

**Revised Supplementary Assessment Report and Recommendation to  
Southern Joint Regional Planning Panel**

DA Number	2017STH038 – Upper Lachlan – DA 122/2017
Applicant / Owner	Derek Powell, Newtricity Developments Biala Pty Ltd / Various Owners
Description of Land	Multiple addresses in Biala, Gurrundah
Proposed Development	Erection of buildings and carrying out of works for the purpose of electricity generating works
Land Use Zone	RU1 Primary Production and RU2 Rural Landscape
Estimated Value	\$19.9 Million
Submissions	5 objections and 1 in support
Key Issues	<p>Clarification of the extent to which the proposed development may impact on areas of environmental significance by way of:</p> <ul style="list-style-type: none"> <li>○ Detailed location of proposed trenches in those areas;</li> <li>○ Number of trees to be removed in those areas;</li> <li>○ Location of hollow bearing trees in those areas;</li> <li>○ Identification of items of Aboriginal significance in those areas; and</li> </ul> <p>Detailed location, design and potential environmental impacts of the temporary compounds and temporary creek crossings.</p>

The DA Assessment Report is structured as follows:

1. Summary
2. Key Issues – Deferral Matters
3. Additional Matters
4. Recommendation
5. Attachments

## 1. Summary

A Development Application for the “Minor upgrade to the Gullen Range Wind Farm sub-station, construction of an underground 33kV transmission line (approximately 12km in length) connecting Biala Wind Farm (approved in April 2017) to the existing 330kV Transgrid Yass to Goulburn transmission line” was considered by the Southern joint Regional Planning Panel on the 14 March 2018. This consideration by the JRPP followed an initial briefing by the Council, site visit and public hearing on 14 March 2018.

The JRPP at its meeting held on 14 March 2018, recommended as follows:

### Terms of Deferral

The Panel decision was to defer determination of the proposal until additional information is provided to the Council for assessment including:

- Clarification of the extent to which the proposed development may impact on areas of environmental significance by way of:
  - Detailed location of proposed trenches in those areas;
  - Number of trees to be removed in those areas;
  - Location of hollow bearing trees in those areas;
  - Identification of items of Aboriginal significance in those areas; and
- Detailed location, design and potential environmental impacts of the temporary compounds and temporary creek crossings.

Upon receipt of this information, Council must prepare a supplementary report that includes:

- An assessment of the additional information;
- Clarification of the *Water Management Act* approval requirements; and
- Assessment and recommendations in relation to the request for the amendment of proposed conditions by the Applicant.

## 2. Key Issues

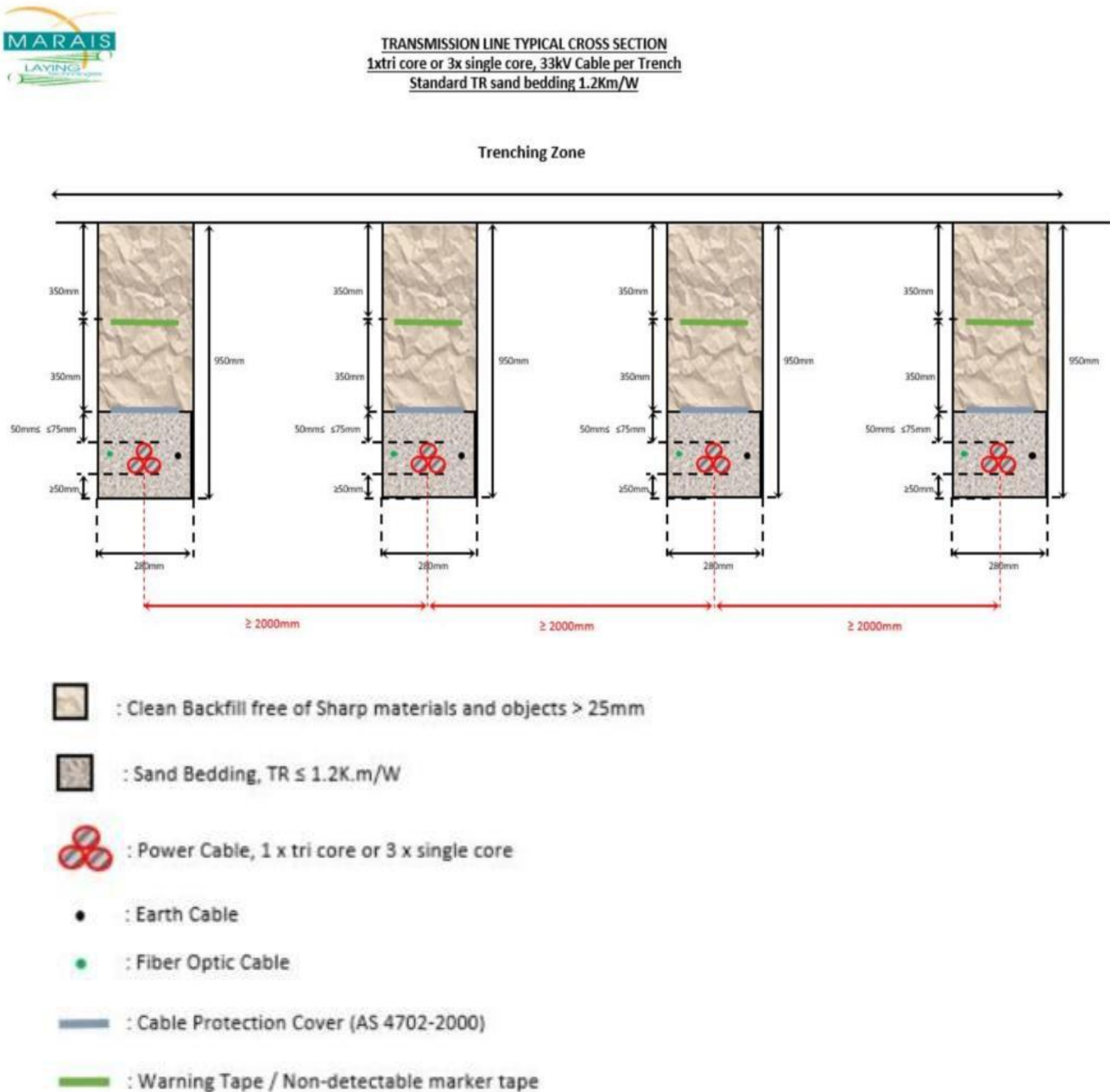
- Clarification of the extent to which the proposed development may impact on areas of environmental significance by way of:
  - Detailed location of proposed trenches in those areas;
  - Number of trees to be removed in those areas;
  - Location of hollow bearing trees in those areas;
  - Identification of items of Aboriginal significance in those areas; and
- Detailed location, design and potential environmental impacts of the temporary compounds and temporary creek crossings.

