

12 April 2017

**NSW Planning Assessment Commission Determination Report  
Biala Wind Farm (SSD 6039)**

**1. INTRODUCTION**

On 9 December 2016, the Planning Assessment Commission (the Commission) received from the Department of Planning and Environment (the Department) a State significant development application from Newtricity Biala Proprietary Limited (the Applicant) for the construction and operation of the Biala Wind Farm.

The Department has referred the development application to the Commission for determination in accordance with the Minister for Planning's delegation dated 14 September 2011 because the Department received more than 25 submissions from the public in the nature of objections.

Ms Lynelle Briggs AO, Chair of the Commission, nominated Mr Garry West (as chair), Professor Zada Lipman, and Dr Maurice Evans to constitute the Commission to determine the development application.

**1.1 Summary of Development Application**

The development application proposes:

- the installation and operation of 31 wind turbines with a tip height of up to 185 metres (m), hub height of up to 110 m and capacity of up to 3.5 megawatts (MW);
- the construction of ancillary infrastructure, including three new intersections off Grabben Gullen Road, internal access roads, an operations/maintenance facility, internal electricity transmission lines and a substation; and
- upgrades to the local road network, including both Kialla Road and Range Road, to facilitate the delivery of wind turbines to and from the site.

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.

The Applicant has submitted a preliminary constraints assessment of 500 m wide corridors for both options. The exclusion of a transmission line from the current development application is discussed in detail in section 5.1 of this report.

**1.2 Need for proposal**

In its EIS, the Applicant states that the project would:

- provide a source of renewable energy and assist in reducing greenhouse gas emissions;
- help meet growing energy demand in NSW by producing up to 78 MW of electricity annually, which could power 33,200 homes;
- contribute to NSW and Commonwealth targets for renewable energy;
- contribute approximately \$70 million in direct investment into the local and regional economy over the estimated two year construction period;
- provide both direct and indirect employment during construction and operation;

- provide additional income streams for involved landholders;
- improve the local road network surrounding the project site; and
- fund local infrastructure and other projects via a Community Enhancement Program.

The Commission notes that many of the benefits would be realised only if the wind farm is connected to the electricity grid.

## 2. BACKGROUND

The project site is located off Grabben Gullen Road in the Upper Lachlan local government area, and forms part of a larger rural area primarily used for grazing. The closest village to the site is Grabben Gullen, located about 3 kilometres (km) to the northeast, while a larger township, Crookwell, is located about 15 km to the northeast.

The Department's assessment report provides detail about the physical attributes of the site and its locality, including the location of associated and non-associated residences.

There are nine operational, approved and proposed wind farms within 60 km of the site, the closest being the Gullen Range Wind Farm 5.5 km to the east. This is a consequence of the area's wind resources, and access to major electricity transmission lines.

## 3. DEPARTMENT'S ASSESSMENT REPORT

The Department's assessment report identified the transmission line, visual amenity, traffic, wind turbine noise and biodiversity as the key impacts associated with this proposal. The Department's assessment report concludes that:

- the incremental and cumulative impacts of the wind farm would be moderate to low on the local landscape, including the residences in the Grabben Gullen village and its surrounds, and relatively minor on the regional landscape;
- with suitable road upgrades, regular road maintenance and the implementation of a detailed Traffic Management Plan, the project would not result in unacceptable impacts on the road network capacity, efficiency or safety of the road network;
- the noise assessment has been undertaken in accordance with the South Australian *EPA's Environmental Noise Guidelines – Wind Farm (2009)* and the project would be able to comply with the relevant noise criteria at all non-associated residences under all wind speeds;
- the vegetation and habitat clearing of the project would be relatively low for a project of this size and nature, and is unlikely to result in any significant impacts on any threatened species, populations, or ecological communities, or their habitats; and
- subject to the careful micro-siting of the turbines and other additional mitigation measures, bat and bird strike risk can be suitably managed.

The Department's assessment report considers the site suitable for the project, as it is in a region with significant wind resources, has good access to electricity transmission infrastructure, is a permissible use on the land, and has relatively few environmental constraints. The Department concluded that the Applicant, *"has designed the project in a manner that achieves a reasonable balance between maximising the use of the site's wind resources and minimising the potential impacts of the project on the site and its surrounds"*.

## 4. COMMISSION'S MEETINGS AND SITE VISIT

As part of its consideration of the development application, the Commission met with the Department, the Applicant, Upper Lachlan Shire Council, and visited the site and surrounds. Notes from these meetings are provided in **Appendix 1**. The Commission also conducted a public meeting. Notes from the public meeting are provided in **Appendices 2 and 3**.

#### **4.1 Meeting and site visit with the Applicant**

On 1 February 2017, the Commission met with the Applicant for a project brief. At the meeting, the Commission discussed the Department's draft conditions of consent relating to visual impact mitigation, operational noise criteria, the use of baseline data for a Bird and Bat Adaptive Management Plan, the terms of the Voluntary Planning Agreement as part of the Community Enhancement Program and mitigation measures for aircraft obstacle lighting.

The meeting was followed by a site visit with the Applicant and the landowners of various areas of the project site. In particular, the Commission inspected the southwest of the site, including the proposed locations of turbines T29 to T31, the location of a Wedge-tailed Eagle nest, views from the eastern area of the site from Grabben Gullen Road, an area of Ecologically Endangered Community to the northeast of the site, and non-associated residences to the north and northeast of the site.

#### **4.2 Meeting with Upper Lachlan Shire Council**

On 2 February 2017, the Commission met with Upper Lachlan Shire Council to hear its views. At the meeting, Council raised issues regarding the route of over-mass vehicles through Gunning's main streets during construction of the project, the methodology to be used for a dilapidation survey, vehicle identification associated with the project and waste management.

#### **4.3 Public meeting**

The Commission held a public meeting at St Bartholomew's Church, Crookwell on 2 February 2017 to hear the public's views on the proposal. A list of the 10 speakers that presented to the Commission is provided in **Appendix 2**. A summary of the issues raised by the speakers and from written submissions is provided in **Appendix 3**.

#### **4.4 Meeting with the Department**

On 7 February 2017, the Commission met with the Department to discuss and provide clarity on issues raised by the Applicant, Council and the public. These issues included the separation of a transmission line from this development application, the Department's consideration of the Environment Protection Authority's (EPA) submissions, the Department's draft conditions of consent, impacts on local farming enterprises, waste management and the Council's Development Control Plan.

### **5. ADDITIONAL INFORMATION**

On 15 February 2017, following the meetings and site visit, the Commission requested additional information and clarification from the Department. The information sought pertained to:

- a suite of additional and amended conditions (documented in this report), including deferred commencement conditions;
- clarification of the Department's consideration of the Council's Development Control Plan;
- additional consultation with Council in relation to construction traffic travelling through the Gunning main street to the site;
- additional consultation with non-associated property H07 to minimise impacts on farming practices; and
- additional consultation with school bus operators to minimise impacts to school bus routes during construction.

The Department provided both an addendum report from the Applicant and a reply from the Department on 4 April 2017 (see **Appendix 4**).

## 6. COMMISSION'S CONSIDERATION

In this determination, the Commission has considered carefully:

- all information provided by the Applicant;
- the Department's assessment report;
- advice of the independent visual expert commissioned by the Department;
- additional information provided to the Commission and described above in Section 5; and
- relevant matters for consideration specified in section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), including:
  - relevant environmental planning instruments;
  - the *Environmental Planning and Assessment Regulation 2000*;
  - the likely impacts of the development on the natural environment;
  - social and economic impacts in the locality;
  - submissions from the public, Council and other government agencies; and
  - the public interest, including the objects of the EP&A Act.

The key matters considered by the Commission include the exclusion of a transmission line from this development application, visual impacts and agricultural impacts. These matters are discussed in detail below. The Commission also explains a number of changes to the Department's recommended conditions for construction traffic and biodiversity matters, and provides comment on the issues of property value impacts, decommissioning and rehabilitation, and compliance with Council's Development Control Plan.

The Commission has reviewed and accepts Department's assessment and recommendations in respect of all other matters. These include noise, infrasound and associated health impacts, road upgrades, vegetation clearing, bird and bat strike and the range of issues set out in Table 12 of the Department's assessment report. These particular matters are not elaborated on in this report.

### 6.1 Transmission line

As described in section 1.1, the development application before the Commission did not include the construction of a transmission line connecting the wind farm to the electricity grid. In written submissions to the Department and oral presentations at the public meeting, 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 oral presentations to the Commission at the public meeting 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, which connect to either the Yass to Bannaby 330 kV line (directly, or via Gullen Range Wind Farm), or the Yass to Goulburn 132 kV line (directly, or via the Gunning Wind Farm). The Applicant 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.

## **6.2 Visual impact**

The potential visual impact of the wind farm was a key issue raised in submissions and at the public meeting by non-associated landholders. The Commission heard significant reservations about the visibility of the wind farm given the height of the turbines and their proximity to non-associated residences close to the site, and the ability of screening vegetation and setback distances to deal with any visual impacts. Clarification was also sought by non-associated landholders as to whether the Applicant would provide mature vegetation as a mitigation measure, as there were concerns that planting and growing vegetation could be a lengthy process in providing screening of wind turbines. The Commission was also concerned with the night time visual impacts associated with aircraft obstacle lighting, which were recommended by the Civil Aviation Safety Authority (CASA).

The Commission recognises that avoidance is the primary measure for wind farm visual impact planning. A project site is selected and the turbine array laid out having regard to the proximity of 'view sensitive' locations. Part of this process involves securing negotiated agreements with nearby landowners, which become known as associated-landowners, and which widen the project's acceptable 'zone of influence'.

Both the Applicant's expert visual impact assessment, and the Department's assessment report then focus on the level of residual visual impacts and the degree of visual mitigation that may be necessary. This assessment has considered the impacts of the project to both the local landscape and individual receivers, and highlights a range of mitigation measures, including turbine colour choice, treating turbine blades for any glare or reflection and landscaping and/or screening.

The Department's assessment states that while potential cumulative impacts could be experienced due to the proximity of the Gullen Range wind farm, the local topography and vegetation in the area would generally shield properties in the Grabben Gullen village and individual receivers to the east from views of the wind farm.

