



CONSIDERATION OF RELEVANT ENVIRONMENTAL PLANNING INSTRUMENTS IN RELATION TO THE RYE PARK WIND FARM PROJECT

Assessment Report

**Prepared for
Herbert Smith Freehills
by
BBC Consulting Planners**

Job No. 15-199
Rye Park Wind Farm_Assessment Report v1
October 2015



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1. INTRODUCTION

BBC Consulting Planners has been engaged by Herbert Smith Freehills to provide town planning services associated with the Rye Park Wind Farm Project (“the project”) which has been declared a State Significant development by order under Clause 6 of Schedule 6A of the EP&A Act 1979 (“the Act”).

This report sets out an assessment of the project against the relevant environmental planning instruments and DCPs (“planning instruments”). Specifically this report:

- provides a brief description of the project (as per the Environmental Assessment submitted in January 2014);
- outlines the statutory planning framework within which the project is to be assessed and determined; and
- assesses the project in light of all relevant heads of consideration listed in Section 79C(1)(a) of the Act.

2. THE PROJECT

The project is described in the *Rye Park Wind Farm Environmental Assessment MP-10-0223* prepared by Epuron and dated January 2014 including the *Addendum* dated March 2014 (“the EIS”) and has been subsequently amended in response to submissions. The project involves the construction, operation and decommissioning of up to 109 wind turbines, together with the ancillary structures, access tracks and electrical infrastructure required to connect the project into the existing national electricity network. The main components of the project includes:

- up to 109 wind turbines, each with:
 - a capacity between 1.5 and 3.0 MW;
 - three blades mounted on a tubular steel tower, with a combined height of blade and tower limited to a maximum tip height of 157 metres;
 - an adjacent pad mounted wind turbine transformer, crane hardstand area, and related turbine lay down area;
- two connection options with associated substations and powerlines
 - a 330 kV wind farm connection substation located adjacent to the existing TransGrid 330 kV transmission line (Yass – Bannaby) that traverses the southern section of the site with the associated overhead powerline approximately 35 km in length, rated at up to 330 kV (nominal) capacity, running north-south along the length of the wind farm site;
 - a 132 kV wind farm connection substation located approximately 15 km west of the site with the associated overhead powerline approximately 15 km long running east-west to the western 132 kV connection point;
 - approval is sought for the proposed alternative route section with only one of the alternatives to be constructed where options are shown.
- up to three new collection substations located across the wind farm;
- underground and overhead 22 or 33 kV electrical cabling linking the wind turbines to the on-site collection substations and connection substation. This will include the crossing of existing roads such as Rye Park Rugby Road toward the northern end of the site and Blakney Creek Road toward the southern end of the site;
- up to two permanent operation and maintenance facilities incorporating a control room and equipment storage facilities;
- temporary concrete batching plants and construction compound facilities;
- access tracks required for each wind turbine and the related facilities above;
- minor upgrades to local roads, as required for the delivery, installation and maintenance of wind turbines and the related facilities above; and
- up to six permanent monitoring masts for wind speed verification, weather and general monitoring purposes. The permanent monitoring masts may be either static guyed or un-guyed structures and will be to a minimum height of the wind turbine hubs.

3. ENVIRONMENTAL PLANNING INSTRUMENTS

3.1 State Environmental Planning Policy No. 33 Hazardous and Offensive Development

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (“SEPP No. 33”) has the following aims and objectives pursuant to Clause 2:

- (a) “to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and*
- (b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and*
- (c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and*
- (d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*
- (f) to require the advertising of applications to carry out any such development.”*

Clause 13 of SEPP No. 33 sets out how the above-mentioned aims and objectives should be implemented by consent authorities:

“In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*

(e) any likely future use of the land surrounding the development.”

The development is not characterised as a potentially hazardous industry. Hazards and risks associated with the development are considered in Section 14 of the EIS.

