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26 February 2013

Ms Anna Timbrell
Planning Officer - Infrastructure Projects (Energy)
NSW Department of Planning & Infrastructure

via e-mail

**REQUEST TO MODIFY A MAJOR PROJECT OR CONCEPT PLAN
BAMARANG POWER STATION (Application No. 06_0029) – Mod 5**

Dear Anna,

In November 2012, Lumo Generation NSW Pty Ltd submitted a Request for Modification of its proposed Bamarang Power Station project. The application ID notified by DoP is Part3AMod 12_5674 (Part3A 1). The purpose of this letter is to address four matters relating to this application which you identified in your subsequent e-mail of 27 November 2012. Please note that matters 1 and 2 are jointly dealt with in item 1, below.

1. Circumstances which have caused Lumo to seek an extension of the approval lapse date and justification for seeking a 5-year extension

Lumo Generation NSW Pty Ltd ("Lumo") purchased the Bamarang project from Delta Electricity (a NSW Government-owned business) in February 2011. At that time, forecasts for growth of electricity demand in NSW (and the greater National Electricity Market) predicted that additional electricity generating capacity would be required in NSW in 2016/17¹. The Bamarang Power Station Project ("Bamarang Project") was well placed to capture that opportunity.

¹ Note: All references in this paper to forecasts of supply and demand for electricity refer to forecasts published by the independent energy market operator, AEMO (Australian Energy Markets Operator), and its predecessor, NEMMCO (National Electricity Market Management Company). In August each year, AEMO publishes a document entitled "Electricity Statement Of Opportunities for the National Electricity Market" ("ESOO"). These documents are publicly available from the AEMO website.

When Lumo bought the Bamarang Project from Delta, the Part 3A Approvals, which were originally issued in February 2007 for a period of 5 years, were due to lapse in February 2012. In June 2011, Lumo sought an extension to its Approvals by 5 years to February 2017. Reasons for the extension were twofold:

- (i) It was not deemed by Lumo to be expedient to commence construction of a new power station in NSW prior to the expiry of the current Approvals. Supply/Demand forecasts at the time, (2010 ESOO), were predicting that new power generation plant would not be required in NSW until 2016/17 (a delay of some 8 years from similar forecasts available at the time that the Bamarang Project was originally approved in February 2007). With a lead-time of 3 years², project commitment and commencement was not required until 2013/14 in order to meet a 2016/17 operation date. Based upon this schedule, the original Approvals would have expired before commencement; and
- (ii) Lumo, having just acquired the project from Delta Electricity, needed more time to fully familiarise itself with, and comprehend the status of, the various components of the Bamarang Project as purchased, and to adapt the project to meet its own, specific business needs.

A 5-year extension was considered reasonable as it mirrored the initial duration of the Approval, and it brought the total term of the Approval to 10 years, which matched the duration initially approved by DoP for the similar Marulan project.

In September 2011, a Modification to Approval (Mod 3) was granted with a 2-year extension which, although less than requested, allowed Lumo to continue to plan and develop the project towards a projected 2016/17 commissioning date.

Since this initial extension of the Approval lapse date, AEMO has published two further editions of the ESOO. The first, published in August 2011, forecast a further 2-year delay to the requirement for new power generating capacity in NSW. The second edition, published in August 2012, further delayed the predicted requirement for new capacity until beyond 2021/22 (being the forecast horizon beyond which the ESOO did not project).

Hence, the forecast date of the requirement for additional generating capacity in NSW has been delayed by at least 6 years from that which prevailed at the time that Lumo purchased the Bamarang Project in February 2011.

On the basis of current forecasts, and with a Project lead-time of 3 years, Lumo does not expect to commit to the Bamarang Project until around 2018/19. An extension by 5-years of the current expiry date of the Approvals

² Three years lead time allows one year for project planning and the negotiation and confirmation of commercial arrangements (for construction contracts, network connection agreements, etc.) and two years for construction and commissioning of the power station

to February 2019 fits with this timeframe. A 5-year extension also matches the original duration of the Approval issued in 2007, and so Lumo presumes that this is a reasonable request to make because it fits with a development horizon with which DoP and reviewing agencies have previously been comfortable.