The Department concludes that the residual visual impacts would be moderate to low and has recommended conditions requiring the Applicant to implement additional visual impact mitigation measures at all non-associated residences within 4 km of the project to further reduce the incremental and cumulative visual impacts of the project.

The Commission largely accepts the Department's visual impact assessment. While acknowledging the community's concerns about using vegetation as a mitigation measure, the Commission observes that screening vegetation is one of a range of measures that affected landowners may be able to negotiate, which could include physical screens and other dwelling treatments.

However, the Commission has identified a number of non-associated residences to the east and northeast that are particularly close to the project site. These residences are H06, H07, H09, H11 and H12. These residences have the potential to experience cumulative visual impacts from the Gullen Range Wind Farm further to the east. Given the height of the proposed turbines at 185 m, their close proximity to these non-associated residences and the potential cumulative visual impacts, the Commission is of the view that any micro-siting allowance should not make the nearest turbines in the project any closer to these residences. The Commission has amended the recommended micro-siting condition accordingly.

Finally, the Commission notes that mitigation measures to reduce the impact of obstacle lighting are specified in CASA guidelines under the National Airports Safeguarding Framework *Guideline D: Managing the Risk of Wind Turbine Farms*. These have not been included in the Department's recommended conditions of consent. The Commission requires that the Applicant incorporate mitigation measures for any obstacle lighting from CASA's guidelines, and has amended the Department's condition accordingly.

### **6.3 Agricultural impact**

At the public meeting, the Commission heard from the landowners of non-associated property H07 and their concerns in relation to the impacts on their farming enterprise. In particular, the landowners were concerned about the potential for construction activity to disturb ewes during joining and lambing, and for construction traffic to interfere with stock road crossings.

The landowners informed the Commission that ewes are joined with rams in autumn and lambing occurs during spring. In addition, stock are moved from time to time (every four to six weeks) from the western part of the property, over Grabben Gullen road to the eastern part where shearing and other stock handling infrastructure is located. The landowners requested that construction activity occur outside of joining and lambing, and that the Applicant provide stock handling infrastructure on the western side of Grabben Gullen Road in order to reduce the need for stock to cross the road.

The Commission requested further information from the Department on the above matters. The Applicant provided evidence of the substantial costs of providing duplicate stock handling infrastructure, and the engineering difficulties involved in constructing a stock underpass on flat terrain. The Department suggested these outcomes were not warranted due to the relatively low volumes of traffic, the short duration of construction, and the low frequency of stock movements.

The Applicant has instead committed to a range of traffic control measures to be developed in consultation with the landowners. These measures include:

- confirmation of likely stock movement frequency, timing and duration;
- notification protocols for stock movements, including a dedicated phone number for the landowner; and
- temporary traffic controls (such as traffic flags or signals) during movement of stock across the road.

The Commission considers these measures to be proportional to the degree of inconvenience to the landowners and is satisfied that they will minimise impacts on stock movements. Finally, the Commission notes that the Applicant has secured a negotiated agreement with the landowner whereby construction of turbines T01, T02 and T03 would occur outside of lambing periods in September and October. The Commission has included conditions reflecting all these matters.

## **6.4 Amendments to conditions**

### Heavy construction traffic on school bus routes

An oral submission at the public meeting identified an additional school bus route down Range Road to Leary's Lane that services Crookwell schools and is frequented between 8.15-8.25am and 3.45-3.55pm. The Commission requested a response from the Department on this matter.

The Applicant advised that the only identified school bus routes were ones in operation at the time of preparation of the Environmental Impact Statement (EIS), and it was likely that the current bus route/service(s)/operators may have since changed. The Applicant has subsequently suggested control measures including:

- detailing periods of inactivity for construction vehicles during the time of school bus services;
- alternatively, provision of a dedicated escort for the school buses; and
- committing to consultation with local school bus operator(s) to ensure all school bus routes at the time of construction are identified.

The Commission has included conditions of consent reflecting these measures.

### Heavy construction traffic in the main street of Gunning

During its meeting with Council, the Commission noted Council's concern for heavy vehicles travelling from a south westerly direction to the site, which would be required to pass through Gunning's main streets (Yass and Hume Streets). The Commission requested further information on this matter from the Department.

The Applicant advised that the map showing the designated transport route in the EIS incorrectly identified the exit from the Hume Highway via Gundaroo Road when it should have shown traffic exiting via Collector Road. Subsequently an amended map has been provided to the Commission (attached as **Appendix 8 to the development consent**).

The Council has requested additional wording for the relevant condition to stipulate that no heavy vehicles associated with the development will be permitted to travel along Hume Street and Yass Street in Gunning (south of Collector Road). The Commission is satisfied with the Council's request, which will provide additional clarification for the designated heavy vehicle routes, and has amended the condition accordingly.

### Turbine proximity to Wedge-tailed Eagle nest, baseline data for avifauna and mitigation measures

The Commission requested further information from the Department on three separate biodiversity related matters. First, the Office of Environment and Heritage (OEH) highlighted in its submission that siting turbine T29 at 500 m or more from, the identified Wedge-tailed Eagle nest could significantly reduce potential impacts on this 'at risk' species. Second, the Applicant sought clarification from the Commission regarding the expected currency of the baseline population data for the Bird and Bat Management Plan (Schedule 3, Condition 21). Third, the Commission identified a number of mitigation measures outlined on page 41 of the Department's assessment report that are absent from the recommended conditions of consent.

In respect of the eagle nest, the Applicant produced a map showing that relocating turbine T29 more than 500 m introduces additional constraints relating to vegetation, hollow bearing trees, potential heritage items and aerodynamic interactions with turbine T27. The Department also notes that the Wedge-tailed Eagle is not a threatened species, there is no government policy requiring a 500 m setback from Wedge-tailed Eagle nests, and their current condition requiring a minimum setback from a Wedge-tailed Eagle nest of 350 m remains appropriate. On balance, the Commission accepts this additional reasoning in support of the Department's existing recommended condition.

The Commission notes that the amended wording to condition 21 for clarification of the expected currency of the baseline population data for the Bird and Bat Management Plan, and mitigation measures outlined on page 41 of the Department's assessment report have been incorporated into the conditions of consent.

## **6.5 Other issues**

### Voluntary Planning Agreement

The Commission notes that the Applicant has provided an amended letter of offer for the Voluntary Planning Agreement noting that contributions to the Community Enhancement Fund were per turbine *per annum* (see **Appendix 5**). The original letter of offer was unclear in this respect.

### Compliance with the Upper Lachlan Shire Council Development Control Plan (2010)

The Commission received a submission at the public meeting concerning the project's non-compliance with controls under the Council's DCP relating to visual impact mitigation, security bond for decommissioning, and the transmission line. The Commission requested the Department clarify its assessment of the DCP.

The Department advised that State significant developments are under no obligation to comply with all the provisions of applicable DCPs. The Commission also notes that Clause 11 of *State Environmental Planning Policy (State and Regional Development) 2011* excludes the application of Development Controls Plans for State significant developments. Notwithstanding, the Department explained that the project largely complied with the key provisions of the DCP. While a number of turbines are closer than twice tip-height to the boundaries of non-associated properties, these turbines remain more than 2.1 km from the nearest dwelling.

The Commission has dealt with issues regarding the transmission line in section 6.1 of this report, and decommissioning and rehabilitation below.

### Decommissioning and rehabilitation

Concerns were raised at the public meeting and through submissions to the Department regarding the financial capability of the Applicant for the decommissioning of the wind turbines and rehabilitation of the land.

The Department has recommended approval conditions that require progressive rehabilitation of disturbed land, and the removal of decommissioned wind turbines both at the end of the project life, and in the event that any individual turbine is inoperable for a period of more than 12 months.

The Commission notes that concern for the financial viability of an Applicant to comply with these conditions arises with many wind farm development applications. However, the wind turbine industry in New South Wales remains relatively young. The Commission is unaware of any particular project site where wind turbine generators have been decommissioned, but not removed from the site.

In the absence of a particular Government policy governing the Applicant's financial arrangements at the time of granting consent, the Commission does not believe it is in a position to doubt that the Applicant will comply with the conditions, and if need be, that the Department can enforce compliance. The Commission accepts the Department's recommended conditions for this matter.



### Property values

Speakers at the public meeting raised concern for the impact of the wind farm on local property values. Speakers quoted overseas studies demonstrating negative impacts near wind farms and provided examples of property values from residents living near other wind farms in the area.

The Commission notes that *King & Anor v Minister for Planning; Parkesbourne-Mummel Landscape Guardians Inc v Minister for Planning; Gullen Range Wind Farm Pty Limited v Minister for Planning* ([2010] NSWLEC 1102) considers property values for sites adjacent to a wind farm. The judgement determined that there was no loss of property value to which the Court could lawfully have regard, as the wind farm was permissible with consent.

In its judgement the court determined that, *'If the concept of blight and compensation were to be applied to a private development, then any otherwise compliant private project which had some impact in lowering the amenity of another property (although not so great as to warrant refusal on general planning grounds when tested against the criteria in s 79C of the Act) would be exposed to such a claim'*. The Commission considers that this judgement is relevant to the proposed development and that impacts to property values cannot be given determinative weight in the context of a proposal that is otherwise acceptable on all other planning grounds.

## **7. COMMISSION'S FINDINGS AND DETERMINATION**

The Commission has considered carefully the Applicant's proposal, the Department's assessment report and the relevant matters for consideration under section 79C of the EP&A Act. The Commission has noted the advice and recommendations from Upper Lachlan Shire Council, and government agencies including the EPA, OEH and CASA. Finally, the Commission has heard from members of the community about their concerns for the proposal during a public meeting in Crookwell.

The Commission acknowledges the community's disappointment and significant concern for the omission of the transmission line from the development application. The Commission accepts the Department's advice, which is that a two-step approach to the project is open to the Applicant. However, the Commission has opted to strengthen the conditions in the Department's recommendation by imposing a deferred commencement condition. Should the Applicant be unable to secure transmission line approval, the consent for the wind farm will remain inoperative.

