</p> <p>f) A decommissioning plan for the proposed use is included as per the terms of the Development Agreement, as drafted.</p> <p>g) See the review of Policy 13.14.4</p>



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<p>g) That the proposed development is in accordance with the Implementation Chapter of this Strategy.</p>	
<p>To enter into development agreement pursuant to the <i>Municipal Government Act</i> on the terms and conditions set forth in this Municipal Planning Strategy and a development agreement shall:</p> <p>13.12.1 specify the development, expansion, alteration, or change in use permitted; and</p> <p>13.12.2 specify the conditions under which the development may occur; and</p> <p>13.12.3 set forth the terms by which Council may terminate the agreement.</p> <p>13.12.4 The provisions of the Land Use By-law shall prevail after discharge of any agreement.</p>	<p>The required provisions are contained in the draft development agreement.</p>
<p>Policy 13.14.4: That the proposal is not in conflict with Municipal or Provincial programs in effect in the Municipality; and that the proposal is not premature or inappropriate by reason of the:</p> <p>a) Financial ability of the Municipality to absorb costs related to the development; or</p> <p>b) Adequacy of sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or</p> <p>c) Creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or</p> <p>d) Adequacy of storm drainage and effects of alteration to drainage patterns, including the potential for creation of a flooding problem; or</p> <p>e) Suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; or</p> <p>f) Adequacy and proximity of school, recreation, and other community facilities; or</p> <p>g) Adequacy of road networks in, nearby, and leading to the development, regarding congestion and traffic hazards; and</p> <p>h) That the proposal provides adequate off-street parking to prevent congestion, nuisance, and inconvenience in the area; and</p> <p>i) The hours of operation are appropriate for the neighbourhood; and</p> <p>j) That the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding and shape, and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and</p> <p>k) That the proposal will not significantly alter the character or stability of the surrounding neighbourhood.</p>	<p>a) No negative financial impacts are expected to the Municipality from the proposed development.</p> <p>b) Not applicable</p> <p>c) No concerns are expected from the proposed development.</p> <p>d) No drainage concerns are expected from the proposed development.</p> <p>e) The site is suitable for the proposed uses and the natural topographic conditions are optimal for the proposed Wind Farm use.</p> <p>f) Proposed development will not impact capacity nor operation of schools and community facilities, and it is not in proximity.</p> <p>g) No significant impacts are expected to the transportation network from the proposed development.</p> <p>h) Site has adequate room for parking for employees, contractors, and sub-contractors for construction, operation and maintenance.</p> <p>i) The hours of operation are regulated via the development agreement.</p> <p>j) Not applicable.</p> <p>k) The proposed development is not expected to be intrusive given the minimum required separation distances.</p>



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Attachment B: Environmental Assessment Approval



Environment and Climate Change Office of the Minister

PO Box 442, Halifax, Nova Scotia, Canada B3J 2P8 • Telephone 902-424-3736 • novascotia.ca

File number: 10700-40-58504
40100-30-324

May 4, 2023

Daniel Eaton, Director of Project Development
Wedgeport Wind Farm GP Inc.
Suite 600, 1741 Lower Water Street
Halifax, NS B3J 0J2

Dear Daniel Eaton:

RE: Environmental Assessment – Wedgeport Wind Farm GP Inc., Elemental Energy Renewables Inc., Stevens Wind Ltd. and Sipekne'katik First Nation, carrying on business as Wedgeport Wind Farm Limited Partnership, Wedgeport Wind Farm Project, Yarmouth County, Nova Scotia

The environmental assessment of the proposed Wedgeport Wind Farm Project in Yarmouth County, Nova Scotia has been completed.

This letter is to advise that I have approved the above project in accordance with Section 40 of the Nova Scotia *Environment Act*, S.N.S., 1994-95 and subsection 13(1)(b) of the Environmental Assessment Regulations, N.S. Reg. 348/2008, made under the Act. Following a review of the information provided by Wedgeport Wind Farm GP Inc., Elemental Energy Renewables Inc., Stevens Wind Ltd. and Sipekne'katik First Nation, carrying on business as Wedgeport Wind Farm Limited Partnership, and the information provided by the Mi'kmaq of Nova Scotia, and the public during consultation on the environmental assessment, I am satisfied that any adverse effects or significant environmental effects of the undertaking can be adequately mitigated through compliance with the attached terms and conditions.

If you have any questions regarding the approval of this project, please contact Bridget Tutty, Manager, Environmental Assessment Branch, at (902) 452-7891 or via email at Bridget.Tutty@novascotia.ca.

Sincerely,

Honourable Timothy Halman, MLA
Minister of Environment and Climate Change

Encl.

cc: Bridget Tutty, Environment and Climate Change