The applicant submitted a “Submission to Upper Lachlan Shire Council in response to JRPP Deferral Notice” received by Council on the 12 April 2018 (Attachment B).

The applicant submitted a “Submission to Upper Lachlan Shire Council in response to JRPP Deferral Submissions” document received by Council on the 15 June 2018 (Attachment C).

## 2.1 Detailed location of proposed trenches in those areas;

The following schematics aim to provide clarification around the different methods used for the cable laying along the Biala transmission line route. The majority of the route will have the same typical trenching profile, and the parts of the route which differ from the typical profile are highlighted below:



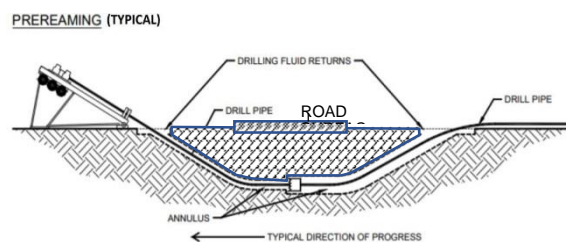
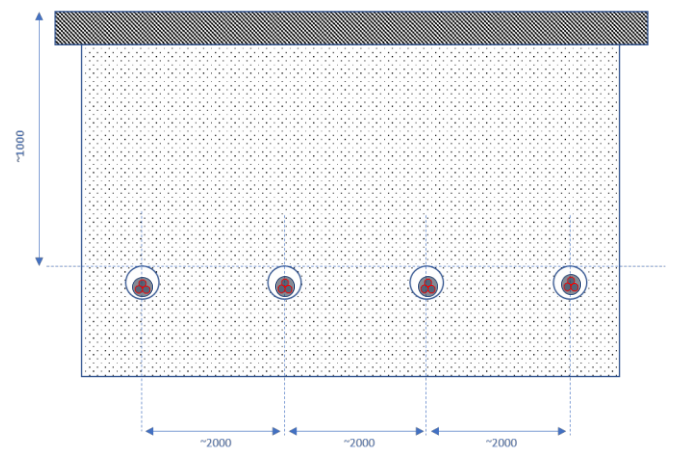
The power cable is a single cable with 3 cores contained within. As represented by the following symbol.



Proposed exceptions to typical trenching are as follows:



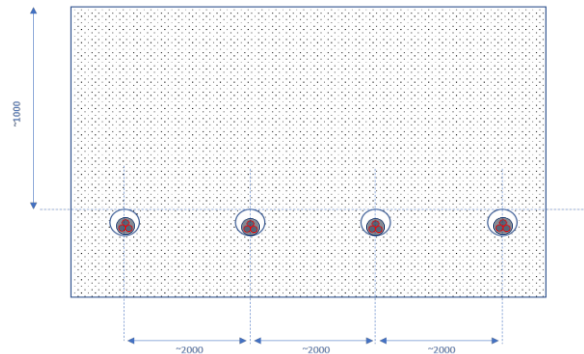
### **1. Grabben Gullen Road**



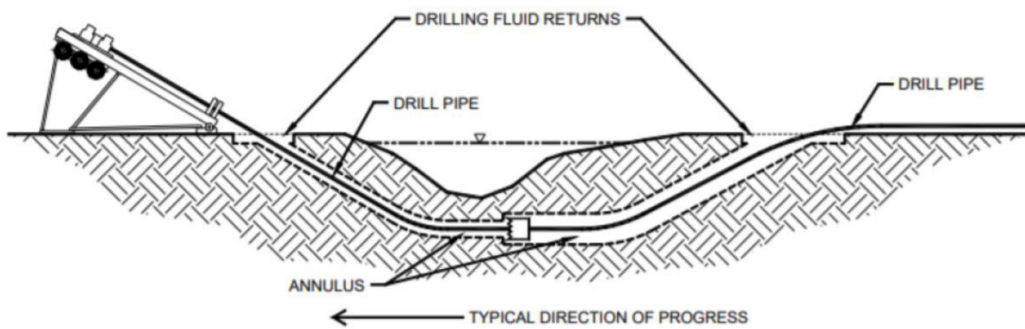
Schematic showing representative cross section of boring of road



## 2. Humes Creek Crossing

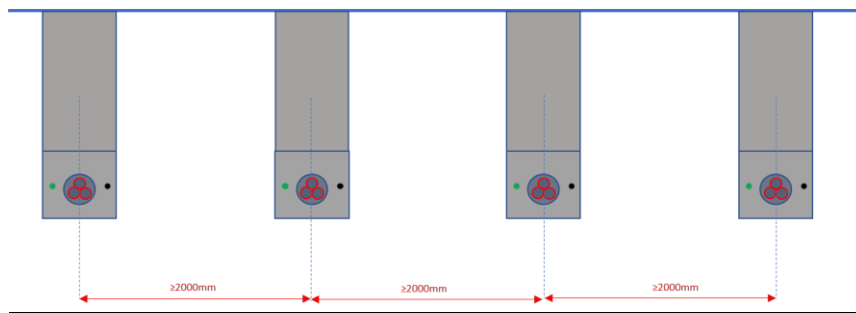


### PREREAMING (TYPICAL)



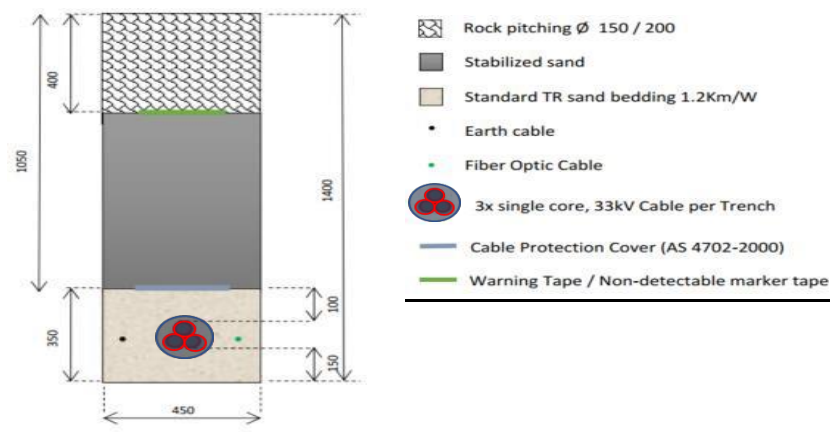
Schematic showing typical cross section for the boring under the creek.

