



DRAFT Community Consultative Committee Guidelines

*A submission to the NSW Government,
Department of Planning and Environment*

31st March 2016

To the Executive Director, Resource Assessments & Business Systems, Department of Planning and Environment

Trustpower Australia Holding Pty Limited ("Trustpower") welcomes the opportunity to provide a submission to the Department of Planning and Environment on its *DRAFT Community Consultative Committee Guidelines* ("the draft Guidelines").

For any questions relating to the material in this submission, please contact:

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1.0 Introduction and Overview

- 1.1 By way of introduction, Trustpower, with a history dating back to 1915, is a New Zealand based renewable energy generator and multi-product retailer, offering electricity, gas and telecommunication services in the New Zealand market. We own and operate 41 hydro stations, 38 in NZ and 3 in NSW, Australia, along with 6 wind farms. Trustpower is predominantly a wind and hydro generator, and in the past 10 years, has invested in the order of AU \$1 billion in new generation development, the majority of which has been in wind power, most of which is located in Australia.
- 1.2 Trustpower's wind portfolio comprises 307 wind turbines with a total capacity of 582MW. This includes the recent Snowtown Stage 2 Wind Farm located here in South Australia, a 270MW, AU \$440 million investment – in conjunction with Stage 1, this 370MW development is the largest in South Australia, and one of the largest operating wind farm developments in Australia. Trustpower also owns two small wind farms in NSW (Crookwell and Blayney) and some 200MW of capacity in New Zealand, including the Tararua Wind Farm which has been operating since 1999, in excess of 15 years. This makes us one of the most experienced developers, owners and operators of wind farms in Australasia
- 1.3 The assets in New South Wales were recently acquired by Trustpower. In July 2013 Green State Power Pty Ltd was established by the NSW Government to own and operate a portfolio of renewable generation assets, with a view to selling these assets. Trustpower successfully acquired these assets in July 2014.
- 1.4 Trustpower has completed five separate wind developments in the last ten years. Each of these has been completed on time and within budget, and all are now operated under strong and enduring contractual arrangements. Importantly, each of these projects also enjoys strong landowner and community support. This is something Trustpower prioritises not only during the development of any project, but also in perpetuity following commissioning.

2.0 Trustpower's Future Investment Aspirations

- 2.1 Trustpower is actively exploring wind farm investment opportunities at other sites across several Australian states. Within Australia, Trustpower has established a robust pipeline of well over 1,000 MW of wind projects at various stages of development which, when fully developed, will require investment in Australia in the order of \$2 billion.
- 2.2 Over the past few years Trustpower has advanced a number of these projects to various stages. Trustpower has invested heavily to purchase development options from initial developers, negotiate and secure landowner approvals, and lodge applications for Development Approvals.
- 2.3 In New South Wales, Trustpower has been actively pursuing development approval for the Rye Park Wind Farm, located in the hills East of Rye Park. The project was initially developed by Epuron since 2008 and Trustpower acquired the site from them in 2014. The proposed wind farm area crosses the Upper Lachlan Shire, Boorowa and Yass Valley Council areas.
- 2.4 The Rye Park Wind Farm has been determined to be a State Significant Development, with the decision on its application to be made by the NSW Minister for Planning.

3.0 Trustpower's Submission

- 3.1 Trustpower welcomes the opportunity to provide input into the NSW Planning and Environment's draft Community Consultative Committee Guidelines ("the draft Guidelines"). As highlighted above, Trustpower has considerable experience in renewable generation projects, and is well placed to provide meaningful and functional feedback on the draft Guidelines.
- 3.2 Trustpower is generally supportive of having guidelines for Community Consultative Committees ("CCC's"), as it provides a transparency around the role and purpose of the CCC and the expectations of participants.
- 3.3 Trustpower's key concerns are summarised as follows:
- i. Purpose and Scope of the Committee
 - ii. Membership of the Committee
 - iii. Committee Meetings
 - iv. Conduct of Committee Members
 - v. Attendance by non-committee members
 - vi. Pecuniary and other interest
 - vii. Committee Training
 - viii. Dispute Resolution
 - ix. Responsibility of the Company
 - x. Communication with the broader community
- 3.4 These areas of concern and comments for improvement are discussed in the following sections.