The Commission largely accepts the Department's visual impact assessment for the turbine array. However, the Commission has included a number of additional provisions in the consent so that turbines nearest to dwellings to the east (which are the turbines nearest to any dwelling), are not permitted to be micro-sited any closer than the positions indicated in the EIS. In addition, the Commission has added provisions to ensure aircraft obstacle lighting includes appropriate light mitigation measures.

The Commission requested that the Applicant consult with the owner of residence H07 on measures to reduce the impact of construction traffic and noise on stock handling. While the two parties reached agreement on construction scheduling around lambing, an agreement could not be reached on measures to avoid traffic conflicting with stock road crossings. On balance, the Commission favours the Applicant's traffic management approach. The Commission is not satisfied that the landholder's request for duplicate stock handling facilities is proportionate to the duration and level of inconvenience expected for the construction period. The Commission has included appropriate conditions in the consent.

The Commission has included a number of additional conditions to better manage traffic conflicts with school buses, to prevent heavy vehicles using the main street of the Gunning town centre, and to

ensure the Applicant's bird and bat management plan is based on current or updated data. Finally, the Commission clarified issues relating to the voluntary planning agreement, compliance with Council's DCP and decommissioning and rehabilitation.

The Commission notes the benefits of the project, as outlined by the Applicant, and on balance, accepts the Department's recommendation for approval, subject to the additional conditions described above. Consequently, the Commission has determined to grant consent to the development application subject to these conditions, as set out in the instrument of approval.



**Mr Garry West (Chair)**  
**Member of the Commission**



**Professor Zada Lipman**  
**Member of the Commission**



**Dr Maurice Evans**  
**Member of the Commission**

**APPENDIX 1  
RECORDS OF COMMISSION MEETINGS**

Meeting with Newtricity		
<b>Meeting note taken by Matthew Todd-Jones</b>	<b>Date:</b> Wednesday, 1 February 2017	<b>Time:</b> 2:30pm
<b>Project: Biala Wind Farm</b>		
<b>Meeting place:</b> Mercure Hotel, Lockyer Street, Goulburn		
<b>Attendees:</b> PAC Members: Garry West, Professor Zada Lipman, Dr Maurice Evans PAC Secretariat: David Mooney and Matthew Todd-Jones Newtricity: Annmaree Lavery (Director) ERM: Murray Curtis		
<b>The purpose of the meeting is to discuss the Applicant's view on the Department's draft conditions for consent.</b>		
Applicant raised and commented on the following issues:		
<u>Condition 1 – Visual Impact Mitigation</u>		
<ul style="list-style-type: none"> <li>• The Department changed the period from the commencement of construction from 3 to 5 years without informing the Applicant of this change or the reasons for it.</li> <li>• Applicant would like the condition changed back to 3 years from commencement of construction.</li> <li>• There needs to be clarification as to whom this clause applies to.</li> <li>• Would it only be for current residences within 4 km, possibly with current DAs? Or would any new residence within this time be eligible?</li> </ul>		
<u>Condition 10 – Operational Noise Criteria – Wind Turbines</u>		
<ul style="list-style-type: none"> <li>• In Table 2, residence H09 should start at 36, not 37.</li> <li>• The Applicant feels that the criteria is too stringent.</li> <li>• The criteria should not stop at 12 m/s, but instead should go to 20 m/s. either delete “or more” after 12 or expand criteria to 20 m/s.</li> </ul>		
<u>Condition 21 – Bird and Bat Adaptive Management Plan</u>		
<ul style="list-style-type: none"> <li>• The Applicant is seeking clarification as to whether the Department will be wanting new data further down the line. Is the data they have now suitable?</li> <li>• Can the data they have be updated or added to? Issue will be taken up with the Department.</li> </ul>		
<u>VPA</u>		
<ul style="list-style-type: none"> <li>• The Commission sought clarification as to the wording of the VPA between the Applicant and Upper Lachlan Shire Council.</li> <li>• It was noted that correspondence revealed the Applicant's contributions amounted to \$2,500 per turbine, but it wasn't clear whether this would be on an annual basis.</li> <li>• The Applicant was asked to write to the Council clarifying their position.</li> </ul>		

### Obstacle Lighting

- The Commission sought clarification of any mitigation measures to minimise the impact of obstacle lighting from the wind turbines.
- The Applicant felt that any residences over 2 km from the project site would only experience a small impact. Impacts on breeding grounds could be minimised through shielding these areas.

**Meeting closed at 3:30pm**

<b>Meeting with Upper Lachlan Shire Council</b>		
<b>Meeting note taken by Matthew Todd-Jones</b>	<b>Date:</b> Wednesday, 1 February 2017	<b>Time:</b> 8:45am
<b>Project: Biala Wind Farm</b>		
<b>Meeting place:</b> Council's chambers, 44 Spring Street, Crookwell		
<b>Attendees:</b> PAC Members: Garry West, Professor Zada Lipman, Dr Maurice Evans PAC Secretariat: David Mooney and Matthew Todd-Jones Upper Lachlan Shire Council: Tina Dodson (Director Environment and Planning), John Bell (General Manager), Phil Newham (Director Works and Operations), Brian McCormack (Mayor)		
<b>The purpose of the meeting is to discuss Council's view on the Department's draft conditions for consent.</b>		
Council raised and commented on the following issues: <p><u>Condition 24 – Designated Heavy and Over-Dimensional Vehicle Routes</u></p> <ul style="list-style-type: none"> <li>• In particular the Council raised the issue over the inclusion of over-mass vehicles and concerns over proposed traffic in Gunning main Street.</li> <li>• Council would like to add 'over-mass vehicles' to the wording of 24(a).</li> <li>• If vehicles took a route to the site from the south of Gunning then they would need to go through the main streets of Gunning (Yass and Hume Streets) but if they came from the Goulburn direction they wouldn't.</li> <li>• Council discussed the possibility of additional sentence to the condition stating that heavy vehicles cannot be brought through Yass and Hume Streets in Gunning.</li> <li>• Council are seeking clarity over the definitions of overmass and overdimensional. They would need to make a submission if they feel the definitions should be changed.</li> </ul> <p><u>Condition 26 – Road Maintenance</u></p> <ul style="list-style-type: none"> <li>• Council raised concerns over the methodology to be used for a dilapidation survey.</li> <li>• The wording of the condition requiring a dilapidation survey should be amended to include, "in consultation with Council" or "prepare a Council-approved dilapidation survey".</li> <li>• It was suggested that the Council could draft a MOU over the methodology and timing of a dilapidation survey and use with Proponents.</li> </ul> <p><u>Condition 28 – Traffic Management Plan</u></p> <ul style="list-style-type: none"> <li>• Better vehicle identification should be required for the Proponent.</li> <li>• Possibility of including vehicle identification in the conditions to the satisfaction of the road authority (the Council).</li> <li>• Council advised that a similar condition may have been included in the TMP for Dalton Power Station, but later confirmed that this had not been the case.</li> </ul> <p><u>Condition 35 - Waste</u></p> <ul style="list-style-type: none"> <li>• Wind farms generate bulky waste, which come sometimes end up in local tips and reduce their capacity for local use.</li> <li>• Council would like to be excluded from accepting waste from the project.</li> </ul>		

- This is an issue that the Council can take up with the Proponent, possibly through rewording of condition.

**Documents tabled at meeting/to be provided:** Nil.

**Meeting closed at** 9:30am

Meeting with Department of Planning and Environment		
Meeting note taken by <b>Matthew Todd-Jones</b>	<b>Date:</b> Tuesday, 7 February 2017	<b>Time:</b> 1:00pm
<b>Project: Biala Wind Farm</b>		
<b>Meeting place:</b> PAC Offices, 201 Elizabeth Street		
<b>Attendees:</b> PAC Members: Garry West, Professor Zada Lipman, Dr Maurice Evans PAC Secretariat: David Mooney and Matthew Todd-Jones DPE: Mike Young (Director Resource Assessments), Nicole Brewer (Team Leader Resource Assessments), David Kitto (Executive Director Resource Assessments & Business Systems)		
<b>The purpose of the meeting is to discuss issues raised during meetings with the Proponent, Council and public meeting and the Department's draft conditions for consent.</b>		
Proponent raised and commented on the following issues:		
1. <u>Transmission Line</u> <ul style="list-style-type: none"> <li>• The Department are satisfied with the Applicant's options and are not concerned about the separation of the transmission line from the project.</li> <li>• The Department were unsure at this stage whether the transmission line will require an REF through Part 5 or EIS through SSI.</li> <li>• The Department confirmed that no Part 5 application has been submitted.</li> <li>• We are still waiting on FOI correspondence from Lucy Knight.</li> <li>• The Department has given a lot of consideration to this issue throughout the assessment process.</li> </ul>		
2. <u>OEH referral and comments</u> <ul style="list-style-type: none"> <li>• The Department provided the Commission with OEH's acceptance of conditions.</li> <li>• The Department's condition says that when you start commissioning there needs to be an up to date set of data for a Bird and Bat Adaptive Management Plan and they would like ongoing monitoring.</li> <li>• The Commission suggested using the words 'current' or 'updated' in Condition 21.</li> <li>• The Commission would like to see wording from page 41 included in conditions. The Department could clear up the wording and be more specific.</li> <li>• There was a discussion about the Department creating an assessment bulletin for bird and bat strike.</li> <li>• The Commission will look into the condition with regards distances to the wedgetail eagle nest.</li> </ul>		
3. <u>Conditions</u> <p><i>EPA Conditions</i></p> <ul style="list-style-type: none"> <li>• The Department is aware of the error in the noise table.</li> <li>• Critical wind speeds are between 8-11 km/s</li> <li>• The Department now has standard conditions developed with EPA</li> <li>• It was agreed that the criteria of the table will be left as 12 or more instead of increasing to 20 m/s.</li> </ul> <p><i>Micrositing distances</i></p> <ul style="list-style-type: none"> <li>• The Commission suggested that when micrositing no turbine should be moved closer to a non-associated residence.</li> <li>• The Department aren't worried about distances.</li> <li>• The Commission to discuss which turbines they may have concerns with.</li> </ul>		

### *Visual impact mitigation*

- The Applicant asked why timing was changed from 3 to 5 years
- The Department stated that this is similar to other applications. It gives people the opportunity to wait and see what's being built before asking for mitigation measures, this gives them a longer time to do so.
- The definitions specify which properties the clause will be relevant to.
- It will be up to owner and applicant to discuss the option of mature vegetation.