### 3. Gurrundah Creek Crossing



This differs from the typical trenching section in that the following features are incorporated for resistance to erosion due to the presence of water:

- It is deeper (1400mm rather than 950mm)
- Compacted, stabilized sand is used to make the trench stronger and harder
- Top coat includes rocks.



The previous SoEE proposed a 100m wide corridor (the Project Area) for the transmission line, within the 100m wide corridor a 'disturbance area' of 20m wide.

Concerns were raised regarding the exact location of the disturbance area within the 100m corridor and the impact of the disturbance area in close proximity to environmentally sensitive areas.

The proponent has stated that the entire length of the project area was walked and a 20m wide disturbance area was selected. This final location of the 20m disturbance area was aligned to take into consideration the following constraints:

- Endangered Ecological Community
- Individual trees along the alignment, including hollow bearing trees
- Heritage items
- Constructability considerations.

These constraints have been mapped and referenced in Figure 1 – F1-F7 of Attachment B.

The centreline of the 20m disturbance area was mapped by GPS. To ensure the integrity of the disturbance area, a condition is imposed requiring the applicant to provide Council with the GPS co-ordinates of the centreline of the disturbance area for future reference and to also require that the disturbance area is marked on site prior to the commencement of works.

See proposed draft condition no 14.

## 2.2 Number of trees to be removed in those areas; and location of hollow bearing trees in those areas:

Details regarding the number of trees to be removed and hollow bearing trees in sensitive areas are detailed in Sec 1.4 of Attachment B.

Area ID	No of Trees to be removed	Status and Type	No of Hollow Bearing Trees
1	2	Native, Eucalypts	0
2	6	Weed, Pines	0
3	14	Native, Eucalypts (11) Native, Acacia (3)	0
4	4	Weed, Pine	0
5	21	Native, Eucalypts (15) Native, Acacia (3) Weed, Hawthorn (3)	0
6	22	Native, Eucalypts (18) Native, Acacia (4)	0
7	15	Native, Eucalypts (12) Weed, Hawthorn (3)	0
8 (EEC)	29	Native, Eucalypts	11
<b>TOTAL</b>	<b>113</b>		<b>11</b>

Office of Environment and Heritage has stated that *"development that involves clearing of native vegetation may require application of the Biodiversity Assessment Method (BAM) if it*

*will result in a significant impact to threatened species or if it will exceed the Biodiversity Offset Scheme (BOS) thresholds”.*

The development application for this project was submitted to Council prior to the commencement of the *Biodiversity Conservation Act 2016* and therefore, the BAM/BOS is not triggered and the former planning provisions apply. However, as this project involves clearing of an Endangered Ecological Communities, the proponents have elected to ‘opt-in’ to the BAM/BOS to offset the impacts of clearing within the site.

The Office of Environment and Heritage have reviewed the Biodiversity Development Assessment Report prepared by Evolve Ecology and have provided comment.

A total of five ecosystem credits are required to offset the proposed development.

See proposed draft condition no’s 14, 18, 19, 20, 37, 38 and 39.

### **2.3 Identification of items of Aboriginal significance in those areas;**

Identification of items of Aboriginal significance are identified in Figures F1 – F6 of Attachment B.

A full archaeological survey has been undertaken for the proposed transmission line by Environmental Resource Management Australia Pty Ltd (ERM). Subsurface archaeological test excavation has occurred in accordance with the *Code of Practice for Archaeological Investigations of Aboriginal Objects in New South Wales*.

The results of the subsurface testing have been provided to OEH prior to the finalisation of this supplementary report, with the results to be documented in the Aboriginal Cultural Heritage Assessment Report in accordance with OEH guidelines.

Relevant conditions pertaining to the Aboriginal Cultural Heritage Assessment Report and Aboriginal Heritage Impact Permit have been included in proposed draft conditions no’s 29 and 44.

### **2.4 Detailed location, design and potential environmental impacts of the temporary compounds and temporary creek crossings.**

Details relating to the proposed location of the temporary compounds are identified in Figure F6 of Attachment 1. Details relating to the design of the temporary compounds are identified in Annex B of Attachment B.

Details relating to the environmental impacts of the temporary compounds are identified in Sec 1.5 of Attachment B. Details regarding temporary creek crossings are identified in Sec 1.6 of Attachment B.

The location of Preferred Compound 1 is considered satisfactory as site constraints are negligible. Although not contained within the 100m project area, they are proposed on land identified in the development application. Therefore, “Alternative Compound 1” is no longer required, and as such, has been deleted on “Temporary Construction Compounds”, Drawing



No 0422199s\_SOEE\_G010\_R0.mxd, prepared by Environmental Resources Management Australia (drawn by VN), dated 6 April 2018.

Due to the temporary nature of the structures, the structures are considered exempt development under Subdivision 3 Temporary builders structures of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

See proposed draft condition no's 8 and 9.

## 2.5 Clarification of the *Water Management Act* approval requirements.

The proponent did not apply for integrated approval under the Water Management Act 2000 on the original development application form.

The proposal requires works to be undertaken that crosses Humes Creek, Gurrundah Creek and an unnamed tributary to Gurrundah Creek. In accordance with the definitions contained within the Water Management Act 2000:

### **Controlled Activity means:**

- (a) the erection of a building or the carrying out of a work (within the meaning of the Environmental Planning and Assessment Act 1979), or
- (b) the removal of material (whether or not extractive material) or vegetation from land, whether by way of excavation or otherwise, or
- (c) the deposition of material (whether or not extractive material) on land, whether by way of landfill operations or otherwise, or
- (d) the carrying out of any other activity that affects the quantity or flow of water in a water source.

**Controlled Activity Approval means:** an approval referred to in section 91 (2).

It is concluded that a "Controlled Activity Approval" is required under the Water Management Act 2000 in accordance with Section 91(2) – *A controlled activity approval confers a right on its holder to carry out a specified controlled activity at a specified location in, on or under waterfront land* – defined as land within 40m of a river, lake or estuary.

Controlled activity approval(s) are required to be obtained prior to the commencement of any work in the development. See proposed draft condition no's 18 and 42.

## 2.6 Clarification of the classification of this DA as "electricity generating infrastructure" in the context of SEPP (Infrastructure) 2007 and SEPP (State and Regional Development) 2011.

Council suggested the proposed development might necessitate the application being determined by a joint regional planning panel, having regard to Part 4 of State Environmental Planning Policy (State and Regional Development) 2011 ("the Regional Development SEPP") and Schedule 4A to the Environmental Planning and Assessment Act

1979 (the Act). This prompted further review of relevant Environmental Planning Instruments and legislation and, in turn, an enquiry from Council to DP&E as to:

- (a) Whether Council or a joint regional planning panel should act as the consent authority for the original development application
- (b) Whether perhaps the development application should be recognised as State significant development if amended as proposed.

