

Executive Director,
Resource Assessments & Business Systems,
Department of Planning and Environment,
GPO Box 39, Sydney NSW 2001
Submitted online

29th March 2016

Dear Sir/Madam,

Submission on the draft Consultative Committee Guidelines for State Significant Projects

Union Fenosa Wind Australia Pty Ltd (**UFWA**) welcomes the opportunity to provide a submission on the final draft *Community Consultative Committee Guidelines – State Significant Development (Draft Guidelines)*.

1. Background

Union Fenosa Wind Australia Pty Ltd (**UFWA**) is a subsidiary of a Spanish utility called Gas Natural Fenosa.

The Gas Natural Fenosa group is one of the leading multinational companies in the gas and electricity sector. The Gas Natural Fenosa group operates in over 30 countries and has approximately 14 GW of electricity generating capacity. Gas Natural supplies gas and electricity to more than 23 million customers and has a long history of successful renewable energy projects around the world.

UFWA has eight wind farm projects (in development, approved and early construction stages) across NSW and Victoria. This portfolio represents a potential investment of approximately \$2.0 billion in renewable wind energy generation. Once complete, the portfolio would increase Australia's present wind generation capacity by over 1,000 MW.

UFWA's NSW current wind farm projects are:

- the approved Crookwell 2 Wind Farm;
- the proposed Crookwell 3 Wind Farm; and
- the proposed Paling Yards Wind Farm.

The Crookwell 2 Wind Farm is an approved 46 wind turbine wind farm. The approved Crookwell 2 Wind Farm has a total generating capacity of approximately 92 MW.

The proposed Crookwell 3 Wind Farm includes up to 23 wind turbines, each with a total capacity of up to 76 MW. The proposed Crookwell 3 Wind Farm is currently being assessed as a State significant development (SSD) project under the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.

The proposed Paling Yards Wind Farm includes up to 55 wind turbines, each with a total capacity of up to 180 MW. The proposed Paling Yards Wind Farm is currently also being assessed as a SSD under the EP&A Act.

2. Submission

UFWA is committed to proactively engaging with the community and key stakeholders in relation to its NSW wind farm projects. We believe that properly structured and governed Community Consultative Committees (CCC) are an important tool for informing the community about, and obtaining meaningful feedback on, wind farm projects.

UFWA generally supports the Draft Guidelines. We consider that they will, once appropriately finalised, ensure that CCCs are able to achieve their objective of providing an open forum for discussion and the sharing of information on SSD projects.

However, there are a number of aspects of the Draft Guidelines which would benefit from further consideration. UFWA's submissions in this regard are set out below.

(a) Relationship with the Draft Wind Farm Guidelines

CCC's for NSW wind farms are currently regulated informally via the *Guidelines for Wind Farm Community Consultative Committees* contained in Appendix B of the *Draft NSW Planning Guidelines for Wind Farms (Draft Wind Farm CCC Guidelines)* which were publicly exhibited in December 2011.

The Draft Wind Farm CCC Guidelines, and their informal status, have presented some challenges to proponents seeking to establish and engage with a CCC. UFWA understands that the Draft Guidelines will, once finalised, replace the Draft Wind Farm CC Guidelines. In the interests of clarity, UFWA strongly submits that this should be made clear in the Draft Guidelines.

(b) Purpose of the Committee

UFWA supports the detailed guidance given in the Draft Guidelines as to the functions of CCCs to:

- provide a forum for discussion between the Company, the community, local council and key stakeholders; and
- ultimately to act in an advisory, rather than decision-making, role.

UFWA supports the CCC's role to act as a mechanism for community consultation and review of community feedback. We agree that a key aspect of the CCC's role is to facilitate good working relationships between the Company and stakeholders.

However, UFWA considers that the role of the CCC should not include:

- commenting on the project's performance against any conditions of approval;
- undertaking regular inspections of the project's operations; or
- reviewing the Company's handling of concerns or complaints from the community regarding operations, environmental management or community.

Each of these items are related to ensuring and enforcing compliance with conditions of planning approval. Compliance with the conditions of planning approvals is a serious legal issue which can have significant implications for projects and proponents. As such, it is appropriate that all such functions be exclusively retained by the NSW Department of Planning and Environment (**Department**).

(c) Establishment of the Committee

Whilst we acknowledge that flexibility in the establishment of the CCC is necessary due to the varied nature of SSD projects, UFWA submits the Draft Guidelines should provide greater clarification around the timing of the CCC's establishment and the frequency of CCC meetings.

