
To Manager, Planning Panels Secretariat, Department of Planning and Environment
From A/ Executive Director, Resource Assessments and Business Systems,
Department of Planning and Environment
Date 10 January 2019

Peer Review of Transmission Connection Development Application DA 122/2017

1. Background

Newtricity Developments Biala Pty Ltd (the proponent) has approval to develop the Biala Wind Farm, located 8.5 km east of Biala in the Upper Lachlan Shire Council local government area. The development application for the Biala Wind Farm did not include the development of a transmission line. Rather, the development application proposed a separate planning approval for this transmission line prior to constructing the wind farm.

Consequently, the proponent has proposed a Transmission Connection for the Biala Wind Farm (DA 122/2017) (the proposal). The proposal comprises a 12 km underground transmission line and augmentation of the Gullen Range Wind Farm (SSD 07_0118) substation to facilitate connection of the Biala Wind Farm (SSD 6039) to the electricity grid.

As the proposal has been classified as Regionally Significant Development, the Southern Regional Planning Panel (the Panel) is the determining authority.

2. Terms of Reference

The Panel resolved on 16 October 2018 to request that the Department arrange for a peer review of the original and supplementary assessment reports provided by Upper Lachlan Shire Council (Council). In particular, the Panel has requested a peer review of the following matters:

The peer review should include responses to all issues identified in the Record of Deferral for the Panel meeting on Wednesday, 14 March 2018 and the following issues (as communicated to Upper Lachlan Shire Council on Friday, 13 April 2018):

- *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.*
- *Clarification re approval to develop on Crown Roads.*
- *Recommendations on any modifications to Councils recommendations and proposed conditions.*
- *Confirm that the assessment has addressed all matters for which the consent authority must be satisfied.*
- *Include explicit assessment of the substation extension given the application is described as being in two parts.*

3. Documents Reviewed

In its consideration of the matters listed above, the Department has reviewed the following documents:

- Biala Wind Farm Transmission Line Connection and Substation Upgrade – State of Environmental Effects (Environmental Resources Management Australia Pty Ltd, November 2017);
- associated Government agency advice and community submissions;

- Initial Council Assessment Report - DA122/2017 (Upper Lachlan Shire Council, February 2018);
- Applicant Submission to JRPP DA 122/2017 (Newtricity Developments Biala Pty Ltd, March 2018);
- Record of Referral for DA122/2017 – Southern Joint Regional Planning Panel (March 2018);
- Supplementary Council Assessment Report - DA122/2017 (Upper Lachlan Shire Council, October 2018);
- DA 122/2017 Draft Conditions of Consent (Upper Lachlan Shire Council);
- Notice of Resolution for DA122/2017 – Southern Joint Regional Planning Panel (October 2018); and
- Record of Decision by Chair for DA122/2017 – Southern Joint Regional Planning Panel (November 2018).

4. Consideration

The Department has provided a summary of its peer review below.

Statutory classification of the proposal

Initially, the Department had concerns about the classification and approval pathway identified within the proponent's application documentation and Council's assessment. However, the Panel subsequently advised the Department that the proponent made an application to the Panel Chair for the development application to be classified as Regionally Significant Development, under clause 9, Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*.

As noted in the Record of Decision by Chair, dated 16 November 2018, the Panel confirmed the proposal can be classified as Regionally Significant Development and that it would be the determining authority for the proposal.

Approval requirements for development on Crown land

The Department notes that the proposal intersects or includes areas of Crown land (including various unformed Crown roads, Gurrundah Creek and Hume's Creek).

The Department considers that Crown land (including Crown roads) often requires tenure before any works can be undertaken, which may involve purchase and closure of the Crown land prior to the commencement of activities. This process can be administered post-approval in consultation with the Department of Industry (DoI).

With regard to Gurrundah Creek, Hume's Creek and any other waterfront land associated with the proposal, the Department has recommended a condition of consent which would manage any activities on waterfront land.

Recommended conditions of consent

The Department considers that the recommended conditions include requirements to manage a range of impacts and are generally adequate and commensurate with a development of this nature and scale. Notwithstanding, the Department recommends Council adopt the proponent's proposed amendments for condition 8 and condition 31.

In addition, the Department recommends Council include the following condition relating to activities on waterfront land:

ensure all works (including watercourse crossings) are undertaken in accordance with the following, unless otherwise agreed by DoI:

- *Guidelines for Controlled Activities on Waterfront Land (2012), or its latest version; and*
- *Why Do Fish Need to Cross the Road? Fish Passage Requirements for Waterway Crossings (2004), or its latest version.*

Matters for which the consent authority must be satisfied

Under section 4.15 of the EP&A Act, the Department notes a consent authority must consider a number of matters in determining a development application. The Department considers the assessment has adequately considered matters listed under section 4.15 and assessed the potential impacts associated with the development.

The Department has summarised its review of Council's consideration of these matters in **Table 1** below.

Table 1. Matters for which the consent authority must be satisfied (section 4.15 of the EP&A Act)

General matters considered under section 4.15 of the EP&A Act	Department's consideration
(a) <i>the provisions of:</i> (i) <i>any environmental planning instrument, and</i> (ii) <i>any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i> (iii) <i>any development control plan, and</i> (iiia) <i>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, and</i> (iv) <i>the regulations (to the extent that they prescribe matters for the purposes of this paragraph),</i> (v) <i>(Repealed)</i> <i>that apply to the land to which the development application relates,</i>	The assessment has adequately considered the relevant provisions of environmental planning instruments and the <i>Environmental Planning and Assessment Regulation 2000</i> .
(b) <i>the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</i>	The assessment has addressed all relevant impacts, including impacts on Aboriginal heritage, biodiversity and amenity values. Council has recommended specific conditions to manage any impacts to these values. The Department considers that any potential impacts to watercourses can be managed through the recommended condition relating to works on waterfront land.
(c) <i>the suitability of the site for the development,</i>	Addressed.
(d) <i>any submissions made in accordance with this Act or the regulations,</i>	Addressed.
(e) <i>the public interest.</i>	Addressed.

Substation augmentation component

The Department considers that the revised supplementary assessment report (dated 24 October 2018) has addressed the substation augmentation component of the proposal. While the augmentation would result in a minor increase in the disturbance footprint (an additional 585 m²), the augmentation footprint would be located within a highly disturbed area of land, already used to house electrical infrastructure. The assessment has considered the potential visual impacts of the substation augmentation and has concluded it would not be visually intrusive.

5. Conclusion

The Department considers that Council's assessment of the proposal is generally adequate and commensurate with a development of this nature and scale. Notwithstanding, the Department recommends that Council should revise the recommended conditions of consent by amending conditions 8 and 31, and including the recommended condition relating to activities on waterfront land.

For any further queries please contact me on 9274 6349.

Your sincerely



10/1/19

Clay Preshaw

A/ Executive Director

Resource Assessments and Business Systems