On 3 November 2017, DP&E verbally indicated to Council that the proposed augmentation of the Gullen Range Wind Farm substation facility would not necessitate an application to modify the Minister's Project Approval 07\_0118, Council also has discretion to establish whether the original or proposed amended development application should be determined by a joint regional planning panel. DP&E declined to supply their advice in writing.

Council notes:

- (a) Part 4 of the Regional Development SEPP effectively specifies that a Joint Regional Planning Panel may exercise Council's consent authority functions for development of a class or description included in Schedule 4A to the Act.
- (b) Clause 6 of Schedule 4A to the Act indicates a development application should be determined by a joint regional planning panel if the development has a CIV exceeding \$5 million and is for the purpose of *electricity generating works*.
- (c) Information submitted to Council suggests the original and proposed amended development is for the purpose of an *electricity transmission or distribution network*, not for the purpose of *electricity generating works*, and therefore is not captured by clause 6 of Schedule 4A to the Act.
- (d) Clause 4 (3) of the Regional Development SEPP indicates adoption of the definitions specified by the Standard Instrument—Principal Local Environmental Plan (the Standard Instrument), subject to clause 4.
- (e) The Standard Instrument defines *electricity generating works*, but does not define *electricity transmission or distribution network*.
- (f) State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) defines *electricity generating works* consistently with the Standard Instrument. It also defines *electricity transmission or distribution network*. However, the Regional Development SEPP does not adopt definitions specified by ISEPP.
- (g) The original and proposed amended development therefore is for the purpose of an *electricity transmission or distribution network* for ISEPP's purposes, but is for the purpose of *electricity generating works* for the Regional Development SEPP's purposes, and has a CIV exceeding \$5 million.

## 2.7 Clarification regarding approval to develop on Crown Roads.

Council has been provided, correspondence from Department of Industry – Lands and Forestry, Wagga Wagga Office (undated) regarding landowners consent:



Department  
of Industry

Lands & Forestry

TRIM reference: 17/07920  
LOC No: 587297

**Letter to Applicant  
(consent granted)**

Adam Craig  
Phone: 02 69 37 2705  
adam.craig@crowland.nsw.gov.au

Newtricity-Biala Developments Pty. Ltd.  
C/O Annmaree Lavery  
1 Raven Street  
Gladesville NSW 2111

Dear Annmaree,

**Landowner's Consent for Lodgement of Applications relating for development comprising:**

Construction of an underground 33KV transmission line connection from the Biala Wind farm to the existing substation site at Gullen Range Wind Farm (Approximately 12 kilometres)

**Crown land:** Gurrundah and Hume's Creeks, various Crown roads

**Crown reserve:** Waterways/roads

**Parish:** Lampton

**County:** King

Consent is granted by the Minister for Lands and Forestry to lodging a development application under the *Environmental Planning and Assessment Act 1979*, and other associated applications required under other legislation, for the development proposal described above.

This consent is subject to the following:

- (1) This consent is given without prejudice so that consideration of the proposed development may proceed under the *Environmental Planning and Assessment Act 1979* and any other relevant legislation.
- (2) This consent does not imply the concurrence of the Minister for Lands and Forestry for the proposed development, or the issue of any necessary lease, licence or other required approval under the *Crown Lands Act 1989*; and does not prevent the Department of Industry - Lands and Forestry (the Department) from making any submission commenting on.
- (3) This consent will expire after a period of 12 months from the date of this letter if not acted on within that time. Extensions of this consent can be sought.
- (4) The Minister reserves the right to issue landowner's consent for the lodgement of applications for any other development proposals on the subject land concurrent with this landowner's consent.
- (5) Irrespective of any development consent or any approval given by other public authorities, any work or occupation of Crown land cannot commence without a current tenure from the Department of Industry - Lands and Forestry authorising such work or occupation.

Department of Industry – Lands  
PO Box 2185 Dangar NSW 2309  
Tel: 1300 886 235 Visit: [www.crownland.nsw.gov.au](http://www.crownland.nsw.gov.au)

This letter should be submitted to the relevant consent or approval authority in conjunction with the development application and/or any other application. You are responsible for identifying and obtaining all other consents, approvals and permits required under NSW and Commonwealth laws from other agencies for the proposed development.

It is advised that the Department of Industry – Lands and Forestry (the Department) will inform Upper Lachlan Shire Council of the issue of this landowner's consent and will request that Council notify the Department of the subsequent development application, for potential comment, as part of any public notification procedure.

**You are required to forward to Department of Industry - Lands a copy of any development consent or other approval as soon as practical after that consent or approval is received.**

If any modifications are made to the application (whether in the course of assessment, by conditions of consent, or otherwise), it is your responsibility to ensure the modified development remains consistent with this landowner's consent.

This landowner's consent relates to the following plans and other documents as retained by the Department of Industry - Lands:

Application for Landowners consent (DOC17/140907), SEE (DOC17/140908, DA Application (DOC17/140910) Topo Map (DOC17/132858), CAD Map (DOC17/132863).

If development consent is granted you must make an application with the Department of Industry – Lands and Forestry for a short term licence to authorise construction prior to undertaking any works on Crown land. It is recommended you make an application as soon as practicable. There is no guarantee that a licence will be granted if development consent is granted. To make an application email [enquiries@crowmland.nsw.gov.au](mailto:enquiries@crowmland.nsw.gov.au) or phone 1300 886 235. In the longer term, an easement for the transmission line will need to be negotiated by the proponent to authorise the transmission line on a permanent basis.

#### **Native Title Requirements**

Native Title is deemed to be not extinguished on the Crown waterway(s) in this instance. The installation of a transmission line is consistent with Subdivision K, b) f) an electricity transmission line or distribution facility and is considered a permissible future act under the *Native Title Act 1993*. Notification to NTSCorp is required before the act is done. Please contact NTSCorp on 02 9310 3188 or via e-mail at [information@ntscorp.com.au](mailto:information@ntscorp.com.au).

#### **Other Agency Requirements**

The Statement of Environmental Effects (SEE) makes reference to consultation with DPI-Water regarding a controlled activity approval. DPI Fisheries and the Office of Environment and Heritage are also mentioned in the SEE with regards to key fish habitat and Aboriginal heritage due diligence. Both these agencies must be consulted with prior to any works occurring to discuss any additional requirements by the proponents in this regard.

For further information, please contact Adam Craig via the details given in the letter head.