For example, given the detailed environmental assessment requirements, it is not uncommon for Environmental Impact Statements (**EISs**) for wind farm projects to be submitted a number of years after environmental assessment requirements are first issued. UFWA's experience is that if a CCC is in place throughout the whole of this period it can lead to fatigue by CCC members and in there being little structure or content for CCC meetings held prior to submission of the EIS. Accordingly, we submit that the Draft Guidelines should specify that CCCs would not be formed earlier than 6 months prior to the proposed exhibition of an EIS.

(d) Members of the Committee

UFWA supports the proposal contained in the Draft Guidelines for the membership of CCCs to be smaller and better structured. We believe that this will facilitate more productive and efficient meetings as well as ensuring that the CCC accurately reflects the interests of the local community.

UFWA also welcomes, as increasing the integrity of CCCs:

- the proposed nomination forms and accompanying declarations for committee members; and
- the requirement that Committee members declare any pecuniary or other interest or benefit received, which may affect their ability to act impartially and in the interests of the local and broader communities they are elected to represent.

UFWA supports the processes outlined in the Draft Guidelines for both the selection of the Independent Chair and the review of their appointment, where necessary, by the Secretary. We agree with the directions in the Draft Guidelines that the Independent Chair “must undertake their role in an independent manner and at all times act impartially with respect for the Company and any individual or representative on the Committee”. An independent and impartial chair is key to the effective running of a CCC.

UFWA also supports the detailed guidance provided in the Draft Guidelines in relation to the requirements for community representatives. In particular, we strongly support the selection criteria aimed at ensuring that community members must:

- be current residents of the area – this is important for ensuring that the issues the CCCs focuses on are directly relevant to the project; and
- be willing to adhere to the CCC code of conduct - this underpins the Chair’s ability to effectively manage the interests of different stakeholders within a project.

The Draft Guidelines contemplate that, in some cases, representatives from environmental groups may be included in the 3 to 5 community representatives. Although we support the scope for community representatives to be from an environmental group UFWA submits that the Draft Guidelines should provide further directions on both:

- the eligibility requirements of environmental representatives; and
- the circumstances in which they should be appointed.

For example, under the Draft Guidelines, as proposed, an environmental representative may include representatives from organisations which are opposed to particular types of development, such as wind farms, rather than environmental representatives who hold broader environmental concerns. An environmental representatives acting for an organisation which is opposed to wind farm developments is unlikely to be impartial. Further, they are unlikely to act in the interests of the local and broader communities or foster an open and participatory environment. These are minimum expectations of Committee members as outlined in the Draft Guidelines. UFWA therefore submits that such candidates should not be eligible to be environmental community representatives on a CCC.

(e) Committee meetings

As noted above, UFWA believe the Chair plays a critical role in managing distinct, and potentially conflicting, interests within the CCC. We therefore support the further guidance relating to the responsibilities of the Chairperson. In particular we support the directions that the Chairperson is responsible for:

- formulating meeting agendas;
- facilitating CCC meetings in a 'fair and independent manner'; and
- for identifying "any items of a confidential nature so that Committee members understand how this information may, or may not, be used".

The last item is particularly important as certain information provided to a Company is confidential or commercially sensitive. As such, the Chair of the CCC will need to play a critical role as 'gate keeper' in developing awareness amongst the Committee of the potential uses, or misuses, of such material.

We support the proposal in the Draft Guidelines that invitations for attendance at Committee meetings by non-Committee members be made only by the Independent Chairperson.

UFWA also supports the detailed guidance given in the Draft Guidelines as to the conduct and expectations of committee members. In particular, we support the minimum conduct requirements outlined in the Draft Guidelines which make it clear that the committee members must comply with the code of conduct, respect confidentiality issues and perform their functions impartially. Such minimum conduct requirements are essential to ensure that CCCs operate efficiently and productively, and should be retained in the final

guidelines. The proper functioning of the CCC relies on members fulfilling their role in a respectful and diligent manner.

(f) Responsibilities of the Company

UFWA generally supports the 'Responsibilities of the Company', outlined in the Draft Guidelines.

However, we submit that the Draft Guidelines should clarify that a Company is not required to provide draft assessment documentation to the CCC before it is provided to the Department. We believe that it is important that the CCC review and consider documents which are in final form only.

In addition, we suggest that the requirement for the Company to consult with the Committee prior to seeking approval for modifications be clarified to note that, while the Company is required to consult with the CCC in relation to modifications, there may be circumstances where not all modifications will be able to be raised with the CCC prior to lodgement. There are times where modifications are proposed which are either urgent or purely administrative in nature.

Please contact me if you or your team would like any further information in relation to the matters set out in this submission.

Yours sincerely,



Shaq Mohajerani

Project Development Manager