### *Obstacle lighting*

- The aviation assessment concluded that lighting wasn't required.
- The Department has consulted thoroughly with the relevant organisations on this.
- The Commission didn't believe the community were too aware of the impacts from lighting.
- The Commission recommends more dot points could be added under (b) to reflect CASA guidelines.

*Waterway crossings* – issue resolved.

*Bird and bat* – discussed earlier.

*School bus routes* – PAC to send Department suggested wording.

*Fire mitigation* – no issues raised.

*Vehicle Identification* – The Department doesn't consider this an issue.

#### 4. Consideration of Residence H07

- The Commission sees 2 impacts – stock movements and lambing.
- The Department stressed that there would no heavy vehicles going passed this property, only overmass vehicles.
- There would be very few vehicle movements in this area, only 5% of vehicles traffic for the whole project (300 out of 7000 trips for the whole project).
- The idea of an underpass is not justified given the low traffic frequency.
- There will be consideration of stock movements in the TMP.
- The Department highlighted that there is nothing in the noise impact assessment about the effect of construction noise during breeding.

#### 5. Waste management

- The Commission raised the issue of waste management for the project, which was put forward by the Council.
- The Council's concerns related to the potential disposal of industrial waste at their facilities.
- The Department stated that this was a new issue which the Council hadn't previously raised before.

#### 6. Upper Lachlan Shire Development Control Plan

- An objector mentioned 11 of the 31 turbines don't comply with the Council's DCP.
- The Department felt that the application was largely compliant with the Council's DCP.



*Other issues raised*

- The Department had received information from the Applicant that no tenders for tree removal had been commissioned.

**Meeting closed at 3:10pm**

**APPENDIX 2**  
**LIST OF SPEAKERS AT THE BIALA WIND FARM PUBLIC MEETING**

**Planning Assessment Commission Meeting**

Biala Wind Farm

Date & Time: 10:00 am, Thursday 2 February 2017.

Place: St Bartholomew's Church, 17 Denison Street Crookwell NSW 2583

<b>Meeting Schedule</b>	
10:00 am	Opening Statement from the Chair – Mr Garry West
Registered Speakers:	1. Dr Michael Crawford (Residents Against Jupiter Wind Turbines)
	2. Tony Hill
	3. Richard Whalan
	4. Malcolm Barlow (Friends of Collector)
	5. Anthony Gardner
	6. Lucy Knight
	7. Jennifer Hewitt
	8. Ken Hewitt
	9. Jennifer Heffernan
	10. Charlie Prell (Australian Wind Alliance)
<b>End</b>	

**APPENDIX 3**  
**SUMMARY OF ISSUES RAISED AT THE BIALA WIND FARM PUBLIC MEETING**

<b>Biala Wind Farm Public Meeting</b>		
<b>Meeting notes taken by David Mooney and Matthew Todd-Jones</b>	<b>Date:</b> Thursday, 2 February 2017	<b>Time:</b> 10:00am
<b>Project: Biala Wind Farm</b>		
<b>Meeting place:</b> St Bartholomew's Church, 17 Denison Street, Crookwell		
<b>Attendees:</b> PAC Members: Garry West (Chair), Professor Zada Lipman, Dr Maurice Evans PAC Secretariat: David Mooney and Matthew Todd-Jones		
<b>The purpose of the meeting is for the Commission to hear the public's views on the Department's Assessment Report and draft conditions for consent.</b>		
<p>The following issues were raised:</p> <p><u>Lack of consideration for a transmission line</u></p> <ul style="list-style-type: none"> <li>• It is an incomplete application without a connection to a transmission line.</li> <li>• No viable connection has been put forward.</li> <li>• There has been a failure to determine the impact of the proposal on electricity grid security for NSW.</li> <li>• Uncertainty of easements through land in the Shire.</li> <li>• Exclusion at this stage will influence approval of a later transmission line application.</li> <li>• Determination of a transmission line application would be considered by a Joint Regional Planning Panel, which are not as well-resourced as the PAC.</li> <li>• Shouldn't be considered under Part 5 of the EP&amp;A Act.</li> <li>• Call for deferment of determination of application while the transmission line issue is considered.</li> </ul> <p><u>Visual Impact</u></p> <ul style="list-style-type: none"> <li>• Conclusion from the Department's Assessment Report that there is a moderate to low level impact, but the turbines will be 50% higher than others in the district and trees will not be high enough to screen them.</li> <li>• Unsure of how additional screening would help, vegetation could be subject to fire, therefore temporary.</li> <li>• 12 homes are barely beyond 2 km.</li> <li>• Developer should have to provide a bigger setback due to height of the turbines, should be twice the turbine length from boundary fence of a non-associated neighbour.</li> </ul> <p><u>Decommissioning of turbines</u></p> <ul style="list-style-type: none"> <li>• There has been a failure to recommend actions necessary to ensure decommissioning will occur, which would leave a very high likelihood that it will not unless paid for by taxpayers.</li> </ul> <p><u>Electromagnetic Interference</u></p> <ul style="list-style-type: none"> <li>• Has any consultation been undertaken with the residents of Grabben Gullen about disruption of television reception?</li> </ul> <p><u>Bushfire Risk</u></p> <ul style="list-style-type: none"> <li>• There was a lack of consultation with RFS with regards to this application.</li> </ul>		

- The recent Currandooley fire originated in the Capital wind farm area.
- Bushfires in wind farms are unlikely to be contained until well out the other side.

#### Compliance with Council's DCP

- DPE's Assessment Report acknowledges that the proposal doesn't comply with the Council's DCP.
- For example, under a control of the DCP setback distances from a boundary fence with a non-associated property would be 370 metres, but 11 of the 31 turbines don't comply with this control.

#### Interruption to a local farming enterprise

- Traffic generated during construction of the turbines from heavy vehicles and workers would affect stock movements in the area to the northwest of the project site.
- Would like this issue to be considered as part of any Traffic Management Plan for the project.
- Turbine construction noise would have an effect on lambing and interfere with breeding times. From September to October construction should cease.
- The Proponent should provide this farming enterprise with various infrastructure to continue its operation with little to no interruption.

#### Factual errors and adequacy of supporting evidence

- There are miscalculations and discrepancies in the information contained in Table 4.3.
- Only the headwaters of three substantial creeks in the project area were surveyed, nothing of the impacts on the remainder of these waterways.
- The Assessment Report makes no mention of the new dwelling built to the northwest of the site, whose boundary would be within 1km of turbines.

#### School bus route impact

- The EIS fails to adequately address increased risks posed to children travelling on local bus routes directly in the proposed project area.
- Outdated RMS data was used to calculate traffic flows in the area.
- Construction traffic should be prohibited during school bus times.
- The traffic assessment has omitted a second school bus route which exists down Range Road to Learys Lane, which services Crookwell Schools.

#### Health risks associated with operation

- Panellists are referred to conference papers and studies which conclude that acoustic emissions from industrial wind turbines is a leading cause of adverse health effects.

#### Undefined Tree Clearing

- The degree of clearing is not quantified in the Proponent's EIS and no mitigation measures have been identified.
- Council does not support roadside tree planting as a screening mitigation measure.

#### Economic issues

- Studies from overseas were quoted to demonstrate negative impacts on property values near wind farms.
- Examples of the effects on property values from residents living near other wind farms in the area were also mentioned.
- More than half the income generated is a subsidy and in most cases profits go overseas.
- Almost no jobs created.

- There is a large and reliable wind resource in this area.
- Wind farms can bring economic benefits for rural areas.
- Local small businesses and contractors will be able to take advantage of the increase in economic activity from the wind farm, particularly during the construction phase.
- Land values have actually increased around the recently constructed Taralga and Gullen Range Wind Farms.
- Recommendation of a Proximity Rent Model where payments are made to all landowners within a specific distance from turbines, including landowners who host turbines and their neighbours.

Other issues

- Lack of transparency in decision making process and collusion between DPE, OEH, ERM and the Proponent.

**Meeting closed at 11.35am**

**ATTACHMENT 2 - ADDITIONAL INFORMATION FROM APPLICANT (16 MARCH 2017 AND 27 MARCH 2017)**

16 March, 2017

Nicole Brewer  
NSW Department of Planning  
via email: [nicole.brewer@planning.nsw.gov.au](mailto:nicole.brewer@planning.nsw.gov.au)

*Our Reference:* 0178462\_PAC RESPONSE\_MAR2017.DOCX

**Attention:** Nicole Brewer

Dear Nicole,

**RE: BIALA WIND FARM - PAC REQUEST FOR ADDITIONAL  
INFORMATION**



## **1. BACKGROUND**

I refer to the Department of Planning & Environment (DPE) request to Newtricity Developments Biala Pty Ltd as the Proponent of the Biala Wind Farm Project (SSD 13\_6039), seeking further information relating to a number of issues raised by the Planning Assessment Commission (PAC) to inform finalisation of their assessment/determination of the Project. On behalf of the Proponent,, Environmental Resources Management Australia Pty Ltd (ERM) provides the following responses to your queries as requested.

## **2. RESPONSE TO ISSUES RAISED BY THE PAC**

### **2.1 HEWITTS**

The PAC has identified the following issues associated with concerns of the Hewitts, an adjacent landholder, whose landholdings are located to the north and northeast of the Project PA and extend across Grabben Gullen Road (associated residence identified as dwelling H07 in relevant impact assessment documentation).

#### ***2.1.1 Construction Traffic Impact on Stock Crossing of Grabben Gullen Road***

*The landholder has raised concerns about the impact of construction on stock movements. The Commission has suggested a stock underpass (with shared costs) or some other agreed outcome negotiated by the Applicant with the landowner. The Department*

*requests your response on this issue and/or further consultation with a view to reaching an agreement.*

This issue was raised by the Hewitt's in their submission during the EIS exhibition period. It is understood through their submission and discussions with the Hewitt's during Community Information Sessions and recent discussions during the DPE and PAC review processes, that their concerns relate to increased traffic movements on Grabben Gullen Road, and potential impacts associated with the safety of their stock and themselves whilst moving stock across Grabben Gullen Road.

