

Planning Legislation Updates 2017

NSW Department of Planning and Environment

GPO Box 39

SYDNEY NSW 2001

3 April 2017

Dear Secretary,

AGL Energy Submission to the *Environmental Planning and Assessment Act 1979*

AGL Energy Limited (AGL) welcomes the opportunity to make a submission to the NSW Department of Planning and Environment (DP&E) on proposed amendments to the *Environmental Planning and Assessment Act 1979* (EP&A Act).

AGL supports the development of a robust planning and assessment framework for energy projects that:

- > Enables sustainable development;
- > Provides increased community participation aimed at enhancing the accountability of decision-makers, promoting transparency and confidence in the planning system;
- > improves environmental impact assessment processes; and
- > delivers a more effective integration of development consents and other statutory approvals for State significant developments.

AGL has invested \$3 billion in renewable energy assets over the past decade and owns and operates large coal-fired, gas-fired and embedded electricity generation, and upstream gas production while providing energy solutions to over 3.6 million customers nationally.

We recognise that AGL must play a leading role in reducing emissions while **maintaining reliable and secure energy supply to NSW**. Our *Greenhouse Gas Policy* commits us to closing our coal-fired power stations by 2050, starting with Liddell and Bayswater Power Stations in 2022 and 2035 respectively. AGL supports the NSW Government's commitment to net-zero carbon emissions by 2050.

AGL's significant experience in developing and operating a wide range of NSW energy projects has made it very aware of the importance of ensuring a robust and streamlined project assessment framework that can deliver a sustainable energy future for our investors, communities, and customers.

This submission:

- draws on AGL's experience and expertise in developing and operating energy projects
- focuses on the opportunities available in the *Environmental Planning and Assessment Amendment Bill 2017 (Bill)* to ensure that the energy sector is best placed to continue to deliver and operate the energy projects required to support NSW's growing energy needs.

State Significant Infrastructure

AGL supports the Government's approach to reduce complexity and overall assessment times while providing a transparent and accountable process for State Significant Infrastructure and State Significant Development.

It is critical that amendments to the Act do not have the unintended consequence of compromising the **security and reliability of energy supply to NSW**.

AGL submits that a consistent approach should be taken to the treatment of state significant energy infrastructure in the Bill. The Bill proposes to transition all existing Part 3A approvals to State Significant Development (**SSD**) or State Significant Infrastructure (**SSI**), and sets out categories of activities that will be transitioned. The Bill proposes to reclassify all Part 3A approvals for energy projects as SSI. AGL supports this change and this reclassification.

The Bill is unclear regarding the treatment of energy infrastructure which is currently classified as SSD. AGL submits that any energy infrastructure that is currently classified as SSD (and which was approved by means other than Part 3A) should also be reclassified as SSI. This would enable the consistent and clear treatment of all state significant energy infrastructure under the Bill.

Significantly, such a clarification would extend the benefit of the modification power under Section 115ZI of the EP&A Act to all energy infrastructure which is SSI, and the associated exemption within that section which allows infrastructure to be modified without further approval if it is consistent with the existing approval.

If this clarification is not made, AGL is concerned that any modification of approvals for energy infrastructure which is currently SSD will be unnecessarily restrictive. In turn, this is likely to create a significant operational burden on complex and large scale generation assets

Assessment of major projects

AGL supports the development of a robust environmental planning and assessment framework which provides a range of improvements including:

- > clear expectations on effective community consultation, including opportunities for community input throughout the decision making process;
- > clear, concise, and consistent guidance to facilitate community understanding of impacts (both positive and negative) arising from energy projects, along with an appropriate level of assessment for impacts during the approvals process
- > an improved environmental impact assessment process;
- > the delivery of strategic and cost effective major infrastructure projects; and
- > a new streamlined assessment and public hearing process.

We agree that early, effective "front-end loading" of community engagement for state significant projects (such as large energy projects) should be incorporated into environmental impact statements. This is aligned with AGL's recently updated *Community Engagement Policy* that has been informed by industry best practice, including the International Association of Public Participation (IAP2) *Quality Assurance Standard* (2015) and the Accountability *AA1000 Stakeholder Engagement Standard* (2011). AGL's *Community Engagement Policy* articulates our vision to be a trusted and respected member of communities where we propose to operate, and to ensure our engagement activities exceed baseline regulatory requirements.

AGL supports the Government's legislative amendment to improve the environmental impact assessment process, and the updating of engagement tools. Providing clarity on guidance of and requirements for consent authorities will minimise project approval timeframes and costs whilst also ensuring quality decision making in respect of critical infrastructure projects is not delayed.

Imposition of conditions

AGL supports the insertion of a “transferrable” conditions mechanism in the proposed new Section 80A (4A) – *Conditions replaced by other legislative controls*. This change will streamline multiple approval processes and assist in minimising duplication and overlap between approvals.

The Bill proposes a new power to impose conditions relating to financial assurance to carry out works or programs under consent in Section 80A (4B). AGL objects to this provision in respect of wind farm developments, where turbines are constructed on private land. This is on the basis that failure to carry out appropriate rehabilitation would be a breach of development consent, which would require rectification works.

If this type of provision is introduced, AGL would recommend an option that would consider a “financial and technical capability” threshold criteria, so that where a proponent can demonstrate financial and technical capability, no additional financial assurance is required. This provision is common in other jurisdictions and AGL would be happy to provide additional information if it is of assistance.

Conclusion

Overall, AGL supports the Bill and the NSW Government’s objectives to streamline the planning system, and ensure high-quality decisions and planning outcomes.

However, the draft Bill should be amended to enable classification of all state significant energy infrastructure as SSI to occur.

The energy sector is undergoing a rapid technological transformation at the same time as it transitions to a carbon constrained future.

Classifying state significant energy infrastructure as SSI is important as it will ensure a consistent treatment with requisite flexibility in modifying energy projects as the energy sector undergoes a rapid transformation.

We would be happy to discuss our submission with DP&E in more detail. Feel free to contact myself on 0408 131 236 or Amer Hussein, Manager Government & Community Relations on 0422 315 889 or ahussein@agl.com.au.

Yours sincerely,



Tony Chappel

Head of Government & Community Relations