

79C assessment

12 Feb 2018
DA 122/2017
AD 18/198
D2018/1018

DA: 122/2017.	Proposal: Erection of buildings and carrying out of works for the purpose of electricity generating works.
Lot/Sec/DP: Lot 6 DP1115749, Lots 1 & 2 DP1115746, Lots 185, 186, 187, 188, 197, 204, 224, 226 & 319 DP754126, Lot 7 DP1119818, Lots 1 & 2 DP877769, Lot 4 DP1031856, Lot 100 DP1026064, Lot 103 DP750043, Lot 2 DP1168750 AND Lot 101 DP1083286.	Property: Grabben Gullen Road, Biala/Gurrundah; Bannister Lane, Gurrundah/Bannister; Prices Lane, Bannister; Storriers Lane, Bannister.
Site Inspection Date: 6 February 2018.	Assessing Officer: Roland Wong.

Proposed development

The application proposes, "Minor 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 major components: the transmission line and the substation upgrade.

Transmission line

Accompanying information indicates the proposed transmission line would lie within a transmission line corridor up to 100m wide, with physical land disturbance for installation of the transmission line being limited to around 20m width within the corridor. It indicates the line will connect the approved Biala Wind Farm substation on Lot 1 DP1115746, located to the west of Grabben Gullen Road in Biala, to either the existing electricity substation or an adjacent switching station associated with the Gullen Range Wind Farm on Lot 2 DP1168750, near the southern end of Storriers Lane in Bannister.

The accompanying information indicates two potential transmission line alignments over some 1.7km of the line's overall length, to allow flexibility in negotiating physical land constraints such as Humes Creek. It indicates, "The final alignment will be confirmed...and advised to Council prior to commencement of construction". A recommended consent condition therefore specifies no work shall commence towards installation of the transmission line unless the final alignment has been confirmed to and accepted by Council.

According to the accompanying information, the transmission line "...will typically consist of between two or four parallel trenches, containing one or two 33kV electrical circuits, an earthing cable and a communications cable...installed at a minimum depth of 800mm".

The accompanying information indicates the proposed transmission line corridor follows existing access tracks, and no additional tracks are proposed outside the corridor.

The application also proposes two temporary construction compounds and laydown / material storage areas, of dimensions 25m x 25m. Accompanying information indicates their purposes may include storage of minor quantities of fuel, oil and chemicals. However, there is uncertainty as to their proposed locations: the accompanying information indicates, "These will likely be at the eastern and western ends of the corridor or where the corridor crosses a public road" and, "...will be placed so as to minimise impacts on sensitive areas". Furthermore, contrary to clause 50 (1) (a) of the Environmental Planning and Assessment Regulation 2000 (the Regulation) and clause 2 (1) (n) and (3) (a), (b), (c1) and (e) of Schedule 1 to the Regulation, the accompanying information does not indicate:

- The location of any proposed temporary construction compound buildings or works
- Floor plan drawings of any proposed temporary construction compound building showing layout, partitioning, room sizes and intended uses of each part of the building
- Elevation and section drawings showing heights and external materials of any temporary structures within the proposed temporary construction compounds
- Proposed temporary construction compound parking arrangements, entry and exit points for vehicles, and provision for movement of vehicles within the site
- Documentation specifying the live and dead loads any proposed temporary structure is designed to meet

- A list of any proposed fire safety measures to be provided in connection with the use of any proposed temporary structure
- Documentation describing any accredited building product or system in any proposed temporary structure, that is to be relied on for the purposes of section 79C (4) of the Environmental Planning and Assessment Act 1979 (the Act)
- Copies of any compliance certificates to be relied on in relation to any proposed temporary structure.

Given the above, a recommended consent condition specifies the consent does not permit the carrying out of any work or the erection of any building (including any temporary structure) for the purpose of any temporary construction compound associated with the development, other than identified by an environmental planning instrument as not requiring development consent. That is, the temporary construction compounds will require separate consent unless otherwise specified by a state environmental planning policy or local environmental plan.

Substation upgrade

Information accompanying the application indicates connection of the proposed transmission line to the Gullen Range Wind Farm substation necessitates an upgrade of the substation facility, including installation of an additional 33/330kV transformer and other associated infrastructure, which will involve an increase to the substation footprint by up to 1,000m².

The subject land

See also file note of 6 February 2018.

The land is an approximately 12km long chain of 20 rural lots in various ownerships, spanning the localities of Biala, Gurrundah and Bannister. The westernmost lot is Lot 1 DP1115746 in Biala, and the easternmost is Lot 2 DP1168750 in Bannister.