Yours sincerely

Adam Craig  
Senior Natural Resource Management Officer  
Department of Industry – Lands and Forestry, Wagga Wagga Office





**Department  
of Industry**

Ref: DOC17/240956

Mr. Matthew Errington  
Principle Environmental Consultant  
Environmental Resources Management Australia  
Locked Bag 3012, Australia Square NSW 1215

Dear Mr. Errington,

**Re: Modification to Landowners Consent 587297-Newtricity Biala Developments Pty. Ltd.-  
Underground Transmission line.**

I make reference to your e-mail dated the 15 November 2017 with regards to modifications to Landowners consent 587297 granted to Newtricity Biala Developments Pty. Ltd. for the installation of an underground transmission line in the Grabben Gullen Crookwell District.

Dol-Crown Lands and Water (The Department) have been advised of the following modifications to the original development that are to occur on freehold land being Lot 2 DP 1168750:

- installation of one additional 33/330 kV transformer to increase the Substation's capacity;
- installation of an additional 33 kV switch room and extension to the existing 330 kV busbar;
- expansion of Substation footprint by approximately 1,000 m2 (this is the worst-case scenario and all land has been previously cleared);
- extension of the Substation safety fence around the new area; and
- relocation of existing planted vegetation screening along southern edge of the Substation site.

As the proposed modifications are to occur entirely within freehold land being Lot 2 DP 1168750 the Department has no objection to the above mentioned proposed changes to the original development. Please note any future modifications that are to occur on Crown land will need Departmental consent through the Landowner consent modification process.

If you have any questions in regards to this matter, please do not hesitate to contact Adam Craig on (02) 6937 2705 at the Wagga Wagga District Office.

Yours sincerely

Adam Craig  
**Senior Natural Resources Officer**  
**Dol-Crown Lands and Water Division**  
17th November 2017

Wagga Wagga Office  
Cnr Tarcutta & Johnston Streets  
Wagga NSW 2650  
ABN 33 537 762019  
[www.crownland.nsw.gov.au](http://www.crownland.nsw.gov.au)

As stated throughout the correspondence from Department of Industry – Lands and Forestry, consent is granted for the lodgement of a development application, but irrespective of any development consent or any approval given by public authorities, any work or occupation of Crown Land cannot commence without a current tenure from the Department of Industry – Lands and Forestry authorising such work or occupation.

## **2.8 Recommendations on any modifications to Council’s original recommendations and proposed conditions.**

A summary of Council’s recommendation and conditions are identified in Section 4 and Attachment A.

## **2.9 Chronology of preparation and publication of the original Council assessment report (in answer to submitter assertion that the Council report was prepared before the closing date of consultation period (19 January 2018)).**

1 December 2018 Council notified adjoining and adjacent owners of the public exhibition (7 December 2017 to 19 January 2018) of DA 122/2017.

6 December 2017 – Advertisement of Notification Public Exhibition of DA 122/2017 in the Goulburn Post and Crookwell Gazette

6 December 2017 – Council notified Government Agencies of the public exhibition (7 December 2017 to 19 January 2018) of DA 122/2017.

22 December 2017 – Documents relating to DA 122/2017 were uploaded to the JRPP Dropbox.

12 February 2018 – 79C Signed and dated

14 February 2018 – All relevant documents pertaining to DA 122/2017 were uploaded to the JRPP Dropbox

27 February 2018 – File Note – addressing submitters concerns (not received by Council until 15 and 16 February 2018 – due to size of emails (rejected by server) sent on 22 December 2017).

28 February 2018 – Upload of Council File note relating to objection received on the 15 and 16 February 2018 to JRPP Dropbox.

## **2.10 Include assessment of the substation extension given that application is described as being in two parts.**

The proposed transmission line will allow the power generation from the Biala Wind Farm to enter the grid via the Gullen Range Wind Farm Substation (GRWF Substation). The GRWF Substation needs to be upgraded to accommodate the increased power generation from the Biala Wind Farm.

Connection of the transmission line to the GRWF Substation will require the installation of one additional 33/330 kV transformer and other associated infrastructure at the substation.

The new equipment (proposed within the GRWF substation extension area) will enable electricity to be stepped up to 330kV and then passed on to the National electricity grid via the TransGrid Switching Station (located adjacent to the GRWF Substation).

The existing footprint of the GRWF Substation is 6861m<sup>2</sup>. The proposed extension (which will house the additional 33kV switch room and 33/330kV transformer) will increase the area by 585m<sup>2</sup>. This equates to an approximate 8.5% increase to the existing GRWF Substation footprint.

Council is satisfied that the proposed transformer and switch room are not likely to be visually intrusive and that any perceived impacts are manageable through the implementation of appropriate visual treatments through landscaping (proposed draft condition no 7). Council is also satisfied that the proposed extension to the existing substation of approximately 585m<sup>2</sup> is proposed to be contained within a highly disturbed area, and with the introduction of the additional infrastructure, the land is considered to have negligible environmental impacts.

### 3. Supplementary Information Evaluation

The initial report to the JRPP on the 14 March 2018 provided a detailed assessment of the proposal against the provisions of the various statutory planning documents.

The assessment provided in the initial report in relation to the above (except as detailed in Section 2 of this report) remain relevant to the assessment of the DA. The initial report (tabled on 14 March 2018) is provided in Attachment H.

DA:	122/2017	Proposal: Erection of buildings and carrying out of works for the purpose of electricity generating works
Lot/Sec/DP:	Lot 6 DP 1115749, Lots 1 and 2 DP 1115746, Lots 185, 186, 187, 188, 197, 204, 224, 226 and 319 DP 754126, Lot 7 DP 1119818, Lots 1 and 2 DP 877769, Lot 4 DP 1031856, Lot 100 DP 1026064, Lot 103 DP 750043, Lot 2 DP 1168750 and Lot 101 DP 1083286	Property: Grabben Gullen Road, Biala/Gurrundah; Prices Lane, Bannister; Storriers Lane, Bannister

#### **Proposed development**

The application proposes, "Upgrade to the Gullen Range Wind Farm substation, construction of an underground 33kV transmission line (approximately 12km in length) connecting Biala Wind Farm (approved in April 2017) to the existing 330kV Transgrid Yass to Goulburn transmission line". The development thus comprises two components: the transmission line and the substation upgrade.

