

DATE OF DECISION	16 November 2018
CHAIR	Renata Brooks, Acting Chair

DEVELOPMENT APPLICATION

2017STH038 – Upper Lachlan – DA122/2017 in Biala, Gurrundah and Bannister for erection of buildings and carrying out of works for the purpose of electricity generating works

BACKGROUND

The development application (DA) was lodged with Upper Lachlan Shire Council by the applicant on 24 November 2017. Council referred the DA to the Southern Regional Planning Panel as private infrastructure (electricity generating works) with a capital investment value (CIV) of more than \$5 million on 22 December 2017.

The Panel considered the DA at a public meeting at Upper Lachlan Shire Council on 14 March 2018, and deferred determination for additional information and assessment.

Following receipt of further information from Council the Panel resolved on 16 October 2018 to request the Department of Planning and Environment to arrange for a peer review of Council's assessment reports, including clarification of the DA being classified as 'electricity generating infrastructure'.

On 7 November 2018, the applicant made a request for the DA to be referred to the Southern Regional Planning Panel under clause 9 of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) as a DA with a CIV between \$10 million and \$20 million which has not been determined by Council within 120 days. Council completed its section of the form and returned it to the Planning Panels Secretariat on 8 November 2018.

The Chair received advice on 14 November 2018 that the DA was not for 'electricity generating infrastructure' but rather for an 'electricity transmission or distribution network'. This meant that the DA did not meet the criteria to be considered 'regionally significant development' under the SRD SEPP and that the Council was the consent authority.

The Chair then considered the application from the applicant for the DA to be considered under clause 9 of the SRD SEPP which says:

9 Development subject to delays in determination

Development that has a capital investment value of more than \$10 million but less than \$30 million:

- (a) for which a development application to the relevant council has been lodged but not determined within 120 days after the application was lodged, and*
- (b) that is the subject of a written request to that council by the applicant for the application to be dealt with by a regional panel,*

unless the chairperson of the regional panel concerned determines that the delay in determining the development application was caused by the applicant.

CHAIR DECISION

The Chair considered the request from the applicant and the history of the assessment of this DA.

The Chair noted:

- Advice from the Department that the council is the consent authority for this matter

- The request meets the tests of Clause 9 of Schedule 7 of the SRD SEPP – regionally significant development (i), (ii) and (iii) in that the capital investment value is \$19.9m, the development application was lodged on 22 December 2017 and remains undetermined and a written request from the applicant has been received.

The Chair was not satisfied that the delay was caused by the applicant, and therefore decided to accept the 120 day referral of the DA.

This means that the DA will be determined by the Southern Regional Planning Panel.

A handwritten signature in dark ink, appearing to be 'RB' followed by a stylized flourish.

Endorsed by Renata Brooks
Acting Chair, Southern Regional Planning Panel