Purpose of the Committee

- 3.5 Trustpower generally supports the 'Purpose of the Committee' as it is set out in the draft Guidelines. In particular Trustpower agrees with the statement that a CCC is not a decision-making body and performs an advisory role only. To this end, a CCC should not be performing any duties or functions that would otherwise be undertaken by a regulatory body.
- 3.6 In reviewing the first aspect of this section, there are only two minor tweaks Trustpower suggests in relation to the CCC providing a forum to undertake certain activities.
- 3.7 These are in point 2, where it mentions allowing communication of information on "the development of new projects". This needs to be reworded, as a Company would not be communicating the development of 'new projects' per se, as the CCC would have been established in response to a particular proposal. Rather the wording should reflect that the purpose of the CCC is to provide a forum for a Company to provide updates on "*the progress of the development proposal, including site selection, design and any mitigation measures.*"
- 3.8 The second is in point 4, regarding the discussion of community concerns and the resolution of complaints. This infers automatically that there will be complaints, and places a negative tone. Instead this should be reworded to a more neutral prose, and

instead state “Discuss community ~~concerns~~ enquiries and review the resolution of community ~~complaints~~ concerns.”

- 3.9 Trustpower is concerned there are some sections within the purpose and scope of the Committee which blur the role of the Committee. In particular, the section that lists what the Committee ‘may’ do needs amending.
- 3.10 Trustpower seeks the deletion of point 3 (reviewing the performance of the project) and point 5 (undertaking regular inspections). Both these points are not for the role of the Committee, as it is the regulators responsibility to undertake. Further the Committee are not experienced in in these matters, and should not be making judgement calls of this nature.
- 3.11 Trustpower is concerned with point 4 which suggests the Committee should review and provide feedback on draft management plans. Again this concern stems from Committee members not likely to have the necessary technical expertise to undertake reviews and make such recommendations. This point should be prefaced with a ‘where appropriate’.

Members of the Committee

- 3.12 Trustpower is generally happy with the draft Guidelines proposal for how the membership of a CCC should be determined.
- 3.13 In particular, Trustpower supports the use of an independent Chairperson, and that this Chairperson would be appointed by the Department of Planning and Environment.
- 3.14 Trustpower is concerned with the potential appointment of ‘recognised environmental organisations’. It is difficult to determine what a recognised environmental organisation would be, and what role they should play within the Committee.

Committee Meetings

- 3.15 Trustpower is supportive of the guidance around Committee meetings.
- 3.16 In particular the open nature of the frequency of meetings is appreciated. The need for meetings will vary depending on the stage of the project, and the issues that arise. Not having a stipulated regime allows for flexibility within the CCC to meet the needs of the community and the proposed development.
- 3.17 The clear acknowledgement that the Committee is not a decision making body and that consensus needs to be achieved is endorsed by Trustpower.

Conduct of Committee Members

- 3.18 Trustpower supports the clear expectations of behaviours of Committee members being included in the draft Guidelines. In addition to the recommended expectations, Trustpower would like to see included that abusive or derogatory language is not acceptable within the Committee and towards Committee members.

Attendance by non-committee members

- 3.19 While Trustpower acknowledges that from time to time non-committee members may need to attend CCC meetings, this should be limited to when specific information is being required from the Committee members.

- 3.20 To that end, Trustpower does not support the attendance of the general public to CCC meetings.
- 3.21 It is the role of community representative to disseminate information to their constituents, and in addition, proposed developments undertake their own programme of community and public consultation and engagement. It is through these channels that the general public have their opportunity to communicate with project representation and gain information and knowledge about the proposed development.

Pecuniary and other interests

- 3.22 As the Community Consultative Committee does not hold any regulatory functions, nor does it have the ability to make decisions or influence the decision making process, the extent of exclusions for pecuniary or other interests is too stringent.
- 3.23 While Trustpower does not dispute that a potential member should declare whether they have any financial or other interests, Trustpower feels that this should not automatically discount that person from being a member of the Committee. Particularly when there is a clear code of conduct that requires them to act impartially and in the interests of the wider community.
- 3.24 Specifically, Trustpower considers that an involved land owner (that potentially may host project related infrastructure on their land or may benefit financially from the project) should be able to participate in the CCC. This would contribute to an open and balanced conversation across the full spectrum of viewpoints and avoid issues associated with excluding supportive community members that will normally take up any voluntary neighbour benefit agreements.
- 3.25 Trustpower considers that such cases should be decided on merit by the independent Chairperson on a case by case basis.

