

CHAPTER 5

Planning Context

5. PLANNING CONTEXT

This chapter of the Environmental Assessment (EA) addresses any relevant statutory provisions in relation to the Boco Rock Wind Farm. It also includes an overview of the approval processes required for the proposed transmission line, which is separate from this Project.

The development of the Project requires:

- Project approval under Part 3A of the New South Wales (NSW) *Environmental Planning and Assessment (EP&A) Act, 1979*; and
- Consideration of the requirements of the Commonwealth's *Environment Protection and Biodiversity Conservation (EPBC) Act, 1999*.

In addition, relevant Federal, State and Local Government legislation, policy and guidelines are considered and described in the following sections.

5.1 Federal Government Legislation and Policy

5.1.1 *Environment Protection and Biodiversity Conservation Act 1999*

The EPBC Act is the central piece of environmental legislation for the Australian government. It provides the legal framework to protect and manage matters of national environmental significance, while also considering cultural values and society's economic and social needs.

Under the Act, the Proponent must conduct a Protected Matters Report to assemble technical information depending on the level of assessment. The Proponent conducted a Protected Matters Report on the 5th July 2007 using the protected matters search tool with a 20 kilometre buffer, addressing the seven matters of National Environmental Significance (NES) (see **Appendix 10**). The results of the report and the impacts on the Project are discussed in **Chapter 10** Flora and Fauna.

The Commonwealth and NSW Government have an accredited assessment process in place for 'Controlled Actions' allowing assessments under the *EP&A Act* (Parts 3A, 4, 5) to be automatically accredited under the *EPBC Act*. A 'Controlled Action' is decided by the Commonwealth and the accredited assessment process reduces the amount of duplication that could occur in an EA for a project.

On 18th August 2009, the Federal Minister for the Environment determined that the Project would constitute a Controlled Action pursuant to Section 75 of the *EPBC Act*. The Controlled Action decision enables the accredited assessment to occur under the *EPBC Act*. An accredited assessment, under the *EPBC Act*, is a written agreement between the Commonwealth and a State or Territory that allows for accreditation of State environmental processes and systems by the Commonwealth. In this context, an accredited process is one that is run by a State for which the Commonwealth agrees beforehand satisfies its own legal and/or policy requirements, thus doing away with the need for a separate process. Accredited assessments still allow the Commonwealth to decide if a proposal should go ahead after the completion of the State assessment process.

Subsequently, the Department of the Environment, Water, Heritage and the Arts (DEWHA) have provided the Proponent with supplementary Director-General's Requirements (DGR's) on the 18th September 2009, which applies to the accredited assessment process.

The supplementary DGR's specifically focus on matters of NES, in particular the controlling provision of 'Threatened Species and Threatened Ecological Communities'. The supplementary DGR's state that:

"The description and assessment of these issues in the Environmental Assessment must be integrated as far as practicable with the description and assessment of the other flora and fauna impacts of the project. However, a separate stand alone chapter or summary specifically addressing impacts on the relevant protected matters/controlling provisions under the EPBC Act, together with any commitments or proposed measures to mitigate such impacts, should also be included in the Environment Assessment."

Due to the high level of integration and overlap between issues of interest at both the Commonwealth and NSW level, a separate chapter or summary has not specifically been included in the EA. However, matters relating to threatened species and communities are addressed in **Chapter 10** Flora and Fauna of this EA document and in **Appendix 10**. The full list of DGR's are included in **Appendix 3** and **Table 5.2** below has been provided to ensure ease of reference and to demonstrate compliance with the supplementary DGR's.

5.1.2 **Civil Aviation Safety Regulations 1998**

Part 139 of the *Civil Aviation Safety Regulations (CASR) 1998* prescribes the requirements for aerodromes used in air transport operations. The advisory circular *AC 139-08 (0) Reporting of Tall Structures*, requires developers outside of aerodromes with structures 110 m or more above ground level to notify the Royal Australian Air Force (RAAF) Aeronautical Information Service (AIS) who maintain a tall structure database. Notification also allows Civil Aviation Safety Authority (CASA) to determine whether or not the structure(s) will be hazardous to aircraft operations. *The AC 139-18 (0) Obstacle Marking and Lighting of Wind Farms* (currently withdrawn and under review) suggests appropriate lighting on structures over 110 m meters. The amount of lights required is dependent on the CASR and CASA recommendations.