The land traverses Grabben Gullen Road around 7km south of Grabben Gullen, Bannister Lane around 9km southeast of Grabben Gullen, Prices Lane around 10km southeast of Grabben Gullen, and adjoins the southern end of Storriers Lane also around 10km southeast of Grabben Gullen. It also traverses a number of watercourses including Humes Creek and Gurrundah Creek.

Generally, the land has undulating topography with moderate slopes. It is substantially occupied by rural pasture and crops, along with scattered native and introduced trees and some denser treed areas.

Existing developments on the land and surrounding properties mainly comprise agricultural land uses of various intensity, with associated improvements such as fencing, farm buildings, dams and the like, as well as scattered dwellings.

Land history

On 12 November 2008, Council granted development consent 139/2008 for erection of a farm machinery shed on Lot 1 DP1083286, 239 Bannister Lane, Bannister. The consent drawings indicate the machinery shed located adjacent to four existing poultry sheds; the consent may thus be considered to at least imply lawful use of the lot for the purpose of a poultry farm. The machinery shed and the poultry sheds are respectively located around 90m and 150m from the nearest point of the proposed transmission line alignment.

On 26 June 2009, the Minister for Planning granted Project Approval 07_0118 for "Construction and operation of a wind farm...including: 84 turbines; substation; transmission connection; control room; facilities building; access tracks; and minor road upgrades". The affected lands included Lot 2 DP1168250. The approval was the subject of two appeals to the Land and Environment Court, and on 17 August 2010 the Court upheld both appeals and ordered modification of the approval's conditions. The Planning Assessment Commission further modified the approval on 7 September 2015. Notable conditions of the approval, as modified, include:

- Condition 2.3A:

By 31 December 2015, unless otherwise agreed by the Secretary, the proponent shall implement:

- landscaping treatments to screen the substation and associated switching station for the project; and*
- colour treatment to perimeter fencing for the substation and associated switching station for the project to minimise glare,*

to the satisfaction of the Secretary.

The landscaping treatments referred to in 2.3A a) must employ all reasonable and feasible mitigation measures and utilise mature plantings to screen the substation and switching station from the surrounding non-associated property PW4. Following the installation of the landscaping treatments, the Proponent shall maintain them over the life of project.

- Condition 2.46:

The Proponent shall store and handle all dangerous goods (as defined by the Australian Dangerous Goods Code) and combustible liquids, strictly in accordance with:

(a) all relevant Australian Standards;

(b) a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and

(c) the EPA's Environment Protection Manual Technical Bulletin Bunding and Spill Management.

In the event of an inconsistency between requirements listed from a) to c) above, the most stringent requirement shall prevail to the extent of the inconsistency.

- Condition 2.49:

Upon determining the haulage route(s) for the construction or decommissioning of the project, the Proponent shall:

(a) commission a qualified person to undertake a Road Dilapidation Report of all roads proposed to be used for construction or decommissioning activities in consultation with relevant road authorities. The Report shall assess the current condition of the relevant roads; and

(b) following completion of the construction or decommissioning of the project, a subsequent Road Dilapidation Report shall be prepared to assess any damage that may have resulted due to traffic and transport related to the construction or decommissioning of the project.

The Proponent shall commit to restore the relevant roads to a state, described in the original Road Dilapidation report. The cost of any restorative work described in the subsequent Report or recommended by the relevant road authorities after review of the subsequent Report, shall be funded by the Proponent. Such work shall be undertaken at a time as agreed upon between the Proponent and the relevant road authorities. In the event of a dispute between the parties with respect to the extent of restorative work that may be required under this condition, any party may refer the matter to the Secretary for resolution. The Secretary's determination of any such dispute shall be final and binding on the parties.

- Condition 2.53:

Prior to the commencement of construction, the Proponent shall upgrade all site access roads for temporary use by heavy vehicles to a standard endorsed by the Council to the reasonable and feasible requirements of the Council.

- Condition 2.57:

Except as may be expressly provided by an Environment Protection Licence for the project, the Proponent shall comply with section 120 of the Protection of the Environment Operations Act 1997 which prohibits the pollution of waters.

- Condition 2.60:

If during the course of construction the Proponent becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) must cease immediately and the OEH informed in accordance with the National Parks and Wildlife Act 1974. Works must not recommence until written authorisation from OEH is received by the Proponent.

- Condition 2.61:

If during the course of construction the Proponent becomes aware of any unexpected historical relic(s), all work likely to affect the relic(s) must cease immediately and the Heritage Office notified in accordance with the

Heritage Act 1977. Works shall not recommence until the Proponent receives written authorisation from the Heritage Office.