3.2 State Environmental Planning Policy No. 44 – Koala Habitat Protection

State Environmental Planning Policy No. 44 – Koala Habitat Protection (“SEPP 44”) aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- (a) “by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and*
- (b) by encouraging the identification of areas of core koala habitat, and*
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.”*

This policy applies to land within Boorowa and Yass local government areas and to the former local government areas of Gunning and Mulwarree which became Upper Lachlan local government area on amalgamation. Clause 7 of SEPP 44 provides that before a council may grant consent to an application for consent to carry out development, it must satisfy itself whether or not the land is a potential koala habitat. A council may satisfy itself as to whether or not land is a potential koala habitat only on information obtained by it, or by the applicant, from a person who is qualified and experienced in tree identification. If the council is satisfied (a) that the land is not a potential koala habitat, it is not prevented, because of this Policy, from granting consent to the development application, or (b) that the land is a potential koala habitat, it must comply with clause 8.

The *Biodiversity Assessment Rye Park Wind Farm* prepared by ngh environmental dated 24 January 2014 contained in Appendix C to the EIS found that no feed tree species listed under SEPP 44 were recorded in the project area. Thus the area is not potential koala habitat and is not considered core koala habitat under this SEPP.

3.3 State Environmental Planning Policy No. 55 – Remediation of Land

The objectives of State Environmental Planning Policy No. 55 - Remediation of Land (“SEPP 55”) include:-

“...to provide for a Statewide planning approach to the remediation of contaminated land”.

“...to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- (a) by specifying when consent is required, and when it is not required, for a remediation work, and*

- (b) *by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and*
- (c) *by requiring that a remediation work meet certain standards and notification requirements.”*

Clause 7(1) of SEPP 55 provides that a consent authority must not consent to the carrying out of any development on land unless (a) it has considered whether the land is contaminated, and (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out.

Rye Park Wind Farm Aboriginal Cultural Heritage Assessment Report by Dr Julie Dibden New South Wales Archaeology Pty Limited dated October 2013 and contained as Appendix D to the EIS states that:

Land clearance commenced in the region with its occupation by early settlers during the early to mid 1800s. Following clearance, the arable land was utilised for both grazing and various cultivation endeavours including pasture improvement and cropping, while hilly land has been used exclusively for grazing. While the majority of the subject area, including the ridges, hill slopes and valleys, is cleared, there are large areas of regenerating treed country comprised solely of young regrowth.

Given the generally low intensity agricultural use of the site, there is no known evidence of other uses that could be potentially contaminating uses and therefore the site is likely to have a low contamination risk. Given the nature of the previous uses of the site it is considered that the site is suitable for the proposed development and any localised areas of contamination associated with past agricultural activities can be, if found, remediated to the level required for the proposed use.

3.4 State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 3(1) of State Environmental Planning Policy No. 64 includes the following aims:-

- (a) *“ to ensure that signage (including advertising):*
 - (i) *is compatible with the desired amenity and visual character of an area, and*
 - (ii) *provides effective communication in suitable locations, and*
 - (iii) *is of high quality design and finish, and*
- (b) *to regulate signage (but not content) under Part 4 of the Act, and*
- (c) *to provide time-limited consents for the display of certain advertisements, and*
- (d) *to regulate the display of advertisements in transport corridors, and*

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.”

Any signage associated with the development would be business identification or building identification signage and thus can be designed in a manner to be consistent with the objectives and provisions of SEPP 64.

3.5 State Environmental Planning Policy (Infrastructure) 2007

The aim of *State Environmental Planning Policy (Infrastructure) 2007* (“the ISEPP”) is to facilitate the effective delivery of infrastructure across the State by:

- (a) “improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.”*

Divisions 4 and 5 of Part 3 of ISEPP contains development controls in relation to electricity generating works, solar energy systems, electricity transmission and distribution. Subdivision 2 of Division 15 contains controls in relation to railways. Subdivision 2 of Division 17 contains controls for roads.

Clause 34(1) provides that development for the purpose of electricity generating works may be carried out by any person with consent on any land in a prescribed rural, industrial or special use zone. The development is permissible with consent under the ISEPP.

3.6 State Environmental Planning Policy (State and Regional Development) 2011

The aims of State Environmental Planning Policy (State and Regional Development) include:-

- (a) “to identify development that is State significant development,*
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,*

(c) to confer functions on joint regional planning panels to determine development applications.”