2. Discussions with Agencies

During January and February 2013, Lumo consulted with Shoalhaven City Council (Council), the Environmental Protection Authority (EPA) and the Office of Environment and Heritage (OEH) in relation to the proposed extension to the lapse date. These discussions, and Lumo's own investigations into changes in legislation, regulations, regional planning guidelines and zoning and development around the Bamarang site since February 2007, have led it to conclude that there have been no significant changes which would make the site any less suitable for the construction and operation of a power station than when it was first approved in 2007.

EPA

Lumo met with Julian Thompson, Unit Head of EPA's South East Region, on 6 February 2013. At that meeting, Julian advised that "EPA has no major issues with the duration of the approvals being extended by five years".

Julian explained that, following a re-organisation in 2012 within the Department of Environment & Climate Change, the EPA's primary areas of responsibility are air quality, noise and water. Julian explained that the regulations and guidelines which the EPA applies when evaluating the environmental impact of a project have not changed since the Bamarang Project was assessed by the EPA leading up to Project Approval in February 2007. In assessing an extension to the Project Approvals today, the EPA would apply the same regulations and guidelines as it did in 2007 and would, therefore, arrive at the same conclusions, recommendations and conditions placed on the development as previously. Accordingly, Julian does not expect that an extension of five years to the Project Approvals will have a material impact on EPA's view of the project.

OEH

Allison Treweek, Regional Biodiversity Conservation Officer, provided a response on behalf of OEH. Allison advised that "OEH would not have issues with a 5-year extension as long as the current approval conditions continue to apply." Apart from the extension of the lapse date, Lumo is not seeking any other changes to the current conditions of its Project Approvals. As noted in Item 3, below, if the term of the Project Approval is extended by 5 years to February 2019, then it will withdraw its (separate) application for Modification to Approval in regard to deletion of conditions 1.6A and 1.6B (Mod 4). This modification has been a concern for OEH because of the assessed impact on flora and fauna arising from the clearing of bushland associated with a second corridor through highly valued bushland in the Shoalhaven area required to accommodate the proposed 330kV connection for the Bamarang Project.

Council

During January 2013, Lumo contacted John Britton, Shoalhaven City Council's Part 3A Coordinator, and explained that it was seeking a 5-year extension to its Project Approvals for the Bamarang Project. Lumo sought a meeting with Council to explore whether there had been any changes to planning schemes in the Bamarang area since initial Project Approval was granted in February 2007, and how such changes might conflict, going forward, with the Bamarang Project. Lumo also sought to discuss with Council how recent residential and other developments in the vicinity of the Bamarang site might compromise previous assessments of air quality and noise impacts of the Bamarang Project on the surrounding community.

John consulted broadly within Council with those officers whose responsibilities encompass the activities associated with a Bamarang Project. Following those consultations, John reported that, while Council sees some issues associated with the construction of related project infrastructure - in particular, the route of the 132kV connection to Endeavour Energy's Shoalhaven sub-station - nothing has changed in regard to the planning impacts of the project.

John advised that "Council does not object to a further extension of the approval" and that from Council's perspective the planning impacts of the project remain the same as they were when the project was first given Approval in February 2007. John further advised that, as Shoalhaven Council's Part 3A co-ordinator, DoP would contact him when they have received Lumo's application for an extension to its Approvals, and that, having already carried out all necessary internal consultations, he would be in a position to confirm Council's position without further referral.

On that basis, John advised that Council felt that a meeting with Lumo to discuss a 5-year extension was not required.

John also provided a draft of Council's proposed updated Local Environmental Plan ("Draft LEP") which was publicly exhibited during the second half of 2011. Lumo commissioned consultants, Beca, to undertake a review of the Draft LEP and to compare its zoning provisions with those of the current LEP. Beca found that while many of the land use zones are proposed to be consolidated and renamed, the controls in the vicinity of the Bamarang Power Station would essentially remain consistent. The primary points of note are:

- The Project site is to be rezoned from General Rural to Infrastructure, recognising the intended use of the site.
- Nature reserve areas, including those surrounding the Bamarang site are proposed to be rezoned to National Parks and Reserves Zone, thereby providing consistency with the National Parks and Wildlife Act.
- Land to the east of the site is proposed to be rezoned from Rural to General Residential and Large Lot Residential, indicating the intention for further residential development in that area. This is consistent with the proposed development areas that Council has flagged during

previous consultations and is not expected to result in any adverse sensitivity potential as the proposed residential land is in excess of 1.5km from the Bamarang site.