DPE's Assessment Report for the Project (Dec, 2016) indicates that the Hewitt's have advised that these stock movements occur every four to six weeks under an existing stock movement permit.

Construction of the Project is estimated will take up to 18 months to completion of commissioning, equating to a maximum of 18 stock movements that may potentially require coordination and management with the Hewitt's during the construction phase.

The EIS confirms the Proponent's commitment for heavy vehicle movements (excluding RAVs) to access the site from the south and hence these movements will not pass the Hewitt's property. Nevertheless it is anticipated that there will be periods of higher intensity traffic movement associated with a combination of deliveries of turbines (RAVs under escort), light trucks transporting materials to site and light vehicles, which may occur over a period of 4-8 months, and other periods of relatively little project-related traffic generation, for example during electrical cabling works and commissioning activities, which would likely extend for a period of 6-8 months. It is therefore considered that there could be significantly fewer occasions where potential conflicts, in particular with RAVs, would actually occur.

*i. Prior Commitment*

Based on early consultation with the Hewitt's during preparation and exhibition of the EIS, and through the Response to Submission (RtS) process, it was considered that this identified potential conflict between project-related construction traffic and stock movements could be effectively managed through the implementation of standard traffic control measures.

As part of the RtS report, the Proponent committed to identifying potential specific conflicts with existing land uses during preparation of the Construction Environmental Management Plan (CEMP) at which time construction staging



and timing would be confirmed and existing land uses at the time of construction could be accurately identified through consultation with neighbouring landholders.

The Construction Traffic Management Plan (CTMP), as a sub-plan of the CEMP, will identify work stage construction traffic management plans and incorporate mitigation measures to be implemented to address site specific issues such as stock movement across Grabben Gullen Road, including provision of dedicated stock crossing locations and implementation of appropriate controls around this.

The Proponent reiterates its commitment to undertake further consultation with adjacent landowners during preparation of the CEMP to ensure that site specific issues are identified and appropriate mitigation measures are implemented during construction of the Project such that potential impacts are avoided wherever possible.

*ii. Further Consideration of Options*

In response to the PACs queries regarding this issue, the Proponent has further considered, through consultation with DPE/PAC and the Hewitt's, potential solutions to reduce impacts to stock movement during construction as summarised below:

1) Provision of a Shed on Hewitt Property

The Hewitt's have indicated that they could relocate part of their farming operation to the opposite side of the road to limit the number of stock crossings of the road during construction. In order to do this, they have indicated that they would require a shearing shed fitted out for that purpose and including associated yard facilities, for which they have provided a cost estimate in excess of \$230 k (excluding excavation costs). They have also requested provision of power supply to the shed and an access road, which have not been costed.

It is considered that the cost associated with provision of the identified permanent facilities is not reasonable nor commensurate with the identified potential temporary and intermittent impact.

Further, there remains a residual risk that this option would not eliminate the need for movement of stock across the road during the construction period, and therefore some form of traffic control during stock movements may still be required.

## 2) Stock Underpass

The PAC has suggested consideration of a stock underpass of Grabben Gullen Road with costs shared by the landowner and the Proponent. This option has subsequently been discussed with the landowner, who has indicated that they are not confident that it is a feasible option. This is based on their consultation with Council during previous road upgrade works, during which it was identified that the road would need to be raised in order to accommodate a stock route, which was not considered viable (cost prohibitive). In addition, the landowner has raised water management/flooding as a potential issue that is likely to deem the option impractical.

Further, construction of the crossing would result in traffic impacts, which are likely to be of greater significance than those associated with construction of the wind farm.

It is considered that the cost associated with provision of a stock underpass would be prohibitive and is not reasonable or feasible nor commensurate with the identified potential temporary and intermittent impact, nor is it considered to be a practical or feasible option.

## 3) Traffic Management Measures

The following set of specific traffic control measures have been identified as a practical management framework for planning for, managing and reducing potential impacts associated with this issue:

- Consultation with the impacted landowner during preparation of the CTMP to confirm the details of their farming operation at the time of construction, including stock movement frequency, timing and duration;
- CTMP to identify likely timing of stock movements in consideration of planned construction activities, highlighting potential significant conflicts and plans to manage such;
- Provision of a dedicated phone number for the duration of the construction period for the impacted landowner to call the Construction Manager/other directly to notify of the intention to move stock across the road;
- CTMP to set-out an agreed protocol for landowner notification of planned stock movements and implementation of control measures by the construction contractor; and
- Provision of a Traffic Manager during movement of stock across the road to ensure all construction related traffic is stopped, or alternatively, provision of a set of traffic control lights that would be installed at the stock crossing, and which could be operated remotely by the landowner as required during movement of stock.

Based on the temporary and intermittent nature of both the stock movements and project-related construction traffic, it is considered that potential impacts can be planned for and effectively managed through implementation of the above listed traffic controls.

The Proponent commits to providing the above measures, which would be incorporated in the CTMP to be prepared prior to commencement of construction, and which would require the Secretary's approval in accordance with the Conditions of Consent (assuming adopted as per DPE recommendation to PAC).

It is noted that each of the above options have been presented to the landowner, who to date has rejected them from further consideration.

#### 4) Financial Offer

In addition to commitment to implement the above traffic management measures (Option 3), and in recognition of the potential for short-term impacts to this landowner's agricultural operation, the Proponent is also prepared to offer a one-off payment to the impacted landowner, details of which are not to be disclosed here and will be subject of separate confidential agreement with the landowner following DPE/PAC approval of such.

#### **2.1.2 Construction Impacts during Lambing**

*The Hewitt's raised concerns about the impact of construction at sensitive times during lambing. The Commission request further consideration of an outcome negotiated by the Applicant with the landowner and has suggested avoiding activities at that time of year. The Department requests your response on this issue and/or further consultation with a view to reaching an agreement.*

It is understood through consultation with the landowner and based on their submission during exhibition of the EIS, that lambing occurs between September and October each year. They have indicated that increased activity and noise is likely to disturb ewes, which may disrupt mothering and result in loss of lambs, and has requested that construction activities be avoided at the turbines located in close proximity to their lambing paddocks.

The Proponent has considered this issue and is prepared to commit to avoiding activities associated with construction of the foundations and erection of the three turbines located nearby the lambing paddocks (identified as T01, T02, T03 in the EIS) during the period September to October. This commitment will be included in the CEMP.

## 2.2 SCHOOL BUS ROUTES

*The PAC noted that the EIS has failed to correctly identify all of the school bus routes (particularly local school bus routes) that may conflict with construction traffic routes. The PAC has requested consideration of further practical measures to minimise conflict and has suggested an agreed outcome between the applicant and local school bus operators.*

The school bus routes understood to be in operation at the time of preparation of the EIS were outlined in the Transport Impact Assessment (TIA) undertaken by GTA Consultants (refer Annex K to EIS).

As noted in the TIA, it is understood that the school bus routes in the vicinity of the site are reviewed on an annual basis (dependent on the distribution of student households) and are subject to change. Noting that the TIA was completed in August 2015, it is feasible/likely that the current bus route/service(s)/operator(s) may have changed since preparation of the EIS.

The RtS committed to preparation of the CTMP prior to the commencement of construction in consultation with RMS and ULSC's Local Traffic Committee, and that it would detail a period of inactivity for construction vehicles during the time of school bus services.

It is considered that this control measure, or as an alternative, provision of a dedicated escort for the school bus along the impacted road, would be effective at minimising potential impacts and risks to the school bus while travelling along the impacted road.

In addition to undertaking consultation with RMS and ULSC, the Proponent commits to consulting with the local school bus operator(s) at the time of preparation of the CTMP to ensure that all school bus routes at the time of construction are identified and appropriate controls are identified and implemented.

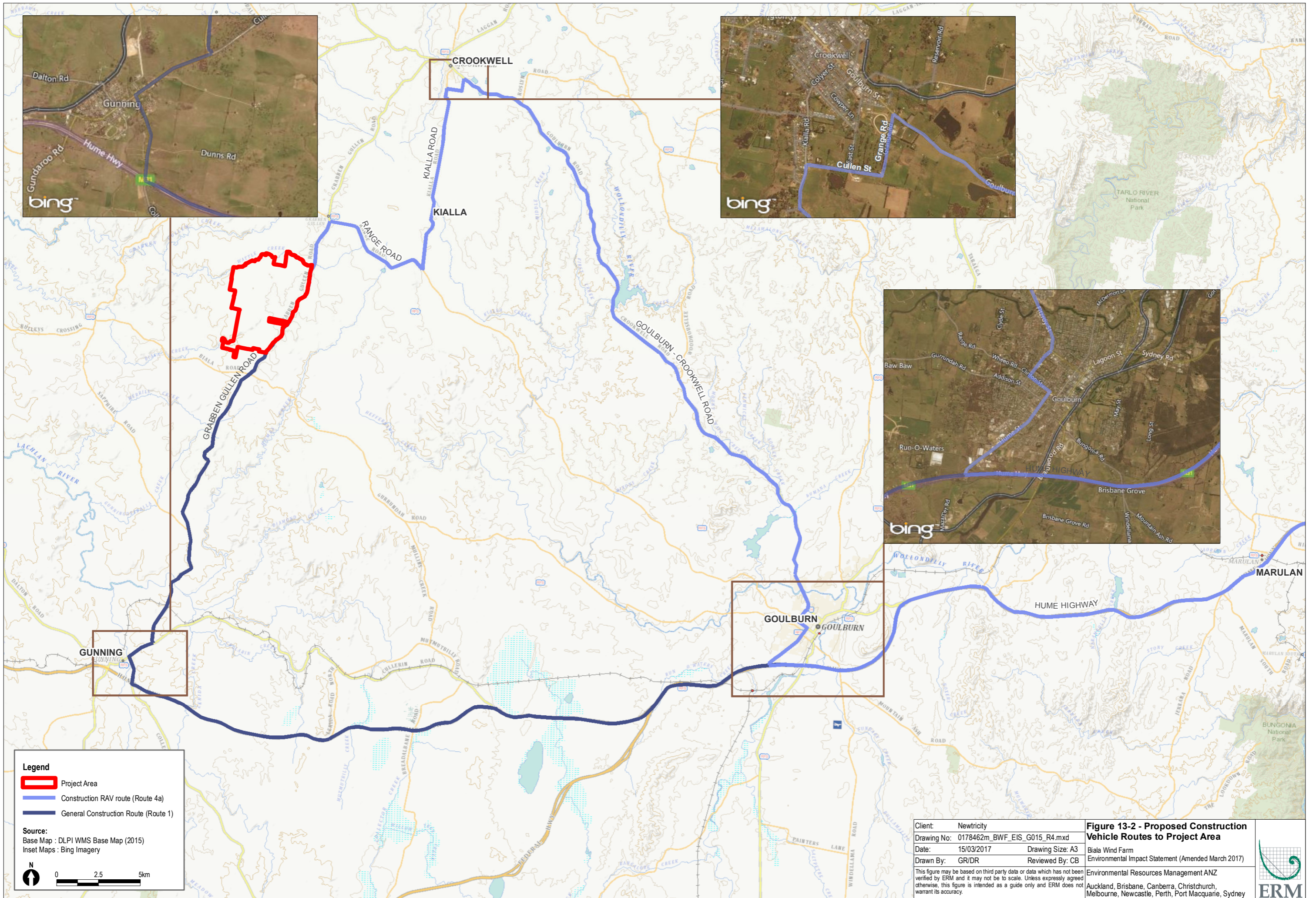
## 2.3 TRAFFIC ROUTE FOR GENERAL CONSTRUCTION