Clause 11 of this policy states that development control plans (whether made before or after the commencement of this policy) do not apply to State Significant Development.

The project was declared a State Significant Development on 21 March 2014 by order under Clause 6 of Schedule 6A of the EP&A Act.

3.7 State Environmental Planning Policy (Rural Lands) 2008

The aims of State Environmental Planning Policy (Rural Lands) 2008 include:-

(a) “to facilitate the orderly and economic use and development of rural lands for rural and related purposes,

(b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the proper management, development and protection of rural lands for the purpose of promoting the social, economic and environmental welfare of the State,

(c) to implement measures designed to reduce land use conflicts,

(d) to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental considerations,

(e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.”

This policy contains controls for rural subdivisions and rural dwellings. There are no provisions relevant to the proposed development. The site does not contain State significant agricultural land as defined under this policy.

The site would continue to be used for rural purposes.

3.8 Boorowa Local Environmental Plan 2012

3.8.1 Zoning

The site is currently zoned “RU1 Primary Production” under the *Boorowa Local Environmental Plan 2012* (“BLEP”).

3.8.2 Zone objectives

The objectives of the RU1 Primary Production zone are as follows:-

“To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

To encourage diversity in primary industry enterprises and systems appropriate for the area.

To minimise the fragmentation and alienation of resource lands.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

To encourage development that is in accordance with sound management and land capability practices, and that takes into account the natural resources of the locality.

To support rural communities.”

The project is consistent with the above objectives, in that:

- It enables the continuation of primary industry production on the site whilst providing additional income for landowners;
- It provides a diversity of economic activity in the area;
- It has no significant impact on the fragmentation or alienation of rural land;
- It would be constructed in accordance with sound management practices;
- It would support the rural community through the provision of employment and expenditure.

3.8.3 Permissible uses

Electricity generating works are permissible with consent in the RU1 Primary Production zone where:-

*“**electricity generating works** means a building or place used for the purpose of making or generating electricity.”*

The project involves electricity generating works, therefore it is permissible with consent.

3.8.4 Development controls

3.8.4.1 Preservation of trees or vegetation (Clause 5.9)

Clause 5.9(3) provides:-

“A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Council.”

Clause 5.9AA(2) further provides that the ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

The development application seeks approval for the removal of vegetation within the development footprint as described in the EIS.

3.8.4.2 Earthworks (Clause 6.1)

Clause 6.1(2) provides:-

“Development consent is required for earthworks unless:

- (a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or*
- (b) the earthworks are ancillary to other development for which development consent has been given.”*

The development application seeks approval for the earthworks for buildings and structures.

3.8.4.3 Terrestrial biodiversity (Clause 6.3)

This clause applies to land identified as “High Conservation Value Vegetation” on the Terrestrial Biodiversity Map. Part of the project site is identified as ‘High Conservation Value Vegetation’, therefore this clause applies.

Clause 6.3(4) states as follows:-

“Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

The impacts of the proposed development on flora are addressed in the *Biodiversity Assessment Rye Park Wind Farm* prepared by ngh environmental dated 24 January 2014 contained in Appendix C to the EIS. Measures are identified to minimise impacts through the location of turbines to avoid impacts in areas identified as a high constraint in Appendix C to the EIS and to offset impacts.

3.8.4.4 Groundwater vulnerability (Clause 6.4)

The site is not identified as ‘groundwater vulnerable’ on the Groundwater Vulnerability Map, therefore this clause does not apply.

3.8.4.5 Riparian land and watercourses (Clause 6.5)

The site contains land identified as “Riparian Land and Watercourses” on the Riparian Lands and Watercourses Map, therefore Clause 6.5 applies.

Clause 6.5(4) states:-

“Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”

The development has been designed so as to minimise impacts on streams as discussed in Section 15 of the EIS.

3.8.4.6 Saline Land (Clause

The site contains land identified as “Saline Land” on the Salinity Map, therefore Clause 6.6 applies.

Clauses 6.6(3) and 6.6(4) provide:

(3) “Before determining a development application for development on land to which this clause applies, the consent authority must consider the following:

(a) whether the development is likely to have any adverse impact on salinity processes on the land,

(b) whether salinity is likely to have an impact on the development,

(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”

Salinity and soil disturbance and mitigation measures are discussed in Section 16 of the EIS.