Committee Training

- 3.26 Trustpower does not agree with the suggestion that the Company should fund training for Committee members.
- 3.27 Having facilitation or mediation skills should be a factor in appointing an appropriately experienced person in the role of independent Chairperson; and conflict resolution should be a matter for consideration when appointing Committee members. Having these skills should be a prerequisite for becoming a member of the Committee, and it should not be the responsibility of the Company to provide upskilling for Committee members.
- 3.28 Trustpower requests that this section is deleted in its entirety.

Dispute resolution

- 3.29 Trustpower is generally happy with the dispute resolution process outline, however has concern with the wording of the last paragraph.
- 3.30 The use of the phrase “complying with any conditions of approval” implies the Committee holds some sort of regulatory function, which of course it does not. These sentence should be deleted.

Responsibilities of the Company

- 3.31 Trustpower is generally supportive of the responsibilities being assigned to the Company and its role within the CCC.
- 3.32 There are a couple of minor changes that are requested for practical reasons. The first is that the provision of reports as noted in the first paragraph is fine, but would like to have noted that these should be where relevant to the Committee, and where these are not commercially sensitive.
- 3.33 The second is the provision of annual review reports etc be provided to the Committee at the same time they are submitted to agencies is not realistic, and instead this should be amended to allow one month from submittal to an agency.
- 3.34 Further, many of these reports will be inherently technical, as the information required to be provided through development approvals will mean that it is not always practical to have these “written in plain English.” Instead, it should be for the Company to discuss any aspects not understood by Committee members at CCC meetings.
- 3.35 The use of the word ‘inspections’ implies that the Committee has some sort of regulatory role, and this should be amended to read ‘site visits’ to be clear that any visit to the project site by the Committee is of an informative nature, and not of a compliance nature.
- 3.36 The request for additional ‘site visits’ within 48 hours’ notice is not practical, as many project sites are isolated in location, and have landowner permission and health and safety aspects to consider. It would be more appropriate to amend this clause to “as soon as practically possible or at a mutually convenient time”.

Communication with the broader community

- 3.37 Trustpower supports the view that only the Independent Chairperson should make comments to the media with the agreement of the Committee. No other community members or Council representatives of the Committee should undertake any form of communication with the media, whether on behalf of the Committee or not.
- 3.38 Therefore, Trustpower seeks an amendment to this paragraph, to provide clarity around communicating with media organisations.

4.0 Conclusion

- 4.1 Overall, Trustpower is supportive of the development of the Community Consultative Committee Guidelines, and trust that the Department finds this feedback useful. To assist in reviewing Trustpower’s suggested amendments, these are provided in Appendix One below.

5.0 Appendix One

This appendix outlines all the changes that Trustpower are seeking in its submission. These are demonstrated with underline for additions and ~~striketrough for deletions~~. Only the sections of the guidelines that Trustpower has commented on are included below.

Purpose of the Committee

The purpose of a Community Consultative Committee is to provide a forum for open discussion between representatives of the Company, the community, the local council and other key stakeholders on issues directly relating to a project, including performance against any conditions, and to keep the community informed on these matters.

A Community Consultative Committee is not a decision-making body and performs an advisory role only.

More specifically, the Committee provides a forum to:

1. Establish good working relationships between the Company, the community and other key stakeholders on individual projects.
2. Allow ongoing communication of information on the project and environmental performance, which may include ~~ing about~~:
 - the progress of the development proposal, ~~of new projects~~, including site selection, design and any mitigation measures;
 - development assessment including scoping of issues for assessment and commenting on assessment documentation (optional);
 - implementation of conditions of approval and any management plans;
 - results of environmental monitoring;
 - annual review reports; and
 - outcomes of audit reports (including audits required as a condition of consent).
3. Comment on the project's performance against any conditions of approval.
4. Discuss community ~~concerns~~ enquiries and review the resolution of community ~~complaints~~ concerns.
5. Discuss how best to communicate relevant information about the project and its performance to the broader community.
6. Work together towards social, environmental and economic outcomes that benefit immediate neighbours, the local and regional community, and the development.