#### **Referral Required:**

	N/A	Date Sent	Date Received
External			
<b>OEH</b> (Office of Environment and Heritage)		13 April 2018	23 August 2018
<b>WaterNSW</b> (Sydney Catchment Authority)		13 April 2018	21 May 2018
<b>RMS</b> (Roads and Maritime Services)		13 April 2018	8 May 2018
<b>RFS</b> (Rural Fire Service)		19 April 2018	No response
<b>Essential Energy</b>		19 April 2018	5 June 2018
<b>Transgrid</b>		19 April 2018	No response



**Notification to Adjoining Property****□ Notification**

*Compliance with Clause 3.14 – Notification of the ULSC DCP 2010 – In response to the Panel's direction, submitters and surrounding landowners previously advised of the original proposal were notified in writing of the public exhibition (period of 28 days) from 17 April 2018 to the 15 May 2018. A total of 6 submissions were received, 5 objecting to the proposal and 1 in support of the proposal.*

**□ Notification**

*Date: 17 April 2018    Expiry Date: 15 May 2018*

*Submissions:*

1	Malcolm Barlow
2	Ken and Jennifer Hewitt
3	Charley Barber
4	Jennifer Heffernan
5	D and S Bugeja
6	Tom Frood

*S4.15(1)(d) Consideration of submissions made in accordance with the Act or the regulations.*

*Width of Transmission Corridor*

The proposed width of the transmission corridor is 100m with a defined 20m disturbance area. The centre line of the 20m disturbance area has had GPS coordinates identified. Prior to works commencing, Council will require the proponent to submit the GPS coordinates of the 20m disturbance area centreline for Council records. See proposed draft condition no 14.

*Number of Trenches*

A maximum of 4 trenches up to 2 metres apart are proposed within the identified 20m disturbance area. Further clarification regarding trench details are discussed in Item 2.1 of this report. See proposed draft condition no 14.

*Waste Material from Work Compounds*

All waste generated in the carrying out of the development shall be lawfully disposed of to a suitably authorised waste processing or recycling facility. See proposed draft condition no 8.

*Hollow Bearing Trees*

In accordance with Sec 5 of the Biodiversity Development Assessment Report (BDAR), a condition will be imposed to minimise and avoid key biodiversity features such as large

hollow bearing trees where possible. Appropriate conditions regarding the BDAR are imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

*Hydrological Impacts*

The Golder Associates Pty Ltd report indicates that there is potential for some temporary short term impacts by way of increased ground water inflow into the trench if it is left open. The impacts can be limited by ensuring the trenching methodology minimises the time the trench is left open. Long term impacts on the springs due to trenching would be minimised by using less permeable soils than the native soils.

The approval to undertake these works within those defined areas is required under Section 91(2) of the *Water Management Act 2000*, prior to the commencement of works. See proposed draft condition no 18.

*Failure to Address JRPP terms of deferral*

Statement duly noted

*Inaccurate and outdated information*

Statement duly noted

*Lack of transparency and clarity*

Statement duly noted

*Disregard for planning approval and consents*

Statement duly noted

*SSD6039 approval on inaccurate information*

Statement duly noted

*Failed to engage community views*

Statement duly noted

*Failure to advise interruptions to existing successful businesses*

Statement duly noted. See proposed draft condition no's 23 and 24.

*Vegetation Clearing Area 8*

In accordance with Sec 5 of the BDAR, a condition will be imposed to minimise and avoid key biodiversity features such as large hollow bearing trees where possible. Appropriate conditions regarding the BDAR are imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

*Open springs and surface water features and groundwater*

The Golder Associates Pty Ltd report indicates that there is potential for some temporary short term impacts by way of increased ground water inflow into the trench if it is left open. The impacts can be limited by ensuring the trenching methodology minimises the time the trench is left open. Long term impacts on the springs due to trenching would be minimised by using less permeable soils than the native soils.

The approval to undertake these works within these defined areas is required under the Section 91(2) of the Water Management Act 2000 prior to the commencement of works. See proposed draft condition no 18.

*Impact of trenching and laying of cables*

A maximum of 4 trenches up to 2 metres apart are proposed within the identified 20m disturbance area. Further clarification regarding trench details are discussed in Item 2.1 of this report.

*Erosion Impacts*

The proposed development has been assessed by Water NSW as being able to achieve a neutral or beneficial effect. Appropriate erosion and sediment controls are conditioned to ensure water quality and ground surface stabilisation. See draft proposed condition no 42.

*DCP inconsistencies*

2 Plan Objectives – The proposal has been assessed, and through, proposed conditions of consent, it reflects the principles of an ecologically sustainable development.

2.2 Rural Development Objectives – The proposal has been assessed as having negligible impact on the scenic landscape as the infrastructure proposed is contained underground.

3.17 Power Station Developments – the proposal is not considered a State Significant Development.

4. General Development Controls – The proposal has been assessed, and through the imposition of conditions reflects the objectives.

4.1 Matters for Consideration – The proposal has been assessed, and through proposed conditions of consent, it minimises the impact in the retention or embellishment of the rural character.

4.2 Environment – Tree and vegetation preservation - In accordance with Sec 5 of the BDAR, a condition will be imposed to minimise and avoid key biodiversity features such as large hollow bearing trees where possible. Appropriate conditions regarding the BDAR have been imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

4.2 Environment – Waterways, Riparian Corridors and Groundwater - The proposal has been assessed, and through conditions and the requirement to obtain a Controlled Activity Approval, applicably considers any potential impact on the identified waterways. See proposed draft condition no 18.

4.2 Environment – Biodiversity Management - The proposal has been assessed, and through conditions, mitigates the impact on biodiversity. Appropriate conditions regarding the BDAR are imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

4.2 Environment – Bushfire Risk Management - The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no's 5 and 16.

4.3 Landscaping – The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no 7.

4.4 Indigenous Heritage and Archaeology - The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no's 29 and 44.

4.5 Impacts on Drinking Water Catchments - The proposal has been assessed, and through conditions, minimises the impact on drinking water catchments. See proposed draft condition no 42.

4.6 Heavy Vehicle Generation Development - The proposal has been assessed, and through conditions, minimises the impact on heavy vehicle usage. See proposed draft condition no 43.

9.5 Wind Farm - The proposal has been assessed, and requirements relating to the assumed Biala Wind Farm were considered by the PAC and conditioned accordingly.

9.9 Sydney Drinking Water Catchments - The proposal has been assessed, and through conditions, minimises the impact on Sydney's drinking water catchments. See proposed draft condition no 42.

10.3 Easements - The proposal has been assessed, and through conditions addresses this issue. See proposed draft condition no 4.

*Breach of Consent Conditions*

Statement duly noted.

*Direct Environmental Impact on stock and surrounds*

The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no 24.

*All considerations regarding poultry farming*

Statement duly noted and will require elaboration from the submitter. See proposed draft condition no 24.

*Support for the proposal.*

Statement duly noted.