The Project will have turbines greater than 110 m in height as discussed in **Chapter 3** Project Description, so CASA and the RAAF have been informed as discussed in **Chapter 6** Stakeholder Consultation. The recommendations from CASA are discussed in **Chapter 13** Aviation.

5.1.3 **Radiocommunications Act 1992**

Part 4.1 Standards and other technical regulation of the *Radiocommunications Act 1992*, is designed to make systems, such as wind turbines, efficient, flexible and responsive in the interference of radio emissions. The standards also require an adequate level of immunity from electromagnetic disturbances.

As wind turbines and associated ancillary structures produce electromagnetic fields, the Project has the potential to interfere with radiocommunications as discussed in **Chapter 14** Communication Assessment.

5.1.4 *Directory of Important Wetlands in Australia*

The Directory of Important Wetlands is a database of Ramsar defined wetlands in Australia, developed by the Australian government and State and Territory nature conservation agencies.

There are two recorded wetlands within a 20 km radius of the Project, as noted in **Appendix 10** and discussed in **Chapter 10** Flora and Fauna.

5.1.5 *Renewable Energy Target*

The Renewable Energy Target (RET) aims to acquire 20 % of Australia's electricity from renewable sources by 2020. The RET will commence with a target of 45,000 GWh to be generated from renewable sources by 2020. After that, each year the target will remain at 45,000 GWh until 2030 when the RET will cease operation.

Chapter 4 Project Justification, discusses how the Project will help to meet the targets of the RET by producing renewable energy for Australia's electricity grid.

5.2 State Government Legislation, Policy and Guidelines

5.2.1 *Environmental Planning and Assessment Act 1979*

In NSW, wind farm developments are subject to the *EP&A Act* and relevant instruments that are created under it, including Part 3A Major Infrastructure, Section 75C 'Critical Infrastructure', Section 75I DGR's, Section 75JA Biobanking-Special Provisions and Part 1 Section 5. With regard to the provisions of Part 1 Section 5, the Project takes into consideration the following as listed in **Table 5.1**.

Table 5.1 Part 1, Section 5 and where addressed within the EA

Section 5	Chapter of EA
(a) to encourage:	
(i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,	Chapter 3 to Chapter 20
(ii) the promotion and co-ordination of the orderly and economic use and development of land,	Chapter 4 and Chapter 19
(iii) the protection, provision and co-ordination of communication and utility services,	Chapter 3, Chapter 4 and Chapter 14
(iv) the provision of land for public purposes,	n/a

(v) the provision and co-ordination of community services and facilities, and	Chapter 19
(vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and	Chapter 10
(vii) ecologically sustainable development, and	Chapter 4, Chapter 5, Chapter 10 and Chapter 19
(viii) the provision and maintenance of affordable housing, and	n/a
(b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and	Chapter 5 and Chapter 6
(c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.	Chapter 6

The NSW Department of Planning (DoP) is responsible for ensuring that the requirements of the *EP&A Act* and its regulations are addressed for developments where the Minister for Planning has the Approval Authority.

5.2.2 **State Environmental Planning Policy (Major Projects) 2005**

The Major Project policy allows the NSW Government to focus on projects that are most significant and vital to the future of NSW as a whole. A proposal is classified as a Major Project depending on the location, economic importance, environmental impact or development type. The Project is classified under Schedule 1 as a Major Project, as it is part of the transport, energy and water infrastructure and under Part 24 it has “capital investment value of more than \$30 million, or has a capital investment value of \$5 million and is located in an environmentally sensitive area of State Significance”. Once a proposal has been classified as a Major project under section 75R of the *EP&A Act*, Parts 4 and 5 are no longer applicable, except under Division 6 and 6A of Part 4 which addresses development contributions.

A Major Project can also be classified as a critical infrastructure project under Section 75C of the *EP&A Act*, if the proposal is considered to be essential for the State for economic, environmental or social reasons.