- Rezoning of the road reserve containing Yalwal Road to Infrastructure, indicating the intention that the road reserve will be maintained for that purpose.

Beca's advice, in summary, is that the draft LEP does not suggest any inconsistent strategic direction for the site or surrounding areas that will conflict with the construction of the Bamarang Project, and that the proposed changes are inconsequential to the proposed extension of the lapse date for the Project Approvals.

3. Current Mod to remove uncertainty of 330kV connection

In July 2012, Lumo applied to DoP for a Modification to Approval for the Bamarang Project (Mod 4) to remove conditions 1.6A and 1.6B which make the project's ability to connect to TransGrid's 330kV transmission system conditional on TransGrid's activities in regard to the construction of the proposed Tomerong 330/132kV sub-station. At the time of making the Mod 4 application, Lumo was continuing to develop the Bamarang Project to a schedule dictated by the expiry of its Permits in February 2014. Lumo was pursuing numerous parallel activities, including development of the HV connection for the power station, leading towards making a commitment to proceed with the project before the expiry of its Permits in February 2014. For reasons of cost and complexity, Lumo wished to focus on only a single HV connection path. It was (and remains) Lumo's preference to connect its Bamarang Project to TransGrid's transmission network at 330kV, but its ability to do so is uncertain and depends on when/if TransGrid proceeds with the construction of its Tomerong sub-station project.

The status and development timeframe of TransGrid's Tomerong project was (and remains) unclear. Lumo has consulted with TransGrid regarding this matter. TransGrid remain confident that their Tomerong project will be constructed, and that this will occur sooner rather than later, but they are unable to give a firm date for construction to commence. Lumo understands that TransGrid is currently preparing an application for the necessary Approvals to construct the Tomerong project, but the timing of making application, and the likelihood of success of such application, remains uncertain.

In making its Mod 4 application, Lumo had realised that if it proceeded to develop its Bamarang project on the basis of a HV connection at 330kV to TransGrid's transmission network, then there was a possibility that, before Lumo could commit to construct the Bamarang project, TransGrid would commence construction of its Tomerong project. This action by TransGrid would trigger condition 1.6A of Lumo's Project Approval and thereby require Lumo to connect at 132kV into Endeavour Energy's Shoalhaven sub-station.

Such an event would result in both a substantial delay (of perhaps 12-24 months) to the Bamarang project and a cost penalty to Lumo from having to commence, essentially from scratch, all the actions and activities required to provide for the development of a 132kV connection. Lumo sought to remove this source of uncertainty by seeking a Modification to Approval to have conditions 1.6A and 1.6B deleted from its Project Approvals.

Since making application for Mod 4, and following publication of AEMO's ESOO 2012, Lumo has realised that it can reasonably expect to defer the planned commissioning date for its Bamarang project by at least 4 years. Such deferral is, of course, dependent on the success of this application to have the duration of its Approvals extended. Such a delay means that Lumo does not need immediate resolution of the uncertainty regarding the mode of HV connection of its Bamarang project. Lumo expects that in the intervening period, TransGrid's plans to construct its Tomerong sub-station project will become better defined and thereby provide Lumo with the certainty that it needs to develop the HV connection component of its Bamarang project. That being the case, if Lumo is granted a 5-year extension to the duration of its permits for the Bamarang project, it will withdraw its application for Modification in regard to deletion of conditions 1.6A and 1.6B (Mod 4).

This additional information complements that provided in November 2012 at the time of our original application. I attach with this letter copies of e-mails received from Allison Treweek (OEH) and John Britton (Council) which confirm the positions of their respective organisations regarding an extension to the lapse date of Approvals for the Bamarang Project. I trust that you now have sufficient information to allow DoP to consider Lumo's submission. Please contact me if you require anything further. I look forward to hearing from you and learning of DoP's determination in this matter.

Yours sincerely



Ian Miller
Manager, Development and Asset Management