- **Condition 2.62:**

The Proponent shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing, or disposal or any waste generated on site to be disposed of at the site, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997, if such a licence is required in relation to that waste.

- **Condition 2.63:**

The Proponent shall ensure that all liquid and / or non-liquid waste generated and / or stored on the site is assessed and classified in accordance with Waste Classification Guidelines Part 1: Classifying Waste (DECC, 2008), or any future guideline that may supersede that document.

- **Condition 4.1:**

The sites for Ancillary Facilities must satisfy the following criteria unless otherwise approved through the Construction Environmental Management Plan required under condition 7.2 or the Decommissioning Environmental Management Plan required under condition 7.7:

(a) be located within the site;

(b) have ready access to the road network;

(c) be located to minimise the need for heavy vehicles to travel through residential areas;

(d) be sited on relatively level land;

(e) be separated from nearest residences by at least 200 m (or at least 250 m for a temporary batch plant);

(f) be located above the 20 ARI flood level unless a contingency plan to manage flooding is prepared and implemented;

(g) not require vegetation clearing beyond that already required for the project; and

(h) not affect the land use of adjacent properties.

The location of the Ancillary Facilities must be identified in the CEMP or DEMP and must include an analysis against the above criteria. Where these criteria cannot be met, the CEMP must demonstrate there will be no adverse impacts from the Ancillary Facility's construction, operation or decommissioning.

- **Condition 5.4:**

Prior to the commencement of construction of the project, the Proponent shall ensure that the following are available for community complaints for the life of the project (including construction, operation and decommissioning):

(a) a 24-hour telephone number on which complaints about construction, operation and decommissioning activities at the site may be registered;

(b) a postal address to which written complaints may be sent; and

(c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the e-mail address must be advertised in a newspaper circulating in the locality on at least one occasion prior to the commencement of construction and at six-monthly intervals thereafter. These details must also be provided on the Proponent's internet site.

- **Condition 5.5:**

The Proponent shall record details of all complaints received through the means listed under condition 5.4 of this approval in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:

(a) the date and time, where relevant, of the complaint;

(b) the means by which the complaint was made (telephone, mail or email);

- (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- (d) the nature of the complaint;
- (e) any action(s) taken by the Proponent in relation to the complaint, including any followup contact with the complainant; and
- (f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the Secretary upon request.

It may be appropriate to impose some similar conditions on any consent granted for the subject development.

On 7 November 2013, Council granted development consent 94/2013 for installation of a moveable dwelling on Lot 1 DP1115746, Grabben Gullen Road, Biala – the westernmost of the subject lots. The consent drawings indicate the dwelling located around 1.3km east of the proposed transmission line's connection to the approved Biala wind farm electricity substation, and around 800m northeast of the nearest point of the transmission line's alignment. However, Council's relevant records do not confirm that any work in the development has physically commenced.

On 22 June 2016, the Southern Joint Regional Planning Panel granted development consent 7/2016 to develop land including Lot 100 DP 1026064 and Lot 2 DP1168750, adjacent to the southern end of Storriers Lane in Bannister, for the purpose of electricity generating works (a solar farm). No component of development the subject of development consent 7/2016 appears likely to conflict with the development now proposed.

On 12 April 2017, The Planning Assessment Commission granted state significant development consent SSD 6039 for development of Biala Wind Farm on 40 lots, including Lots 1 & 2 DP1115746 and Lot 319 DP754126, located at the western end of the proposed transmission line, immediately west of Grabben Gullen Road in Biala. The application did not clearly identify a proposed transmission line to connect the development to the electricity network. Despite this, the Commission considered the Department of Planning and Environment's assessment report and recommended consent conditions. Notable among the Department's recommended consent conditions were recommended condition 5:

The Applicant must not carry out any development on site before the development of the transmission line required to connect the wind farm to the high voltage electricity network has been approved and it has forwarded a copy of the approval to the Department.

In its Determination Report, the Planning Assessment Commission noted, "The Applicant intends to seek a separate approval for a transmission line connecting the project to the electricity grid, prior to the construction of the project. In its Environmental Impact Statement (EIS), the Applicant has identified several options to connect the project to the nearby Yass to Goulburn 132 kilovolt (kV) transmission line or the Yass to Bannaby 320 kV transmission line." It also indicated, "The Department's assessment report identified the transmission line, visual amenity, traffic, wind turbine and biodiversity as the key impacts associated with this proposal."

In greater detail, the Determination Report states:

"...the development application ...did not include the construction of a transmission line connecting the wind farm to the electricity grid. ...the community expressed significant concern that without a defined transmission line, the full scope of the project is incomplete, giving rise to uncertainty about the full nature of the project's impacts. [The community] were particularly concerned about whether community consultation would occur during the future evaluation of a transmission line proposal, and that an approval for the current project might prejudice such future evaluation.