3.8.4.7 Essential services (Clause 6.8)

Clause 6.8 states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

(a) the supply of water,

(b) the supply of electricity,

(c) the disposal and management of sewage,

(d) stormwater drainage or on-site conservation,

(e) suitable road access.

Requirements for the provision of essential services to the development during construction and operation have been discussed in the EIS. Given the nature of the development, it is considered that all necessary utility services can be made available to meet the needs of the development.

3.9 Yass Valley LEP 2013

3.9.1 Zoning

That part of the site within Yass Valley local government area is currently zoned "RU1 Primary Production" under the *Yass Valley Local Environmental Plan 2013* ("YLEP").

3.9.2 Zone objectives

The objectives of the RU1 Primary Production zone are as follows:

"To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

To encourage diversity in primary industry enterprises and systems appropriate for the area.

To minimise the fragmentation and alienation of resource lands.

To minimise conflict between land uses within this zone and land uses within adjoining zones.

To protect and enhance the biodiversity of Yass Valley.

To protect the geologically significant areas of Yass Valley.

To maintain the rural character of Yass Valley.

To encourage the use of rural land for agriculture and other forms of development that are associated with rural industry or that require an isolated or rural location.

To ensure that the location, type and intensity of development is appropriate, having regard to the characteristics of the land, the rural environment and the need to protect significant natural resources, including prime crop and pasture land.

To prevent the subdivision of land on the fringe of urban areas into small lots that may prejudice the proper layout of future urban areas."

The project is consistent with the above objectives to the following extent:

- It enables the continuation of primary industry production on the site whilst providing additional income for landowners;
- It provides a diversity of economic activity in the area;
- It has no significant impact on the fragmentation or alienation of rural land;

- It has been designed to minimise conflict between land uses within the zone and within adjoining zones which includes land with Zone E1 National Park and Nature Reserve;
- The biodiversity values of Yass Valley has been considered in the EIS and measures incorporated to minimise impacts and provide offsets;
- It would support the rural community through the provision of employment and expenditure;
- It would have has no significant impact on geologically significant areas of Yass Valley;
- It has taken into consideration the rural character of Yass Valley and the visual impacts of the development on the existing rural character of the area;
- It allows the use of rural land for other forms of development;
- It has no significant impact on significant natural resources, including prime crop and pasture land;
- The project does not involve subdivision.

3.9.3 Permissible uses

Electricity generating works are not permissible in the RU1 Primary Production zone. The development does not rely on the provisions of the YLEP for permissibility.

3.9.4 Development controls

3.9.4.1 Preservation of trees or vegetation (Clause 5.9)

Clause 5.9(3) provides:-

“A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

(a) development consent, or

(b) a permit granted by the Council.”

Clause 5.9AA(2) further provides that the ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

The development application seeks approval for the removal of vegetation within the development footprint as described in the EIS.

3.9.4.2 Earthworks (Clause 6.1)

Clause 6.1(2) provides:-

“Development consent is required for earthworks unless:

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or

(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.”

The development application seeks approval for the earthworks for buildings and structures.

3.9.4.3 Terrestrial biodiversity (Clause 6.3)

Part of the project site is identified as “Biodiversity” land on the Natural Resources Biodiversity Map.

Clause 6.3(4) provides:-

“Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

(b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”

The impacts of the proposed development on flora and fauna are addressed in the *Biodiversity Assessment Rye Park Wind Farm* prepared by ngh environmental dated 24 January 2014 contained in Appendix C to the EIS. Measures are identified to minimise impacts through the location of turbines to avoid impacts in areas identified as a high constraint in Appendix C to the EIS and to offset impacts.

3.9.4.4 Riparian land and watercourses (Clause 6.5)

Part of the site is identified as a watercourse on the Riparian Lands and Watercourses Map and Groundwater Vulnerability Map.