**Desk Top Assessment**

<i>Provisions prescribed by EP&amp;A Regulations</i>	Clause 92 (AS 2601) – Demolition of Structures	The development's substation upgrade component may necessitate some demolition work. A recommended condition of consent therefore specifies any demolition work associated with the development shall be carried out in accordance with Australian Standard AS 2601-1991: The Demolition of Structures.
	Clause 93 Fire Safety Considerations (Change	Not Applicable



	of use of an existing building):	
	Clause 94 Fire Safety Considerations (rebuilding/altering/enlarging/extending existing building(s):	Not Applicable
<b><i>S4.15(1)(a)(i) any environmental planning instrument:</i></b>	<p><b>SEPP's Applicable:</b></p> <p>The application has been considered with regard to the relevant provisions of applicable SEPPs, including:</p> <ul style="list-style-type: none"> <li>• SEPP (Infrastructure) 2007 ("ISEPP") <ul style="list-style-type: none"> <li>○ Clause 34—Development permitted with consent – the affected lands are located within a prescribed rural zone of RU1 Primary Production and RU2 Rural Landscape.</li> <li>○ Clause 45—Determination of development applications—other development – conditional consent has been given to works immediately adjacent to an electricity substation.</li> <li>○ Clause 101—Development with frontage to classified road – RMS have provided conditions of consent relating addressing the classified road network.</li> </ul> </li> <li>• SEPP (Rural Lands) 2008 ("the Rural Lands SEPP") <ul style="list-style-type: none"> <li>○ Clause 2—Aims of Policy – Council is satisfied that the proposal aims to facilitate the orderly and economic use of and development of rural lands for related purposes ensuring proper management through conditions of consent.</li> <li>○ Clause 7—Rural Planning Principles Council is satisfied that the proposal is consistent with the Rural Lands SEPP as the operation of the project would not compromise the long term use of the land for agricultural purposes including the economic benefits of rural land use and development.</li> </ul> </li> <li>• SEPP (State and Regional Development) 2011 ("the Regional Development SEPP") <ul style="list-style-type: none"> <li>○ Clause 20—Development to which Part applies</li> <li>○ Clause 21—Council consent functions to be exercised by regional panels - As outlined in Section 2.6 the project meets the criteria of "the Regional Development SEPP"</li> </ul> </li> <li>• SEPP (Sydney Drinking Water Catchment) 2011 ("the Catchment SEPP") <ul style="list-style-type: none"> <li>○ Clause 11—Development that needs concurrence of Regulatory Authority – WaterNSW has confirmed its concurrence to Council granting consent subject to conditions.</li> </ul> </li> <li>• SEPP 55 (Remediation of Land) <ul style="list-style-type: none"> <li>○ Clause 7 – The site(s) are not identified on the Contaminated Land Register. A preliminary site investigation has not been undertaken due to the fact that the existing agricultural activities will continue after the proposed works are completed.</li> </ul> </li> <li>• SEPP (Exempt and Complying Development Codes) 2008 (the Exempt and Complying SEPP")</li> </ul>	

	<ul style="list-style-type: none"> <li>○ Due to the temporary nature of the structures, the structures are considered exempt development under Subdivision 3 Temporary builder's structures of the Exempt and Complying SEPP.</li> </ul> <p><b>REP's Applicable:</b></p> <p><i>South East and Tablelands Regional Plan 2036 – Upper Lachlan</i></p> <p><b>Priorities</b></p> <ul style="list-style-type: none"> <li>• Protect and enhance the area's high environmental value lands, waterways and water catchments.</li> <li>• Protect important agricultural lands as resources for food security.</li> <li>• Protect the area's valued heritage assets.</li> </ul> <p><b>Economy and employment</b></p> <ul style="list-style-type: none"> <li>• Capitalise on the area's proximity to Canberra and Sydney to attract industry and investment, including using advances in technology to create smart work opportunities.</li> <li>• Promote the area as a destination and attract visitors from Canberra and Sydney.</li> <li>• Leverage the area's existing expertise in renewable energy to foster innovative economic development opportunities.</li> <li>• Diversify the agriculture industry, including opportunities for value-added activities and access to national and international markets.</li> </ul> <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>• Support the rural lifestyle and the unique cultural and historic heritage of the area's villages.</li> <li>• Support a variety of housing options and land developments to cater for an ageing population.</li> </ul>
--	---

**LEPs - Upper Lachlan Local Environmental Plan 2010:**

The application has been considered with regard to the relevant provisions of the ULLEP 2010 including:

Clause 1.2 Aims of Plan

Council is satisfied that the project can be managed in a manner that is generally consistent with the aims and objectives of the LEP.

Clause 1.4 Definitions

The proposal comprises erection of buildings and carrying out of works for the purpose of electricity generating works. See Section 2.6 of this report.

Clause 2.3 Zone objectives and Land Use Table

Council is satisfied that the project is permitted with consent within the RU1 Primary Production and RU2 Rural Landscape zones.

Clause 2.7 Demolition requires development consent

The proposal to the upgrade of the substation may necessitate some demolition work. Appropriate conditions regarding potential demolition works have been provided.

Clause 2.8 Temporary use of land

The proposal requires the establishment of temporary compound structures during construction. The temporary nature of the structures and use of the land does not pose a detrimental economic, social, amenity or environmental effect on the land.

Clause 5.10 Heritage conservation

A full archaeological survey has been undertaken for the proposed transmission line by Environmental Resource Management Australia Pty Ltd (ERM). Subsurface archaeological test excavation has occurred in accordance with the *Code of Practice for Archaeological Investigations of Aboriginal Objects in New South Wales*.

The results of the subsurface testing have been provided to OEH prior to the finalisation of this supplementary report, with the results to be documented in the Aboriginal Cultural Heritage Assessment Report in accordance with OEH guidelines.

Relevant conditions pertaining to the Aboriginal Cultural Heritage Assessment Report and Aboriginal Heritage Impact Permit have been included in proposed draft conditions no's 29 and 44.

Clause 6.2 Biodiversity

The proposal was submitted to Council prior to the commencement of the *Biodiversity Conservation Act 2016* and therefore, the BAM/BOS is not triggered and the former planning provisions apply. However, as this project involves clearing of an Endangered Ecological Communities, the proponents have elected to 'opt-in' to the BAM/BOS to offset the impacts of clearing within the site.

The Office of Environment and Heritage have reviewed the Biodiversity Development Assessment Report prepared by Evolve Ecology and have provided comment.

Appropriate conditions regarding the BDAR have been imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

Clause 6.3 Land

The proposal has been assessed by Water NSW as being able to achieve a neutral or beneficial effect. Appropriate erosion and sediment controls are conditioned to ensure water quality and ground surface stabilisation. See draft proposed condition no 42.