*The traffic route for the general construction vehicles shows the route exiting from the Hume Highway (travelling west) through Gunning via Gundaroo Road where the off ramps are only for traffic travelling east on the Hume Highway. The Department is seeking clarification of the proposed route and an assessment of the impacts of using a revised route.*

It is noted that Figure 13-2 of the EIS incorrectly illustrated the proposed route for general construction traffic accessing the site. This was a simple mapping error, and it was understood at the time of preparation of the EIS that heavy vehicle traffic (excluding RAVs) accessing the site along the Hume Highway from the east would exit the interchange located at Collector Road.

The Collector Road route from the Hume Highway formed part of the traffic impact assessment undertaken by GTA Consultants for the Project. GTA's inspection of Collector Road undertaken at that time indicated that it was of reasonable standard and capable of accommodating general construction traffic.

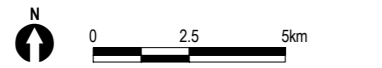
Figure 13-2 has been amended to reflect the correct route alignment (refer below).



**Legend**

- Project Area
- Construction RAV route (Route 4a)
- General Construction Route (Route 1)

**Source:**  
 Base Map : DLPI WMS Base Map (2015)  
 Inset Maps : Bing Imagery



Client:	Newtricity	<b>Figure 13-2 - Proposed Construction Vehicle Routes to Project Area</b>
Drawing No:	0178462m_BWF_EIS_G015_R4.mxd	
Date:	15/03/2017	Biala Wind Farm
Drawn By:	GR/DR	Environmental Impact Statement (Amended March 2017)
Reviewed By:	CB	Environmental Resources Management ANZ
<small>This figure may be based on third party data or data which has not been verified by ERM and it may not be to scale. Unless expressly agreed otherwise, this figure is intended as a guide only and ERM does not warrant its accuracy.</small>		<small>Auckland, Brisbane, Canberra, Christchurch, Melbourne, Newcastle, Perth, Port Macquarie, Sydney</small>



## 2.4 WEDGE-TAILED EAGLE NEST

*The PAC has recommended consideration of locating turbine T29 at least 500 m from the wedge-tailed eagle nest shown on the figure in Appendix 5 of the approval.*

ERM provided further detailed consideration of this issue in response to DPE's request for further discussion of options to avoid/minimise impacts on the wedge tailed eagle and nest in March 2016. This analysis highlighted the following factors in considering the justifiability of relocating turbines from a whole-of-project perspective:

- 1) the Wedge-tailed Eagle is a common, highly mobile and wide-ranging species;
- 2) the species' status is secure in NSW;
- 3) it is extremely unlikely that the mortality of a nesting pair of Wedge-tailed Eagles will affect this secure status enough to cause the species to be eligible for listing under the TSC Act or EPBC Act; and
- 4) further, it is extremely unlikely that the mortality of a nesting pair of Wedge-tailed Eagles will have an impact on the regional population and if previous approvals have caused the regional population to decline such that this single nesting pair are now significant in the region, then the approval process and conditions for those other wind farms must be critically revisited. That would include actively altering the operation of those wind farms via their Bird and Bat Adaptive Management Plans (BBAMPs).

Further, albeit anecdotal, the owner of the land on which the nest is located has indicated that there have been no eagles using the nest for at least the last 8 years and no activity at the nest was observed during the ecological surveys for the project.

Nevertheless, the Proponent will commit to review the location of turbine T29 at the detailed design stage with the aim of locating the turbine as far away from the nest as reasonable and feasible, and at least 350 m away, within the approved micro-siting limit allowed under the approval.

## 2.5 MICROSITING OF TURBINES

During the PAC review process, DPE has identified the potential for micrositing of some turbines to result in those turbines being located within 2 km of a non-involved landowner dwelling. This issue has been raised in the context of the

key issues identified for consideration in wind farm assessments in the Draft NSW Planning Guidelines Wind Farms (Department of Planning & Infrastructure, December 2011) (the Draft Guidelines).

It should be noted that the Draft Guidelines have never been legislated and are a guidance document only. The impact assessment undertaken as part of the EIS incorporated consideration of potential impacts within the broader environment, and on individual dwellings in the vicinity of the Project, in particular for key issues such as visual and noise.

It is considered that movement of any turbine by 100 m in any direction is not likely to result in any material change in the potential impacts to surrounding dwellings associated with any key issues identified in the EIS and supporting assessment documentation.

Any micro-siting of turbines would be undertaken in accordance with the Conditions of Consent (assuming adopted as per DPE recommendation to PAC), and would be undertaken in consideration of risk based assessment of key potential impacts and avoiding any greater impact to the environment, including surrounding dwellings.

I trust this satisfies your requirements. Please be in contact if you have any further queries.

Yours sincerely,  
for Environmental Resources Management Australia Pty Ltd



Claire Burnes  
Project Manager



Murray Curtis  
Partner



27 March, 2017

Nicole Brewer  
NSW Department of Planning  
via email: [nicole.brewer@planning.nsw.gov.au](mailto:nicole.brewer@planning.nsw.gov.au)

*Our Reference:* 0178462\_PAC RESPONSE\_FURTHER INFO\_MAR2017.DOCX

**Attention: Nicole Brewer**

Dear Nicole,

**RE: BIALA WIND FARM - FURTHER RESPONSE TO PAC REQUEST  
FOR ADDITIONAL INFORMATION**



Further to discussions between Department of Planning & Environment (DPE) and Environmental Resources Management Australia Pty Ltd (ERM) regarding our recent submission in response to issues raised by the Planning Assessment Commission (PAC), provided below is further information to the two issues raised by DPE.

1) Suitability of Intersection of Collector and Cullerin Roads, Gunning

This intersection was subject to assessment by GTA as part of their impact assessment undertaken for the project. The intersection is considered "fit for purpose" in respect of accommodating general construction activity. The intersection is priority controlled (give way) and has good sightlines from the Collector Road approach (to the southwest and northeast).

2) Eagle Nest

We have considered the possible impacts associated with relocating T29 such that it would be 500 m from the identified nest. Based on vegetation mapping and identified heritage items/potential, there is only a small portion of the northwest quadrant from the nest site in which T29 could be relocated in order to prevent any additional clearing, impacts to hollow bearing trees, or disturbance to heritage items/areas (refer attached). However, relocation of the turbine and associated infrastructure would require further consideration of turbine modelling to confirm if there is any impact to operation of that turbine and any potential interaction with moving it closer to T27. The design/alignment of the access road to it would also need to be considered.

In consideration of the status of the species, lack of observation of any Wedge-tail eagles at the site during ecologist field surveys to date, and landowners observations that the nest has not been used for many years, it is not considered that requirement to relocate the turbine is reasonable or justified.

If any condition was included for requiring the turbine to be relocated, such relocation should be subject to confirmation that it would not result in any greater environmental impacts, or any significant implications to the operation of turbines 27 & 29 through modelling/design undertaken during detailed design, along with further observation of the nest site to confirm if the nest has actually been used recently/is in use, and if not provision for the turbine to remain in the location as currently assessed.

I trust this satisfies your requirements. Please be in contact if you have any further queries.