"The Department's assessment report indicated that since the Applicant had elected to pursue separate permission for the transmission line, the economic, environmental and social impacts of any such line would primarily be a matter for a future statutory process, and that a two-step approach to the project was open to the Applicant to pursue.

"The Applicant prepared an analysis of several transmission line options for the project [and] concluded that the development of a transmission line would be reasonable and feasible. The Department evaluated the Applicant's options at a strategic level, and indicated a preference for the shorter more direct connection to the Yass to Bannaby line. The Department recommended a condition of consent requiring approval for a transmission line before the project is commenced.

“However, the Commission does not accept the Department’s recommended condition. Instead, the Commission included a deferred commencement condition which suspends the operation of the development consent until a transmission line is permitted. This approach is stronger than the Department’s originally recommended condition in that, if permission cannot be secured for the transmission line, then consent for the wind farm is inoperative.

“The Commission noted the community’s concerns about the Applicant’s two-step approach to the project and reaffirmed that any transmission line application will be required to go through a statutory process of evaluation under either Part 4 or 5 of the EP&A Act. The consultation and assessment requirements for this future process will be established either by the Secretary of the Department or in the case of Part 5 evaluation, by the State energy authority.”

Notable conditions of state significant development consent SSD 6039 include:

- Administrative condition 1:

This consent does not operate until:

(a) the development of the transmission line required to connect the wind farm to the high voltage electricity network:

- *has been granted consent, or approval by a determining authority within the meaning of section 110 of, under the Environmental Planning and Assessment Act 1979; or*
- *if the development is an activity which does not require consent or approval, a determining authority has assessed and determined to carry out the activity under Part 5 of the Environmental Planning and Assessment Act 1979;*

(b) the applicant has forwarded a copy of the consent, approval or determination (as the case may be) to the Department; and

(c) the Secretary has notified the Applicant that it is satisfied that the requirement at 1(a) has been met.

- Administrative condition 3:

The Applicant must carry out the development:

(a) generally in accordance with the EIS; and

(b) in accordance with the conditions of this consent.

- Administrative condition 13:

Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

(a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and

(b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

This condition does not apply to the upgrade and maintenance of the road network, which is expressly provided for in the conditions of this consent.

- General environmental condition 26:

The Applicant must:

(a) prepare a dilapidation survey of:

- *the designated heavy vehicle route:*
 - *prior to the commencement of any construction or decommissioning works other than pre-construction minor works; and*
 - *within 1 month of the completion of any construction or decommissioning works other than pre-construction minor works;*

- *the designated over-dimensional vehicle route:*
 - *prior to the use of the route by any over-dimensional vehicles for the construction or decommissioning of the development; and*
 - *within 1 month of the completion of the use of the route by over-dimensional vehicles for the construction or decommissioning of the development;*

(b) rehabilitate and/or make good any development-related damage:

- *identified during the carrying out of the relevant construction and/or decommissioning works if it could endanger road safety, as soon as possible after the damage is identified but within 7 days at the latest; and*
- *identified during any dilapidation survey carried out following the completion of the relevant construction and/or decommissioning works within 2 months of the completion of the survey, unless the relevant roads authority agrees otherwise,*

to the satisfaction of the relevant roads authority.

If the construction and/or decommissioning of the development is to be staged, the obligations in this condition apply to each stage of construction and/or decommissioning.

If there is a dispute about the scope of any remedial works or the implementation of these works, then either party may refer the matter to the Secretary for resolution.

- **General environmental condition 33:**

The Applicant must:

(a) ensure that the development:

- *provides for asset protection in accordance with the RFS's Planning for Bushfire Protection 2006 (or equivalent);*
- *is suitably equipped to respond to any fires on site;*

(b) develop procedures to manage potential fires on site, in consultation with the RFS; and

(c) assist the RFS and emergency services as much as possible if there is a fire in the vicinity of the site.

- **General environmental condition 35:**

The Applicant must:

(a) minimise the waste generated by the development;

(b) classify all waste generated on site in accordance with the EPA's Waste Classification Guidelines 2014 (or its latest version);

(c) store and handle all waste generated on site in accordance with its classification;

(d) not receive or dispose of any waste on site; and

(e) ensure all waste is disposed of at appropriately licensed waste facilities.

- **Environmental management, reporting and auditing condition 4:**

The Applicant must immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

If the subject application is favourably determined, it may be appropriate to impose some similar consent conditions.