The Committee may:

1. Provide advice to the Company on the development of new projects and measures that could be implemented to minimise any impacts.
2. Identify key issues for the assessment of projects and comment on any assessment documentation.

- ~~3. Review the performance of the project and provide feedback to the Company and/or relevant State agencies regarding environmental management and community relations.~~
4. Where appropriate, Review draft management plans and provide suggestions for improvement.
- ~~5. Undertake regular inspections of the project's operations.~~
6. Review the Company's ~~complaints handling~~ procedures ~~and the~~ for handling of concerns or complaints from the community regarding operations, environmental management or community relations.
7. Provide advice to the Company on how to improve community relationships, including in relation to:
 - providing information to the community;
 - identifying community initiatives to which the Company could contribute; and
 - identifying emerging social, environmental and economic issues that may arise at different stages throughout the life of the project.
8. Provide appropriate information to the general community on performance with respect to environmental management and community relations.
9. Liaise with the Community Consultative Committees of other projects where there are common issues or where there is the potential for cumulative impacts, with a view to information sharing and holding joint meetings on matters of common interest.
10. Undertake any other matter required of it in the Secretary's environmental assessment requirements or conditions of approval.

Responsibility for oversight of the project's compliance with the condition of any government approvals remains with the relevant government agencies.

Members of the Committee

Community representatives

Community representatives will be selected from the local community and other stakeholder groups, including in some cases recognised environmental organisations where appropriate to the proposal.

Employees or contractors of the Company are not eligible to be appointed as community representatives.

In selecting community representatives for the Committee, preference will be given to the candidates who can represent the concerns of either a significant interest group or a variety of community interests.

The selection criteria for community representatives are:

- current residents of the area;
- demonstrated involvement in local community groups and/or activities;
- knowledge and awareness of the project and related issues of concern to the local community;
- ability to represent the local community and other stakeholders; and
- willingness to adhere to the Committee's code of conduct.

The selection criteria for environmental representatives are:

- a representative of a recognised environmental organization;
- knowledge and awareness of the project and related environmental issues of concern to the broader community;
- has technical experience in relation to the actual or potential environmental effects on site;
- ability to represent the environmental concerns of the broader community; and
- willingness to adhere to the Committee's code of conduct.

Committee Meetings

Conduct of Committee members

Meetings of the Committee should follow good meeting practice.

The Committee may agree to adopt any particular set of standard meeting practices it wishes.

However, as a minimum, Committee members and alternates are expected to:

- regularly attend meetings;
- advise the Independent Chairperson in advance if they are unable to attend meetings;
- contribute to an atmosphere of open and constructive participation;
- abide by the directions of the Independent Chairperson;
- immediately advise the Independent Chairperson of any potential or actual conflicts of interest relating to matters under discussion;
- perform their functions impartially and in the best interests of the local and broader communities;
- communicate concerns, interests and ideas openly and make reasons for any disagreement clear in a constructive and thoughtful manner;
- engage with other members of the Committee respectfully;
- maintain confidentiality where a request has been made and agreed to by the Independent Chairperson;
- put forward their views but also remain committed to open and shared dialogue; ~~and~~
- not interrupt when another member is speaking, and
- not use abusive or derogatory language towards another member of the Committee.

Committee members and alternates are expected to sign a code of conduct agreement prior to joining the Committee. This code of conduct agreement should clearly identify the standard meeting practices of the committee and expected behaviors of Committee members (refer to Toolkit).

Attendance by non-Committee members

Invitations for non-Committee members to attend Committee meetings may only be made by the Independent Chairperson. Such invitations may be issued to:

- Company representatives providing specific project or technical advice;

- technical experts or consultants; and/or
- State Government agencies. ~~and/or~~
- ~~members of the general public.~~

Pecuniary and other interests

Members must declare to the Committee any pecuniary or other interest or benefit obtained which may prevent them from undertaking their role impartially and in the best interests of the local and broader communities.

A declaration should be made in respect of any pecuniary or other interest (including any payment, gift or benefit) intended or likely to influence, or that could be reasonably perceived by an impartial observer as intended, or likely to influence, the member to:

- act in a particular way (including making a particular decision);
- fail to act in a particular circumstance; and/or
- otherwise deviate from the proper exercise of their duty as a member.