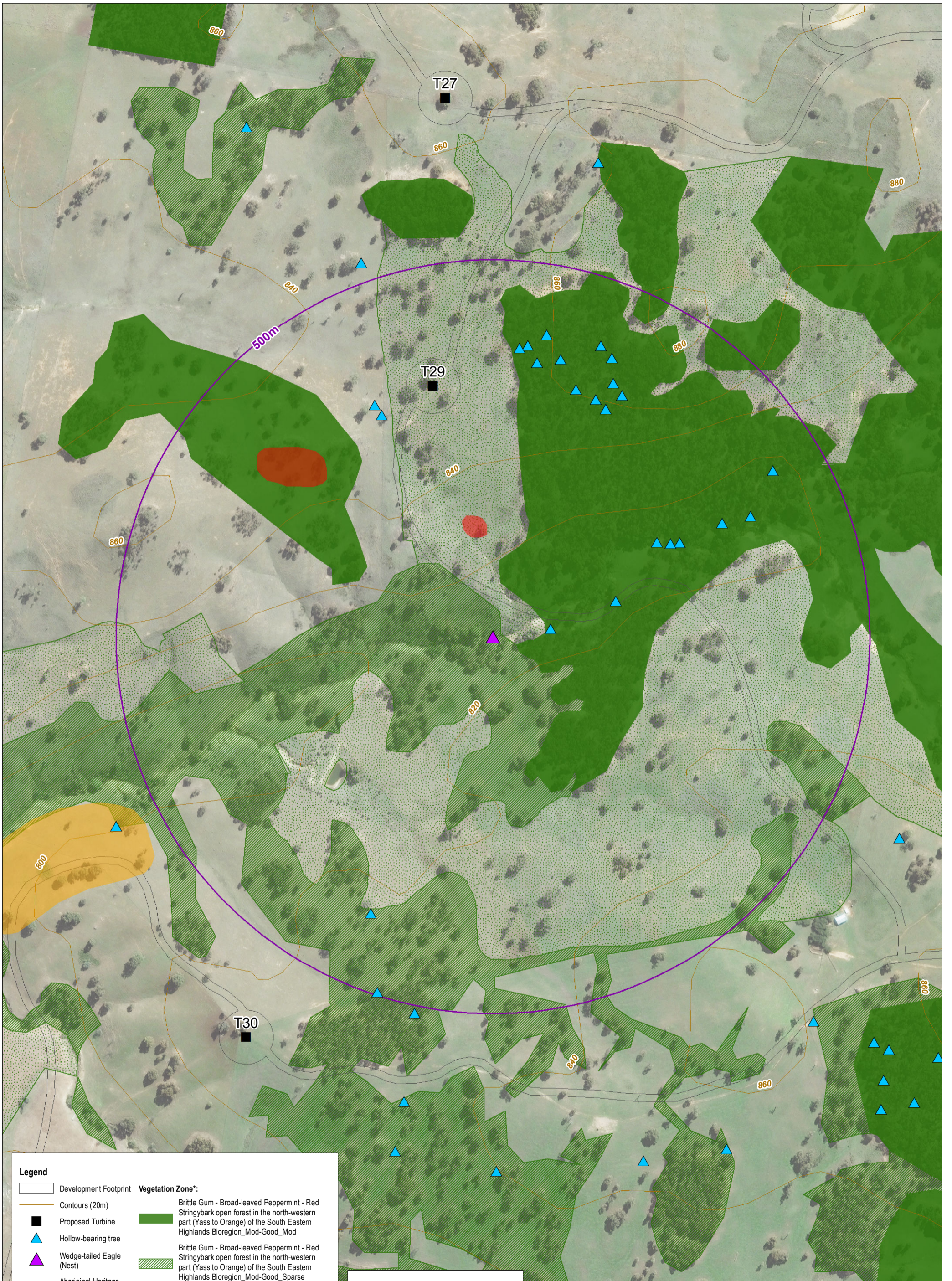
Yours sincerely,  
for Environmental Resources Management Australia Pty Ltd



Claire Burnes  
Project Manager



Murray Curtis  
Partner



**Legend**

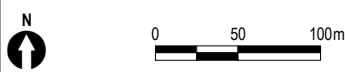
- Development Footprint
- Contours (20m)
- Proposed Turbine
- Hollow-bearing tree
- Wedge-tailed Eagle (Nest)
- Aboriginal Heritage Site
- High Archaeological Potential

**Vegetation Zone\*:**

- Brittle Gum - Broad-leaved Peppermint - Red Stringybark open forest in the north-western part (Yass to Orange) of the South Eastern Highlands Bioregion\_Mod-Good\_Mod
- Brittle Gum - Broad-leaved Peppermint - Red Stringybark open forest in the north-western part (Yass to Orange) of the South Eastern Highlands Bioregion\_Mod-Good\_Sparse
- Brittle Gum - Broad-leaved Peppermint - Red Stringybark open forest in the north-western part (Yass to Orange) of the South Eastern Highlands Bioregion\_Mod-Good\_DNG

\*Note:  
All other Fauna Habitat Types within the Project Area have been mapped as Pasture

**Data Source:**  
Imagery - Fugro Spatial Solutions Newtricity Biala  
Orthorectified Satellite Imagery captured 2 April 2014  
DLPI : DCDB and DTDB, Oct 2014



Client: Newtricity  
Drawing No: 0178462b\_Working\_R01\_20170315.mxd  
Date: 22/03/2017 Drawing Size: A3  
Drawn By: DR Reviewed By: CB

This figure may be based on third party data or data which has not been verified by ERM and it may not be to scale. Unless expressly agreed otherwise, this figure is intended as a guide only and ERM does not warrant its accuracy.

**Figure - Wedge-tailed Eagle Nest Area**

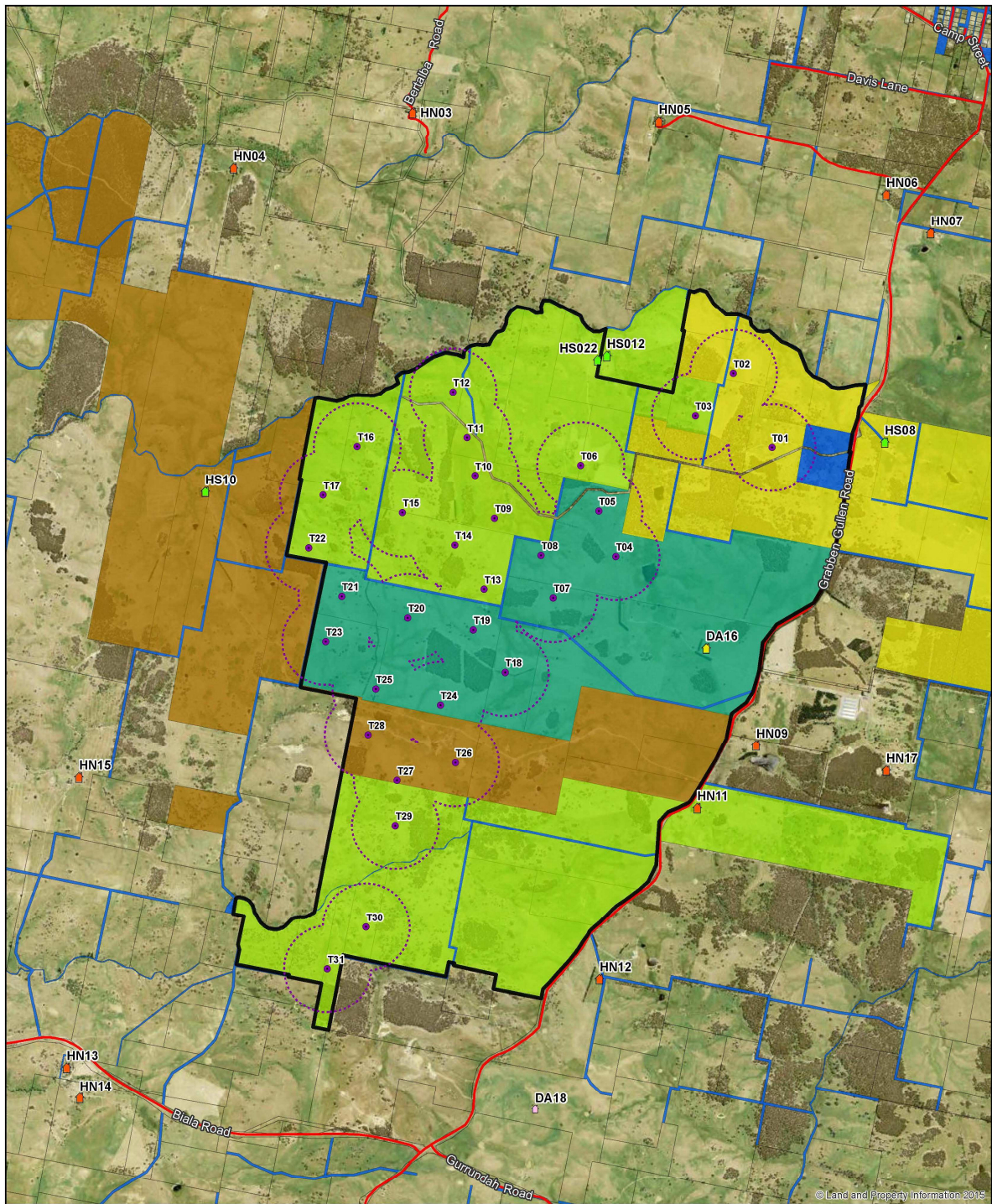
Ecology Impact Assessment  
Biala Wind Farm

Environmental Resources Management ANZ

Auckland, Brisbane, Canberra, Christchurch,  
Melbourne, Newcastle, Perth, Port Macquarie, Sydney



**ATTACHMENT 3 - TURBINE DISTANCES TO PROPERTY BOUNDARIES AND FORMED ROADS**



- |                                       |                           |
|---------------------------------------|---------------------------|
| Project Area                          | Non-Involved House        |
| Wind Turbine Generators               | Non-Stakeholder, DA house |
| Wind Turbine Generators (370m buffer) | Stakeholder House         |
| Standard Road                         | Stakeholder DA            |
| Crown Land                            | Landowner 1               |
|                                       | Landowner 2               |
|                                       | Landowner 3               |
|                                       | Landowner 4               |



Planning & Environment



0 0.5 1 1.5 km

Biala Wind Farm

Source: DPE, LPI, ERM

Document Path: G:\MDAU\Resource Assessments\RA - Strategic, Policy & General\GIS\Projects\Biala WF\Biala WF DCP Map.mxd 3/03/2017

## **MEMORANDUM**

### **BIALA WIND FARM (SSD 6039)**

#### **RESPONSE TO PLANNING ASSESSMENT COMMISSION ADDITIONAL INFORMATION – MARCH 2017**

The following memorandum sets out the Department's response to a range of matters raised by the Planning Assessment Commission (the Commission) in regard to the Biala Wind Farm.

The Commission's questions are reproduced in bold, followed by the Department's responses.

The amended conditions of approval are included in Attachment 1. Additional information from ERM on behalf of Newtricity is provided in Attachment 2.

**1. Consult with Upper Lachlan Shire Council regarding its concern for construction traffic travelling through the main street of Gunning, and provide the Department's response and any necessary consent condition**

Newtricity has advised that the map showing the designated transport route in the Environmental Impact Statement (EIS) incorrectly identified the exit from the Hume Highway via Gundaroo Road when it should have shown traffic exiting via Collector Road.

Notwithstanding, the traffic study in the EIS correctly assessed potential impacts on Collector Road finding that the road and intersections would accommodate the number and type of traffic generated by the project.

The revised route is shown in Attachment 2, and has been updated in the recommended conditions (see Attachment 1).

Given the above, the Department does not consider it necessary to re-consult with Upper Lachlan Shire Council in regard to this matter.