Referrals

The application was externally referred to Water NSW and NSW Roads and Maritime Services (RMS), and was also notified under clause 88 (1) (b) of the Environmental Planning and Assessment Regulation (the Regulation) to Essential Energy, Transgrid, the NSW Department of Planning & Environment, NSW local Land Services, the NSW Office of

Environment & Heritage, the NSW Rural Fire Service, and the NSW Department of Industry. For the purpose of assessing the application, the latter clause 88 (1) (b) notifications have been considered as external referrals.

	Date referred	Date received	Comments
Internal referrals			
Works & Operations Department	7 December 2017.	21 December 2017.	No objection subject to recommended consent conditions.
External referrals			
Essential Energy	6 December 2017.	N/A	No response.
Transgrid	6 December 2017.	15 December 2017.	Request for additional information. See later discussion of State Environmental Planning Policy (Infrastructure) 2007 clause 45.
NSW Department of Planning & Environment	6 December 2017.	N/A	No response.
NSW Local Land Services	6 December 2017.	N/A	No response.
NSW Office of Environment & Heritage	6 December 2017.	19 January 2018.	No objection subject to recommended consent conditions.
NSW Rural Fire Service	6 December 2017.	N/A	No response.
NSW Department of Industry	6 December 2017.	N/A	No response.
Water NSW	7 December 2017.	11 January 2018.	Concurrence granted subject to conditions.
NSW Roads & Maritime Services	7 December 2017.	12 December 2017.	No objection subject to recommended consent conditions.

Notification to Adjoining Property

The development is "other advertised development" as referred to in clause 5 (2) (d) of the Environmental Planning and Assessment Regulation 2000 (the Regulation). Accordingly, the application was notified to surrounding land owners and advertised in the *Gunning Lions Noticeboard*, the *Goulburn Post*, and the *Crookwell Gazette*. The notification period began on 7 December 2017 and ended on 19 January 2018.

Council received three public submissions during the notification period. Some of the submissions' contents effectively object to the Biala Wind Farm development itself and/or appear to seek to hamstring the Biala Wind Farm development. As discussed earlier, the Biala Wind Farm development has already been considered by the Department of Planning and Environment and the Planning Assessment Commission, resulting in state significant development consent SSD 6039 being granted on 12 April 2017. Submissions by way of objection to development application SSD 6039 have therefore not been considered in assessment of the subject application.

Valid issues raised by the submissions are identified and addressed below, in no particular order.

- **Issue 1: Identification of affected land**

One submission asserts the application incorrectly omits two lots in its identification of land on which the development is to be carried out. It effectively suggests the application was made without the knowledge or

consent of owners of affected lands. It contemplates, "...all directly affected properties with dwellings should have been notified, in which we were not. For this reason alone, this application could not be passed for the fact that all properties have not been noted and notified legally".

Firstly, the development is not proposed to be carried out on either of the two lots nominated by the submission, which in fact adjoin or are adjacent to the subject land. Secondly, the application is also accompanied by evidence that the owner of each lot on which the development is proposed consents to the application being made. Thirdly, Council notified the application to the submitter by letter dated 1 December 2017, and/or by advertisement. The submitter's suggestion that affected properties were not notified of the application is therefore incorrect.

- Issue 2: Construction impact

One submission expresses concern that construction activities associated with the development may significantly interfere with adjoining agricultural practices. It suggests, "With the use of large machinery for the construction...our paddocks which contain main water sources and vegetation for our stock cannot be used for the simple fact that the stock cannot be contained in these paddocks from the disruption and intense earthworks to this area. Within the dry season, we cannot afford to lose the use of 100 acres and main water supply". It goes on to refer to a poultry farm on land adjoining the proposed development and asserts, "...noises from large earth working vehicles and the intense movement of road vehicles on Grabben Gullen Road could impact the poultry farm immensely".

Information accompanying the application indicates proposed construction hours from 7:00am to 6:00pm Mondays to Fridays, 8:00am to 1:00pm Saturdays, and no works on Sundays or public holidays, with the exceptions of delivery of materials outside standard construction hours as directed by NSW Police and other relevant authorities, or in an emergency endangering life, property or the environment. It estimates a total construction period of four months, subject to final staging and potential weather delays.

It is accepted that introduction of unfamiliar and/or excessive sources of noise, vibration and the like may affect nearby livestock behaviour, and livestock may be more sensitive at certain times, such as during lambing or calving season.

Council's assessment report regarding development application 7/2016, relating to Gullen Solar Farm, noted:

"While stock may become accustomed to repetitive noise, they will tend to avoid it. This will increase grazing pressure on parts of paddocks least impacted by noise, which in turn will exacerbate internal parasite and production issues. Pregnant ewes will be restricted in their instinctive movement away from the mob for a quiet sheltered place to give birth with expected impact on lamb survival".