Clauses 6.4(3) and 6.4(4) provide:

(3) “Before determining a development application for development on land to which this clause applies, the consent authority must consider:

(a) whether or not the development is likely to have any adverse impact on the following:

(i) the water quality and flows within the watercourse,

(ii) aquatic and riparian species, habitats and ecosystems of the watercourse,

(iii) the stability of the bed and banks of the watercourse,

(iv) the free passage of fish and other aquatic organisms within or along the watercourse,

- (v) any future rehabilitation of the watercourse and riparian areas, and*
 - (b) whether or not the development is likely to increase water extraction from the watercourse, and*
 - (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

The development has been designed so as to minimise impacts on streams as discussed in Section 15 of the EIS.

3.9.4.5 Salinity (Clause 6.6)

Part of the project site is identified as “Dryland Salinity” on the Natural Resources Land Map.

Clauses 6.6(3) and 6.6(4) provide:

- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider the following:*
- (a) whether the development is likely to have any adverse impact on salinity processes on the land,*
 - (b) whether salinity is likely to have an impact on the development,*
 - (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.*

Salinity and soil disturbance and mitigation measures are discussed in Section 16 of the EIS.

3.9.4.6 Highly Erodible Soils (Clause 6.7)

Part of the site is identified as “High Soil Erodibility” on the Natural Resources Land Map.

Clauses 6.6(3) and 6.6(4) provide:

(3) *“Before determining a development application for development on land to which this clause applies, the consent authority must consider the following:*

- (a) whether the development is likely to have any adverse impact on soil erosion processes on the land,*
- (b) whether soil erosion is likely to have an impact on the development,*
- (c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

(4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*

- (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
- (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

Soil disturbance and mitigation measures are discussed in Section 16 of the EIS.

3.9.4.7 Essential services (Clause 6.8)

Clause 6.8 states that development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,
- (b) the supply of electricity,
- (c) the disposal and management of sewage,
- (d) stormwater drainage or on-site conservation,
- (e) suitable road access,
- (f) connection to a communications network with voice or data capability (or both).

Requirements for the provision of essential services to the development during construction and operation have been discussed in the EIS. Given the nature of the development, it is considered that all necessary utility services can be made available to meet the needs of the development.

3.10 Upper Lachlan LEP 2010

3.10.1 Zoning

The site is currently zoned “RU2 Rural Landscape” under the *Upper Lachlan Local Environmental Plan 2010* (“ULLEP”).

3.10.2 Zone objectives

The objectives of the RU2 Rural Landscape zone are as follows:-

“To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.

To maintain the rural landscape character of the land.

To provide for a range of compatible land uses, including extensive agriculture.

To preserve environmentally sensitive areas including waterways and prevent inappropriate development likely to result in environmental harm.

To protect the Pejar catchment area from inappropriate land uses and activities and minimise risk to water quality.

To minimise the visual impact of development on the rural landscape.

To minimise the impact of development on the existing agricultural landscape character.

To protect and enhance the water quality of watercourses and groundwater systems and to reduce land degradation.

To maintain areas of high conservation value vegetation.”

The project is consistent with the above objectives to the following extent:

- It enables the continuation of primary industry production on the site whilst providing additional income for landowners;
- It has been designed having regard to the rural character of Upper Lachlan and the visual impacts of the development on the existing rural character of the area;
- It provides a diversity of economic activity in the area;
- The biodiversity values of Upper Lachlan has been considered in the EIS and measures incorporated to minimise impacts and provide offsets;
- It is located outside of the Pejar catchment area;
- It has been designed having regard to the hydrological characteristics of the area and to minimise land degradation.

3.10.3 Permissible uses

Electricity generating works are permissible with consent in the RU2 Rural Landscape zone where:-

*“**electricity generating works** means a building or place used for the purpose of making or generating electricity.”*

The project includes electricity generating works, therefore it is permissible with consent.

3.10.4 Development controls

3.10.4.1 Preservation of trees or vegetation (Clause 5.9)

Clause 5.9(3) provides:

“A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:

- (a) development consent, or*
- (b) a permit granted by the Council.”*

Clause 5.9AA(2) further provides that the ringbarking, cutting down, topping, lopping, removal, injuring or destruction of any tree or other vegetation to which this clause applies is permitted without development consent.