Examples of pecuniary or other interests include holding shares in the Company, holding a private contract with the Company, holding voluntary acquisition rights under the Company's consent, receiving sitting fees or payments of personal expenses from the Company, or receiving mitigation measures from the Company.

These guidelines establish no requirement in respect of personal interests other than declaration, and it may be in the best interests of the Committee that those persons are able to maintain their participation (for instance should they become a potential host of project infrastructure on their land). However, the Committee may determine that a personal interest is sufficient that a member should withdraw from discussion on a particular issue.

Committee training

~~The Committee may seek funding or other assistance from the Company to gain the training or skills development necessary to achieve the purposes of the Committee.~~

~~It is recommended that new committee members in particular are provided with suitable induction training to help equip them for their new role.~~

~~Induction may include training or skills development in:~~

- ~~facilitation or mediation (for the Independent Chairperson);~~
- ~~conflict resolution (for either the Independent Chairperson or Committee members); and~~
- ~~best practice environmental management and community relations (for either the Independent Chairperson or Committee members).~~

~~The Company should support any reasonable requests from the Committee for such training.~~

Dispute resolution

Although the Committee is not a decision-making body, it is encouraged to discuss and seek agreement on all matters that may be the subject of substantial disagreement between its members. The Independent Chairperson carries a particular responsibility in dispute resolution, in

respect of both disputes between members of the Committee and also between the Committee and the Company.

If a dispute between the Committee and the Company cannot be resolved by the Independent Chairperson, the Chairperson should seek the advice of the Department.

For example, advice may be sought from the Department in determining ~~whether the Company is complying with any conditions of approval or~~ whether the Company's response to community complaints has been appropriate.

Responsibilities of the Company

The Company shall regularly provide the Committee with timely, accurate and comprehensive reports on the state of a project, including the development of the project, any operations, environmental performance and community relations, where these reports are relevant and not commercially sensitive.

The Company shall also provide the Committee with copies of:

- the project's conditions of approval, and other relevant documentation including management plans;
- monitoring results;
- annual review reports;
- audit reports (including audits required as a condition of consent);
- reports on community concerns or complaints and Company responses; and
- any other information specified by the Secretary.

Annual review reports, audit reports, monitoring reports and so on are to be distributed to Committee members ~~at the same time as~~ within one month from when they are submitted to agencies. ~~These documents should be easy to understand and written in plain English.~~

The Company shall consult with the Committee prior to seeking approval for a modification to its conditions of consent, to change operational requirements or to expand its operations.

The Company shall respond in a timely fashion to any questions asked or advice given by the Committee about the Company's environmental performance or community relations.

The Company shall forward to each Committee member within 28 days of the Committee's meeting:

- a copy of the draft minutes (if they are recorded by the Company);
- the Company's response to any questions or advice by the Committee; and
- any information requested at the meeting by the Independent Chairperson.

The Company shall organise regular ~~inspections~~ site visits of the project for the Committee. The frequency of ~~inspections~~ site visits is to be determined by the Committee, but the ~~inspections~~ site visits should usually be undertaken in conjunction with committee meetings.

In addition, the Company shall accommodate any reasonable request by the Independent Chairperson for the Committee to undertake additional ~~inspections~~ site visits ~~as soon as practically possible or at a mutually convenient time, provided at least 48 hours' notice has been given to the Company by the Independent Chairperson.~~

Communication with the broader community

Committee members are encouraged to discuss issues and disseminate information about the project with the wider community, including special interest groups. If appropriate, the Independent Chairperson of the committee may also give briefings to community organisations such as the Chamber of Commerce, environmental or heritage organisations and P&C Committees.

The Committee may agree to release statements or other information to the media or to adopt other approaches to public dissemination of information. However, only the Independent Chairperson may speak publicly on behalf of the Committee. ~~Individual Committee members may make comments to the media or in public forums on behalf of themselves or the stakeholders which they represent, but not on behalf of the Committee.~~

There is a presumption that all documents and other information considered by the Committee should be generally available to the community.

However, any Committee member may request that particular information (e.g. a declaration of a personal interest, site visit photos, or information which the Company considers to be commercial-in-confidence) be kept confidential by the Committee.

In the absence of full consensus amongst the Committee over whether such information should be kept confidential, the decision of the Independent Chairperson shall be final and binding on all members.