The Critical Infrastructure provisions:

- ensure the timely and efficient delivery of essential infrastructure projects;
- allow the Government and the planning system to rapidly and readily respond to the changing needs of the State;
- provide certainty in the delivery of these projects; and
- provide for rigorous scrutiny to ensure environmental outcomes are appropriate focus on delivering outcomes essential to the NSW community.

A project that is declared to be essential to the State is subject of a full and thorough environmental assessment by the Director-General, with particular emphasis given to ensuring the proposal goes ahead in an environmentally appropriate and sustainable manner. The environmental assessment process for Critical Infrastructure projects is the same as for any other major project. The Boco Rock Wind Farm has been declared to be essential to the State and determined as Critical Infrastructure since it will produce greater than 30 MW.

5.2.3 *Director-General's Requirements*

After the submission of the Preliminary Environmental Assessment (PEA) on the 15th May 2009, the Director-General of the DoP established requirements known as the DGR's on 1st June 2009 (Ref S08/01118). The DGR's, as listed in **Appendix 3**, include key and additional issues for the Proponent to address in the EA with a focus on impacts, management and mitigation strategies. **Table 5.2** summarises the requirements, including those supplementary DGR's provided by DEWHA, and where each issue is addressed within the EA.

Table 5.2 Outline of DGR's as issued by the DoP on 1st June 2009 and supplementary DGR's issued on 18th September 2009 and where addressed within the EA

Director-General's Requirements	Chapter of EA
General Requirements	
Executive summary	Chapter 1
Detailed description of the proposal, including an overview of the proposed power line connection	Chapter 3
Relevant statutory provisions	Chapter 5
Assessment of issues (outlined below)	Chapters 7 to 19
Statement of Commitments	Chapter 20
Conclusion justifying the Project	Chapter 21
Certification of the authors of the EA	Chapter 23
Assessment Requirements	
Project Justification	Chapter 4
Assessment of key issues	Chapter 7
Visual	Chapter 8
Noise	Chapter 9
Flora and fauna	Chapter 10
Cultural heritage	Chapter 11
Traffic and transport	Chapter 12
Aviation hazard	Chapter 13
Communication	Chapter 14
Electromagnetic fields	Chapter 15
Fire and bushfire hazard	Chapter 16
Water	Chapter 17
General environmental assessment	Chapter 18
Socio-Economic	Chapter 19

Director-General's Requirements		Chapter of EA
Consultation Requirements		
Appropriate and justified level of consultation with agencies and community		Chapter 6
Supplementary Director-General's Requirements	Section of Appendix 10	Chapter of EA
General Information	n/a	Chapters 1 to 5
Description of the controlled action	Chapter 2	Chapters 3 and 4
Description of the relevant impacts of the controlled action	Chapter 5, Appendix L and O	Chapters 3 and 4
<p>a) An assessment of all relevant impacts with reference to the EPBC Act Policy Statement 1.1 <i>Significant Impact Guidelines on Matter of National Environmental Significance</i> (May 2006) that the action has, will have or is likely to have on Threatened species and threatened ecological communities potentially present and listed under sections 18 and 18A of the EPBC Act, including, but not limited to, the Grassland Earless Dragon (GED) and Natural Temperate Grassland (NTG).</p> <p>b) Information must include:</p> <ul style="list-style-type: none"> • A description of the relevant impacts of the action on Matters of NES • A detailed assessment of the nature and extent of the likely short term and long term relevant impacts • A statement whether any relevant impacts are likely to be unknown, unpredictable or irreversible • Analysis of the significance of the relevant impacts 	Section 5.2, 5.4 and 5.5, Appendix L and O	Chapter 10
<ul style="list-style-type: none"> • Any technical data and other information used or needed to make a detailed assessment of relevant impacts 	Chapter 8	Chapter 10
<p>c) A description of the relevant impacts on NTG should include direct, indirect, cumulative and facilitative impacts on the:</p> <ul style="list-style-type: none"> • Quality or integrity of the NTG (including but not limited to, assisting invasive species that are harmful to the NTG to become established,; or causing regular mobilisation of fertilisers, herbicides or other chemicals or pollutants into the NTG which kill or inhibit the growth of species in the ecological community 	Sections 5.2.3, Table 20 and 5.5, Appendix L and O	Chapter 10