The development application seeks approval for the removal of vegetation within the development footprint as described in the EIS.

3.10.4.2 Biodiversity (Clause 6.2)

The site within Upper Lachlan is land identified as “sensitive land” on the Natural Resources Sensitivity—Biodiversity Map.

Clauses 6.2(3) and 6.2(4) provide:

(3) “Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on:

- (a) a native ecological community, and*
- (b) the habitat of any threatened species, populations or ecological community, and*
- (c) a regionally significant species of fauna and flora or habitat, and*
- (d) a habitat element providing connectivity.*

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

The impacts of the proposed development on flora and fauna are addressed in the *Biodiversity Assessment Rye Park Wind Farm* prepared by ngh environmental dated 24 January 2014 contained in Appendix C to the EIS. Measures are identified to minimise impacts through the location of turbines to avoid impacts in areas identified as a high constraint in Appendix C to the EIS and to offset impacts.

3.10.4.3 Sensitive Land (Clause 6.3)

The site within the Upper Lachlan local government area is identified as “sensitive land” on the Natural Resources Sensitivity—Land Map.

Clauses 6.3(3) and 6.3(4) provide:

(3) “Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on:

- (a) a native ecological community, and*
- (b) the habitat of any threatened species, populations or ecological community, and*
- (c) a regionally significant species of fauna and flora or habitat, and*
- (d) a habitat element providing connectivity.*

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

The impacts of the proposed development on flora and fauna are addressed in the *Biodiversity Assessment Rye Park Wind Farm* prepared by ngh environmental dated 24 January 2014 contained in Appendix C to the EIS. Measures are identified to minimise impacts through the location of turbines to avoid impacts in areas identified as a high constraint in Appendix C to the EIS and to offset impacts.

3.10.4.4 Water (Clause 6.4)

Part of the site within the Upper Lachlan is identified as “sensitive land” on the Natural Resources Sensitivity—Water Map.

Clauses 6.4(3) and 6.4(4) provide:

(3) “Before determining a development application for land to which this clause applies, the consent authority must consider any adverse impact from the proposed development on:

- (a) the water quality of receiving waters, and*
- (b) the natural flow regime, and*
- (c) the natural flow paths of waterways, and*
- (d) the stability of the bed, shore and banks of waterways, and*
- (e) the flows, capacity and quality of groundwater systems.*

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or*
- (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.”*

The development has been designed so as to minimise impacts on streams as discussed in Section 15 of the EIS.

3.10.4.5 Earthworks (Clause 6.5)

Clause 6.5(2) provides:-

“Development consent is required for earthworks unless:

- (a) the work does not alter the ground level (existing) by more than 600 millimetres, or*
- (b) the work is exempt development under this Plan or another applicable environmental planning instrument, or*
- (c) the work is ancillary to other development for which development consent has been given.”*

The development application seeks approval for the earthworks for buildings and structures.

3.10.4.6 Essential services (Clause 6.9)

Clause 6.9 provides:-

“Development consent must not be granted to development unless the consent authority is satisfied that those of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable road access.”*

Requirements for the provision of essential services to the development during construction and operation have been discussed in the EIS. Given the nature of the development, it is considered that all necessary utility services can be made available to meet the needs of the development.

3.11 Yass LEP 1987

3.11.1 Zoning, zone objectives and permissibility

That part of the site within Yass Valley local government area was within Zone No 1 (a) (Rural Agriculture Zone) prior to its repeal by Yass Valley LEP 2013. The objective of zone is to set aside certain land for agricultural purposes and purposes incidental thereto. The development was permissible with consent on land within this zone.

3.11.2 Other provisions

Clause 22 deals with the provision of services and provides that the Council shall not consent to the carrying out of any development on any allotment of land unless it is satisfied that adequate arrangements have been made for the provision of vehicle access, electricity, water, landscaping, sewerage and drainage facilities to the allotment. Requirements for the provision of essential services to the development during construction and operation have been discussed in the EIS. Given the nature of the development, it is considered that all necessary utility services can be made available to meet the needs of the development.