**2. Request the Applicant to consider sharing the cost of a stock underpass with the Hewitt property, and consult with the Hewitt's on any such arrangements. If an agreement is reached, provide any necessary consent conditions**

Newtricity has consulted further with the owner of property H07 (Hewitts) about potential measures for minimising potential conflict between development-related traffic and stock movements along Grabben Gullen Road.

In particular, Newtricity has canvassed the construction of a shed on the opposite side of the road (also requiring power supply and an access road) and a stock underpass.

The landowner has advised that the preferred option is the construction of a shed, and has rejected the concept of an underpass as it would involve raising the level of the road and may increase localised flooding risks.

Newtricity has advised that it does not support the construction of a shed, arguing that the potential cost of the shed and associated infrastructure is not commensurate with the impacts, which it argues would be temporary (i.e. only during construction) and intermittent (i.e. only when over-dimensional vehicles are accessing the site).

In this regard, Newtricity advises that the section of Grabben Gullen Road in proximity to H07 would only be used by construction vehicles for approximately 6 to 8 months, and there would be approximately 5 over-dimensional vehicles a day.

Instead, Newtricity has committed to a range of traffic control measures to be developed in consultation with the owner of H07. These measures include:

- confirmation of likely stock movement frequency, timing and duration;
- notification protocols for stock movements, including a dedicated phone number for the landowner; and
- temporary traffic controls (such as traffic flags or signals) during movement of stock across the road.

At this stage, the Department understands that this approach has not been accepted by the Hewitts.

However, the Department considers that given the relatively low volumes of traffic, the short duration of construction, and the low frequency of stock movements, Newtricity's proposed response is reasonable and any risks can be suitably managed by implementing standard traffic control measures.

Accordingly, the Department accepts that the construction of a shed or underpass is not warranted or justified, and has amended the recommended conditions to reflect Newtricity's commitments as part of the Traffic Management Plan for the project.

Finally, the Department notes that Newtricity has committed to consulting further with the Hewitts with a view to reaching a negotiated agreement.

However, the Department considers that it has thoroughly assessed the impacts on this property, and that any impacts can be managed through the recommended conditions.

Consequently, the Department considers that any negotiated agreement or other benefit sharing arrangements are a matter for Newtricity and the Hewitts to determine outside the assessment process.

### **3. Provide clarification of compliance with Council's DCP and the Department's consideration of the DCP's key provisions;**

It is important to note, that while the DCP is a matter for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979* (EP&A Act), there is no obligation on the consent authority to require every aspect of a State Significant Development to comply with all provisions of applicable DCPs.

The Department has considered the key provisions of the *Upper Lachlan Development Control Plan 2010* (DCP), and is satisfied that the project is consistent with the provisions of the DCP with the exception of the following:

- *Distance of turbines from non-associated property boundaries*

There are 5 turbines that are less than two times the height of the turbine (i.e. 370 metres) from non-associated property boundary (i.e. T12, T25, T28, T30, T31) (see Attachment 4). All these turbines are located between 2.1 and 2.4 km from the nearest non-associated residence in areas used for non-intensive agriculture (i.e. grazing).

The Department has assessed the potential noise and visual impacts of these turbines, and found that they would not result in any significant impacts on these properties. Importantly, all the turbines are located well away from public roads.

- *Security bond for decommissioning*

The Department has no power to impose a security bond through the development consent. However, the Department has developed standard conditions for wind farms to cover this stage of the project life cycle, including clear decommissioning triggers and rehabilitation objectives.

With the implementation of these measures, the Department considers that turbines would be suitably decommissioned, either at the end of the project life or if they are not operating for more than a year, and the site appropriately rehabilitated to a standard that would allow the ongoing productive use of the land.

Furthermore, the *NSW Wind Energy Guideline* published in late 2016 outlines what should be covered by agreements between proponents and landowners, including provision for decommissioning and rehabilitation (see Attachment B of the Guideline).

- *Transmission line*

While the DCP seeks to ensure the details of any transmission line are included in the assessment of wind farms, Newtricity is legally entitled under the *Environmental Planning and Assessment Act 1979* to seek separate approvals for the wind farm and the transmission line, rather than combining them into a single assessment process.

That being said, the EIS, the Response to Submissions and the Department's assessment report has considered the potential impacts of the transmission line at a strategic level, and found that there are a number of options that have no fundamental constraints that would prevent a suitable connection to the high voltage electricity network.

Notwithstanding, the Department has formally recommended a 'deferred commencement' condition that would prevent Newtricity from carrying out any development on the wind farm unless and until it has a valid consent or approval for the transmission line under the EP&A Act. The Department considers this meets the intent of the DCP.

**4. Consider whether a 500 metre buffer is possible in condition 4, and provide a response. If possible, provide an amended condition**

Newtricity provided additional information including a map of the constraints associated with locating turbine T29 500 metres from a wedge tailed eagle nest (see Attachment 2).

Newtricity raised a number of constraints that would need to be considered in any micro-siting of this turbine including:

- nearby remnant native woodland comprising an Endangered Ecological Community (EEC);
- nearby hollow-bearing trees and the condition recommended by the Department that turbines must be more than 50 metres from hollow-bearing trees;
- Aboriginal heritage sites;
- interactions with the operation of turbine T27 (such as wake effects); and
- impacts associated with moving the location of the access road to the turbine.

Notwithstanding, Newtricity has committed to using its best endeavours to micro-site the turbine further from the wedge-tailed eagle nest during the detailed design of the project.

The Department considers this approach is consistent with its recommended conditions, and appropriately recognises the constraints and trade-offs that would have to be made during detailed design in order to move the turbine beyond 350 metres.

The Department also notes that the wedge-tailed eagle is not a threatened species, and there is no government policy requiring a 500 metre setback from wedge-tailed eagle nests. It is also not clear that moving the turbine another 150 metres would result in any material reduction in the risk of blade strike.

Consequently, the Department considers that the current recommended condition requiring a setback of at least 350 metres, and if practicable, 500 metres from turbine T29 remains appropriate. The Department has also revised the relevant condition to address the potential for conflict between the 100 metre micro-siting limit and the movement of T29 by up to 150 metres.

**5. Provide a deferred commencement notice of determination addressing the requirement to obtain approval for the transmission line before the consent becomes operable**

The Department has incorporated the following condition deferring the operation of the project approval for the Biala Wind Farm until there is a valid consent, approval or determination for the transmission line granted under the *Environmental Planning and Assessment Act 1979*, as set out below:

**DEFERRED COMMENCEMENT**

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.

**6. Provide other amended conditions to:**

- a. **Prohibit construction of turbines T01, T02 and T03 during of lambing and joining periods, as determined by consultation with the Hewitt's [H07]**

Following further consultation between Newtricity and the landowner, the potential for disturbance to livestock on the Hewitt's property relates only to the lambing period, which is generally during September and October each year.

Newtricity has committed to avoiding construction of foundations and erection of turbines for T01, T02 and T03 during this period, and the Department has revised the conditions of approval to reflect this commitment.

- b. **Prohibit heavy construction traffic on school bus routes at times established in consultation with relevant school bus operators**

The Department has revised the recommended conditions in accordance with the Commission's recommendation.

- c. **Restrict micro-siting for nominated turbines on the eastern perimeter of the array so that the turbines are no closer to nominated non-associated residences to the east**

The Department has revised the recommended conditions in accordance with the Commission's recommendation.

- d. **Incorporate mitigation measures for any obstacle lighting**

The Department has revised the recommended conditions in accordance with the Commission's recommendation.

- e. **Require updated or current baseline data for the Bird and Bat Adaptive Management Plan in Condition 21**

The Department has revised the recommended conditions in accordance with the Commission's recommendation.



**f. Include the mitigation works from page 41 of the Department’s Assessment Report in the relevant conditions**

The Department has revised the recommended conditions in accordance with the Commission’s recommendation.

**g. Replace ‘micro-site’ with ‘locate’ or ‘site’ in condition 4**

The Department has retained ‘micro-site’ in the conditions, but has re-drafted the condition to allow greater flexibility for micro-siting in respect of turbine T29 to avoid impacts on the wedge-tailed eagle.

***List of Attachments***

1. *Amended Conditions of Approval*
2. *Additional information from ERM on behalf of Newtricity (16 March 2017 and 27 March 2017)*
3. *Turbine distances to property boundaries and formed roads*

F13/107  
SE 2017/277



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2 February, 2017

General Manager  
Upper Lachlan Shire Council  
PO Box 42  
GUNNING NSW 2581  
Via Email: [council@upperlachlan.nsw.gov.au](mailto:council@upperlachlan.nsw.gov.au)

*Our Reference:* ULSC CEP NEWTRICITY OFFER\_JUNE2016.DOCX

**Attention:** Tina Dodson

Dear Tina,

**RE: BIALA WIND FARM - COMMUNITY ENHANCEMENT PROGRAM**

The Department of Planning and Environment (DP&E) is currently assessing the Development Application (SSD 13\_6039) for the Biala Wind Farm (the Project) under the *NSW Environmental Planning and Assessment Act 1979* (EP&A Act). As discussed, as part of that assessment, DP&E has requested that the Proponent, Newtricity, forward a letter of offer to Upper Lachlan Shire Council (ULSC) outlining the agreed funding proposed in support of establishment of a Community Enhancement Program (CEP) for the Project.

Given that the Project is yet to receive approval under the EP&A Act, a formal agreement between Newtricity and ULSC establishing a CEP for the Project cannot yet be executed. However, the purpose of this letter is to reconfirm Newtricity's commitment, as outlined in the Environmental Impact Statement (EIS), to contribute the sum of \$2,500 per annum per constructed turbine to the CEP, commencing upon commissioning of the Project until the end of its operational life, with the contribution being adjusted to take account of any increase in the Consumer Price Index (All Groups Index for Sydney) over time commencing at the September 2010 quarter.

Assuming, and following, approval of the Project under the EP&A Act, Newtricity will enter into an agreement with ULSC for provision of a CEP associated with the Project of a form consistent with that of the attached ULSC template document (refer Attachment 1).

I trust that this satisfies the requirements of both ULSC and DPE at this stage of the Project, and look forward to continuing to work with ULSC in developing the CEP at the appropriate time.

Yours Sincerely,

Annmarée Lavery  
Business Owner