In determining development application 7/2016, Council and the Southern Joint Regional Planning Panel addressed this issue through condition 25 of the consent:

At least one month prior to any work in the development commencing, and on a monthly basis thereafter until all works in the development have been completed, the proponent shall provide written notification to the owners of all lots adjoining the land of its intended detailed work schedule through to completion of works. Each notification shall clearly indicate the dates, nature and location of works to be carried out. Each notification subsequent to the first notification shall clearly identify any change that may have been made to the work schedule.

Condition 25 set out to facilitate provision to adjoining farmers and graziers with ongoing updates as to the progress of works, as well as notice of upcoming works that might affect their agricultural practices, allowing them to take proactive farm/livestock management measures to minimise or reduce impact on their own productivity. The same condition is recommended for inclusion on any consent granted to the subject development.

With regard to adjoining poultry farms, one poultry farm compound is located around 800m from the nearest point of the transmission line alignment (another is located on one of the subject lots, around 150m from the proposed alignment). The distance between the adjoining poultry farm compound and the proposed transmission line alignment is considered likely to ameliorate potential noise impacts from the transmission line's construction.

- Issue 3: Ongoing operational impact

One submission suggests insufficient research has been carried out to establish whether the proposed transmission line, once operational, will significantly affect productivity of a poultry farm on adjoining land. It submits, "This includes high/low frequencies which are detectable by animals and not humans".

The transmission line is not expected to generate any significant audible or inaudible sound when operational, particularly noting it is proposed to be installed at least 800mm underground.

• Issue 4: Cumulative traffic impact

Two submissions raise concern over cumulative traffic increases arising from the development and other related and unrelated developments in the locality.

One of the submissions, whilst not objecting to the development, discusses dust emissions from increased traffic using the unsealed Prices Lane to access various developments carried out in recent years, including subdivision of land as well as Gullen Range Wind Farm, resulting in airborne dust entering the submitter’s rural dwelling and an associated reduction of amenity. The submission suggests a requirement to seal Prices Lane.

The development is expected to generate significant vehicle traffic during construction – an estimated four month period. It is not expected to generate significant traffic once operational. Vehicle access is proposed to the development alignment via Grabben Gullen Road (sealed), Bannister Lane (unsealed), Prices Lane (unsealed) and Storriers Lane (unsealed). Given these factors, it is not expected that traffic generated by the development will cause significant airborne dust in the longer term. It may therefore be considered unreasonable to require the developer to bear the cost of sealing the unsealed roads giving access to the development alignment. Instead, a recommended consent condition requires satisfactory dust suppression (e.g. by water truck) to all unsealed roads actively being used to access the development during construction.

The other submission asserts that the development application relies on an outdated (2014) traffic impact statement, therefore the applicant’s estimated increase in traffic associated with the development is inaccurate.

The application is not accompanied by any proposed traffic management plan relating to the development itself. However, the application was referred to NSW Roads and Maritime Services (RMS) and to Council’s Works and Operations Department, neither of whom raises any traffic related concerns, subject to recommended consent conditions. A recommended consent condition nonetheless specifies no work shall commence in the development unless a proposed construction traffic management plan has been submitted to and approved by Council and RMS.

The latter submission also raises concern that construction traffic on Grabben Gullen Road may conflict with the submitter’s use of the road reserve to move livestock in carrying out their routine agricultural practices. The abovementioned recommended consent condition therefore paraphrases condition 28 of state significant development consent SSD 6039, requiring the traffic management plan to detail proposed measures to traffic safety impacts and disruption to road users, including avoiding potential conflicts between construction traffic and routine livestock movements.

Desk Top Assessment

Provisions prescribed by P&A Regulations	Clause 92 (AS2601) - Demolition of Structures	The development’s substation upgrade component may necessitate some demolition work. A recommended consent condition 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 of use of an existing building):	N/A
	Clause 94 Fire Safety Considerations (rebuilding, altering, enlarging or extending existing building(s)):	N/A
79c 1(a) any environmental planning instrument:	<u>State environmental planning policies (SEPPs)</u> The application has been considered with regard to the relevant provisions of applicable SEPPs, including: <ul style="list-style-type: none"> • SEPP (infrastructure) 2007 (“ISEPP”) <ul style="list-style-type: none"> ○ Clause 34—Development permitted with consent 	

- Clause 45—Determination of development applications—other development
- Clause 101—Development with frontage to classified road
- SEPP (Rural Lands) 2008 (“the Rural Lands SEPP”)
 - Clause 2—Aims of Policy
 - Clause 7—Rural Planning Principles
- SEPP (State and Regional Development) 2011 (“the Regional Development SEPP”)
 - Clause 20—Development to which Part applies
 - Clause 21—Council consent functions to be exercised by regional panels
- SEPP (Sydney Drinking Water Catchment) 2011 (“the Catchment SEPP”)
 - Clause 11—Development that needs concurrence of Regulatory Authority.