Clause 6.4 Water

The Golder Associates Pty Ltd report indicates that there is potential for some temporary short term impacts by way of increased ground water inflow into the trench if it is left open. The impacts can be limited by ensuring the trenching methodology

minimises the time the trench is left open. Long term impacts on the springs due to trenching would be minimised by using less permeable soils than the native soils.

The approval to undertake these works within those defined areas is required under Section 91(2) of the *Water Management Act 2000*, prior to the commencement of works. See proposed draft condition no 18.

#### Clause 6.5 Earthworks

The proposal is not anticipated to have detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding lands subject to the imposition of appropriate mitigation measures outlined in this report as well as the imposition of proposed draft condition no's 18, 19, 20, 29, 42 and 43.

***S4.15 (1)(a)(ii) - Any proposed environmental planning instrument that has been subject to public consultation – (draft SEPPs/REPs/LEPs): Nil***

***S4.15(1)(a)(iiia) - Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Nil***

***S4.15(1)(a)(iii)- Any Development Control Plan (DCP) - Upper Lachlan Development Control Plan 2010:***

The application has been considered with regard to the following relevant provisions of the DCP including:

**2 Plan Objectives** – The proposal has been assessed, and through, proposed conditions of consent, it reflects the principles of an ecologically sustainable development.

**2.2 Rural Development Objectives** – The proposal has been assessed as having negligible impact on the scenic landscape as the infrastructure proposed is contained underground.

**3.17 Power Station Developments** – the proposal is not considered a State Significant Development.

**4. General Development Controls** – The proposal has been assessed, and through the imposition of conditions reflects the objectives.

**4.1 Matters for Consideration** – The proposal has been assessed, and through proposed conditions of consent, it minimises the impact in the retention or embellishment of the rural character.

**4.2 Environment – Tree and vegetation preservation** - In accordance with Sec 5 of the BDAR, a condition will be imposed to minimise and avoid key biodiversity features such as large hollow bearing trees where possible. Appropriate conditions regarding the BDAR have been imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

**4.2 Environment – Waterways, Riparian Corridors and Groundwater** - The proposal has been assessed, and through conditions and the requirement to obtain a Controlled Activity Approval, applicably considers any potential impact on the identified waterways. See proposed draft condition no 18.



**4.2 Environment – Biodiversity Management** - The proposal has been assessed, and through conditions, mitigates the impact on biodiversity. Appropriate conditions regarding the BDAR are imposed. See proposed draft condition no's 14, 18, 19, 20, 37, 38 and 39.

**4.2 Environment – Bushfire Risk Management** - The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no's 5 and 16.

**4.3 Landscaping** – The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no 7.

**4.4 Indigenous Heritage and Archaeology** - The proposal has been assessed, and through conditions addresses these considerations. See proposed draft condition no's 29 and 44.

**4.5 Impacts on Drinking Water Catchments** - The proposal has been assessed, and through conditions, minimises the impact on drinking water catchments. See proposed draft condition no 42.

**4.6 Heavy Vehicle Generation Development** - The proposal has been assessed, and through conditions, minimises the impact on heavy vehicle usage. See proposed draft condition no 43.

**9.5 Wind Farm** - The proposal has been assessed, and requirements relating to the assumed Biala Wind Farm were considered by the Planning Assessment Commission and conditioned accordingly.

**9.9 Sydney Drinking Water Catchments** - The proposal has been assessed, and through conditions, minimises the impact on Sydney's drinking water catchments. See proposed draft condition no 42.

**10.3 Easements** - The proposal has been assessed, and through conditions addresses this issue. See proposed draft condition no 4.

#### **S4.15 (1)(b)-Likely impacts of the development:**

The likely impacts of the proposal have been identified and addressed throughout this report.

#### **S4.15 (1)(c) - The suitability of the site for the development**

- ☐ *Does the proposal fit the locality: Yes*
- ☐ *Are the site attributes conducive to development: Yes, subject to recommended consent conditions are complied with.*

#### **S4.15 (1)(e) -The public interest**

Provided recommended consent conditions are complied with, granting consent to the development is not considered contrary to the public interest.

#### **S7.11 Contribution towards provision or improvement of amenities or services**

Whilst the development may generate significant road traffic during construction and eventual decommissioning, it is not expected to generate significant traffic during operation.

Noting also the applicability of S94A contributions discussed below, it is considered unwarranted to require payment of section 94 roads contributions in this instance.

Contributions for waste management, open space and recreation, community facilities, emergency services and plan administration are not applicable to the development.

A recommended consent condition specifies no work in the development shall commence unless the developer has paid to Council a levy of 1% of the proposed cost of carrying out the development, i.e.  $0.01 \times \$19.9 \text{ million} = \$199,000.00$  as authorised by the S94A Contributions Plan. See proposed draft condition no 21.

=====

### **3. Recommendation**

The proposed development was the subject of an initial assessment report presented to the JRPP at 14 March 2018 meeting (Attachment H).

Subsequent to the decision of the JRPP to defer determination of the DA pending resolution of issues in respect of:

- Clarification of the extent to which the proposed development may impact on areas of environmental significance by way of:
  - Detailed location of proposed trenches in those areas;
  - Number of trees to be removed in those areas;
  - Location of hollow bearing trees in those areas;
  - Identification of items of Aboriginal significance in those areas; and
- Detailed location, design and potential environmental impacts of the temporary compounds and temporary creek crossings.
- Clarification of the *Water Management Act* approval requirements; and
- Assessment and recommendations in relation to the request for amendment of proposed conditions by the Applicant.

These matters have been addressed in this report for consideration by the JRPP.

The recommended conditions of approval have been amended to incorporate appropriate mitigation measures.

It is therefore recommended that the Southern Joint Regional Planning Panel grant consent to DA 122/2017 subject to the conditions provided in Attachment A.

Tina Dodson  
Director Environment and Planning  
24 October 2018

#### **4. Attachments**

Attachment A:	Recommended Conditions of Consent
Attachment B:	ERM – Submission to Upper Lachlan Shire Council in response to JRPP Deferral Notice
Attachment C:	ERM – Submission to Upper Lachlan Shire Council in response to JRPP Deferral Submissions
Attachment D:	Evolve Ecology – Biodiversity Development Assessment Report
Attachment E:	Golder Associates Corporation – Assessment of trenching activities
Attachment F:	Submissions
Attachment G:	Government Agency responses
Attachment H:	Original DA Assessment Report – submitted to JRPP Meeting of 14 March 2018