4. DEVELOPMENT CONTROL PLANS EFFECTS

4.1 Boorowa Development Control Plan 2013

Boorowa Development Control Plan 2013 (the BDCP) applies to all land in the Boorowa local government area and was adopted by Council on 25 November 2013 and came into force on 9 December 2013.

The purpose of this DCP is to supplement the BLEP and provide more detailed provisions to guide development.

BDCP contains no specific provisions for wind farms. Section 3.1 contains provisions for car parking and vehicle access that seek to provide a guide for the provision of parking, associated with development in the Boorowa local government area. Traffic and transport impacts of the project are discussed in Section 13 of the EIS.

There are no other provisions relevant to the development application.

4.2 Yass Valley Comprehensive Development Control Plan 2014

The draft Comprehensive Yass Valley Development Control Plan (YVDCP) 2014 is currently being prepared, which will replace all the former Yass Shire, Yarrowlunla Shire and Gunning Shire DCP's. The existing DCP's continue to be used as development guides until such time as the YVDCP 2014 comes into effect.

There are no current DCPs relevant to the proposed development.

4.3 Upper Lachlan Development Control Plan 2010

The Upper Lachlan Development Control Plan 2010 (ULDCP) supplements the ULLEP by providing general information and detailed guidelines and controls which relate to the decision making process. The ULLEP and the UPDCP provide the land use planning and development controls for the Upper Lachlan local government area.

Section 4.1.1 of the ULDCP identifies general matters for consideration in the determination of a development application. Development consent must not be granted to an application to carry out development unless the consent authority is satisfied that the matters under subclause (2) have been addressed. These matters are addressed in the EIS as indicated

Matter for consideration	Where addressed in the EIS
(a) the present use of the land for the purposes of agriculture and the potential of any land which is zoned RU1 or RU2 for sustained agricultural production, and	Sections 1.13 and 16

Matter for consideration	Where addressed in the EIS
(b) the impact of the development on the retention or embellishment of the rural character or environmental value of the land, and	Sections 1.7 and 9
(c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, or extractive materials, and	Section 16
(d) the standard and capacity of public roads serving the land, and	Sections 3.5 and 13
(e) the need for all-weather access to the development, and	Sections 3.5 and 13
(f) the land capability (including soil resources and soil stability), natural constraints and hazards of the land to be subdivided in relation to the density of the allotments proposed to be created, and	Section 16
(g) whether the land can be economically serviced by reticulated sewer and water supply and the cost of providing, extending and maintaining public amenities and services, including electricity, to the development, and	Sections 3, 15 and 16
(h) the availability of an adequate reticulated water supply and, where such a supply is unavailable, the source and capacity of any alternate water supply intended to service the needs of the development, and	Sections 3, 15 and 16
(i) in unserviced areas:	
(i) the findings of a geotechnical report/permeability test to ascertain whether the land has adequate capability for onsite disposal of waste water and the potential impact of such disposal on any groundwater supplies used for drinking and domestic consumption (if located within the Sydney drinking water catchments, the findings of such a report must address Drinking Water Catchments Regional Environmental Plan No 1, and	Permanent operations and maintenance facilities are proposed with amenities. On site disposal of effluent would be designed and constructed in accordance with relevant guidelines.
(ii) the results of a detailed analysis demonstrate the suitability for onsite disposal	See above

Matter for consideration	Where addressed in the EIS
of wastes from the lots to be created, where that analysis has included consideration of: shape, ground cover, transpiration factors, the proximity of the proposed dwelling to drainage lines, the location of the proposed dwellings in relation to a proposed onsite wastewater disposal system and to each other, and the composition of the soil.	
(j) the availability of other utility services and social facilities having regard to the likely demand for those services or facilities and the cost of their provision, and	Sections 3, 15 and 16
(k) the implications of a future dwelling house on adjoining existing primary industry landuses, and	Not relevant
(l) the impact on the rural and scenic character of the area.	Section 9

Section 4.2 deals with the environment and contains general provisions relating to Clauses 5.9, 6.2, 6.3 and 6.4 of the ULLEP which are discussed above.

Section 9.5 of the ULDCP contains provisions to be addressed when designing a commercial wind farm in Upper Lachlan local government area. These matters are discussed in Section 6.1.10 of the EIS.