ISEPP clause 34 effectively specifies the development is permitted with consent.

With respect to ISEPP clause 45 (2), Council gave written notice of the application to Essential Energy and Transgrid. Essential Energy did not respond, but Transgrid responded within 21 days. Transgrid advises several of the lots affected by the development (Lot 2 DP877769, Lot 4 DP1031856, Lot 100 DP1026064, Lot 103 DP750043 and Lot 2 DP1168750) are occupied by the Yass – Sydney West 330kV transmission line and associated easement. It further advises, “...the design and placement of any proposed development should ‘prudently avoid’ Transgrid easements and infrastructure. Any development to be located near high voltage transmission lines must be thoroughly assessed by Transgrid and this process takes considerable time. A review of the final design of the proposed development must be undertaken by our engineers.” In accordance with Transgrid’s advice, a recommended consent condition specifies no work in the development shall be permitted to commence unless detailed site plans in PDF format, clearly identifying Transgrid’s easement and high voltage transmission lines and any proposed activity within or immediately adjacent to the easement or lines, have been supplied to and endorsed by Transgrid.

With respect to ISEPP clause 101, recommended consent conditions convey the road/access requirements of Council’s Works and Operations Department and NSW Roads & Maritime Services.

With respect to clause 11 of the Catchment SEPP, Water NSW has confirmed its concurrence to Council granting consent to the development, subject to conditions that will be conveyed in any notice of favourable determination of the development application.

Upper Lachlan Local Environmental Plan 2010 (the LEP)

The application has been considered with regard to the LEP’s relevant provisions, including:

- Clause 1.2—Aims of Plan
- Clause 1.4—Definitions
- Clause 2.3—Zone objectives and Land Use Table
- Clause 2.7—Demolition requires development consent
- Clause 5.10—Heritage conservation
- Clause 6.2—Biodiversity
- Clause 6.3—Land
- Clause 6.4—Water
- Clause 6.5—Earthworks
- Clause 6.9—Essential services.

With respect to clause 1.4, the development comprises erection of buildings and carrying out of works for the purpose of *electricity generating works*.

With respect to clause 2.3, the affected lands are in Zone RU1 Primary Production and RU2 Rural Landscape. Development for the purpose of *electricity generating works* is permissible with consent in both zones.

With respect to clause 5.10 (2) (a) (ii), a recommended consent condition specifies the consent does not permit any:

- Demolition, moving or alteration of any *Aboriginal object* as defined by the LEP
- Disturbance or excavation of any *archaeological site* or any *Aboriginal place of heritage significance* as defined by the LEP.

A further recommended consent condition specifies actions to be taken in the event of any *Aboriginal object*, *archaeological site* or *Aboriginal place of heritage significance* being identified in carrying out of works in the development.

With respect to clause 6.2, and noting advice received from the NSW Office of Environment & Heritage (OEH), a recommended consent condition specifies the consent permits transmission line alignment option 2 as indicated by the information accompanying the application, and does not permit alignment option 1. Recommended consent conditions also convey suggestions and requirements specified by OEH regarding biodiversity.

With respect to clauses 6.3 and 6.4, recommended consent conditions specify requirements for erosion and sediment control measures, as well as conveying concurrence conditions advised by Water NSW.

With respect to clause 6.9 (a)-(c), as discussed earlier, the development includes temporary construction compounds that are inadequately defined by the information accompanying the application. The compounds may be expected to require water and electricity supplies, as well as facilities for sewage management and disposal. Given the inadequacy of information as to whether and what essential services will be provided to the temporary construction compounds, it is appropriate that a recommended consent condition specifies the consent does not permit the carrying out of a work or the erection of any building (including any temporary structure) for the purpose of any temporary construction compound associated with the development.

With respect to clause 6.9 (e), recommended consent conditions convey the road access requirements of Council's Works and Operations Department and NSW Roads and Maritime Services.

(b) Any draft environmental planning instrument: Nil

(c) Any Development Control Plan (DCP)

Upper Lachlan DCP 2010 (the DCP)

The application has been considered with regard to the DCP's relevant provisions, including:

- Section 2—Plan objectives
- Section 2.2—Rural development objectives
- Section 3.14—Notification
- Section 3.17—Community enhancement program
- Section 4—General development controls
 - Section 4.1.1—Matters for consideration (general)
 - Section 4.2.1—Tree and vegetation preservation
 - Section 4.2.2—Waterways, water bodies and wetlands
 - Section 4.2.6—Biodiversity management
 - Section 4.2.7—Bushfire risk management
 - Section 4.3.2—Landscaping
 - Section 4.3.4—Crime prevention through environmental design
 - Section 4.4.2—Indigenous heritage and archaeology
 - Section 4.5.3—Impacts on drinking water catchments
 - Section 4.6.1—Vehicular access and parking
 - Section 4.6.2—Roads and Traffic Authority (RTA) controlled roads
 - Section 4.6.3—Heavy vehicle generation development – haulage routes
- Section 9.5—Wind farms
- Section 9.9—Development in Sydney's drinking water catchments
- Section 9.10—Any other development not specified in this plan
- Section 10.2.2—Rural roads
- Section 10.2.3—Crown roads
- Section 10.2.4—Unmaintained Council controlled public roads

• Section 10.3—Easements.

With respect to section 4.2.1, a recommended consent condition specifies the consent does not permit any vegetation removal other than identified by an environmental planning instrument as not requiring development consent.

With respect to section 4.2.7, a recommended consent condition specifies the development shall be carried out in full compliance with all relevant provisions of the NSW Rural Fire Service's document entitled, *Planning for Bush Fire Protection*, where applicable.

With respect to section 4.3.2, a recommended consent condition specifies the developer shall implement and, for the life of the development and Gullen Range Wind Farm, maintain landscaping treatments to screen the proposed upgraded substation and associated infrastructure on Lot 2 DP1168750, utilising mature plantings to screen the substation compound surrounding roads and properties.

With respect to section 4.6.1, the development is expected to demand vehicle entry/exit, manoeuvring, parking and loading/unloading facilities during construction. As discussed earlier, information accompanying the application indicates two proposed temporary construction compounds, but does not include sufficient detail as to their locations or design of those compounds. It is therefore impossible to establish whether any proposed vehicle facilities will be adequate. A recommended consent condition therefore specifies firstly that no work in the development shall be permitted to commence unless:

(a) development consent – if required – has been obtained for any temporary construction compound(s) associated with the development, and

(b) each temporary construction compound has been completed in accordance with any relevant development consent,

and secondly that consent shall not be granted for any proposed temporary construction compound unless it includes satisfactory vehicle entry/exit, manoeuvring, parking and loading/unloading facilities.

Impacts in the locality:

CONTEXT & SETTING	Satisfactory, provided recommended consent conditions are complied with.
ACCESS, TRANSPORT & TRAFFIC	Satisfactory, provided recommended consent conditions are complied with.
LANDSCAPING / CLEARING	Satisfactory, provided recommended consent conditions are complied with.
NOISE	Satisfactory, provided recommended consent conditions are complied with.
SAFETY, SECURITY & CRIME PREVENTION (NSW POLICE SERVICE CHECKLIST)	Satisfactory.
ECONOMIC IMPACT IN THE LOCALITY	Satisfactory.
DESIGN & INTERNAL DESIGN	Satisfactory, provided recommended consent conditions are complied with.
FLORA & FAUNA (8 POINT TEST WHERE REQUIRED)	Satisfactory, provided recommended consent conditions are complied with.
NATURAL HAZARDS	Satisfactory, provided recommended consent conditions are complied with.
TECHNOLOGICAL HAZARDS	Satisfactory, provided recommended consent conditions are complied with.
CONSTRUCTION	Satisfactory, provided recommended consent conditions are complied with.

The suitability of the site for the development

Does the proposal fit the locality? Yes.

Are the site attributes conducive to development? Yes, provided recommended consent conditions are complied with.

The public interest

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

Upper Lachlan Development Contributions Plan 2007

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 section 94A 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.

Upper Lachlan Section 94A Development Contributions Plan

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 Section 94A Contributions Plan.

S64 Contributions

Not applicable. No reticulated water supply or sewerage services are available to the proposed development.

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Assessment Summary:

Provided recommended consent conditions are complied with, the development is considered satisfactory with respect to the relevant provisions of applicable environmental planning instruments, development control plans and Council policies, and is not expected to have any significant negative impact upon the environment or the character and amenity of the locality.

Recommendation:

That the Southern Joint Regional Planning Panel determines development application 122/2017 by granting consent, subject to conditions.

Signature:


Roland Wong
Manager of Environment & Planning

Date: 12 February 2018