Supplementary Director-General's Requirements	Section of Appendix 10	Chapter of EA
<ul style="list-style-type: none"> • Extent of the NTG, including connectivity with other areas of NTG • The GED at, in or in any way dependant upon, the NTG • Composition of the NTG • Habitat present on site critical to the survival of the NTG • Abiotic (non-living) factors (such as water, nutrients and soil) necessary for the NTG's survival, for example increasing groundwater levels or making the site wetter, soil disturbance or substantial alteration of surface water drainage patterns <p>These impacts should be described for the constriction and operation phases of the Controlled Action</p>		
<p>d) A description of the relevant impacts on the GED should include, inter alia, direct, indirect cumulative and facilitative impacts on the:</p> <ul style="list-style-type: none"> • Population of the GED • Area of occupancy of the species • Habitat critical to the survival of the species • Breeding cycle of the population • Availability or quality of habitat for the species 	<p>Sections 5.2.1, 5.4.1 Table 1 and 5.5, Appendix L, N and O</p>	<p>Chapter 10</p>
<p>Other relevant NES matters: Striped Legless Lizard</p>	<p>Sections 5.4.1 Table 23 and 5.5, Appendix L and O</p>	<p>Chapter 10</p>
<p>4. Proposed safeguards and mitigation measures</p>	<p>Section 5.2 and 5.3, Appendix L and N</p>	<p>Chapters 10 and 20</p>
<p>A description of feasible mitigation measures, changes to the controlled action or procedures, which have been proposed by the Proponent or suggested in public submissions, and which are intended to prevent or minimise relevant impacts. Information must include:</p>	<p>Section 5.2 and 5.3, Appendix N</p>	<p>Chapters 10 and 20</p>
<p>a) A description, and an assessment of the expected or predicted effectiveness of, the mitigation measures</p>	<p>Section 5.3, Appendix L and O</p>	<p>Chapters 10 and 20</p>
<p>b) Any statutory or policy basis for the mitigation measures</p>	<p>n/a</p>	<p>Chapter 5</p>
<p>c) The cost of mitigation measures</p>	<p>Estimated at least \$1 million</p>	

Supplementary Director-General's Requirements	Section of Appendix 10	Chapter of EA
d) An outline of an environmental management plan that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including provisions for independent environmental auditing	Section 5.3	Chapter 20
e) Name of the agency responsible for endorsing or approving each mitigation measure or monitoring program	Section 3	Chapter 5
f) A consolidated list of mitigation measures proposed to be undertaken to prevent, minimise or compensate for the relevant impacts of the action	Section 5.2 (avoidance) Section 5.3 (mitigation) Chapter 6 (offsets and compensation)	Chapter 20
Other approvals and conditions	n/a	Chapter 5
Economic and social matters	n/a	Chapter 19
Environmental record of the person proposing to take the action	n/a	Chapter 2
Information sources	n/a	Chapter 23
Consultation	n/a	Chapter 6
Resources considered in this EA		
<i>Wind Energy Facilities draft Environmental Impact Assessment Guidelines (Panning NSW, June 2002)</i>		
<i>Best Practice Guidelines for Implementation of Wind Energy Projects in Australia (Auswind, 2006)</i>		
<i>Wind Farms and Landscape Values: National Assessment Framework (Australian Wind Energy Association and Australian Council of National Trust, June 2007)</i>		
<i>Cumulative Risk for Threatened and Migratory Species (Commonwealth Department of Environment and Heritage, March 2006)</i>		
<i>Wind Farms and Birds: Interim Standards for Risk Assessment (Auswind, July 2005)</i>		
<i>Assessing the Impacts on Birds - protocols and Data Set Standards (Australian Wind Energy Association)</i>		
<i>Threatened Biodiversity Survey and Assessment - Guidelines for Developments and Activities (Working Document) (DEC, 2004)</i>		
<i>Advisory Circular 139-18(0) Obstacle Marking and Lighting of Wind Farms (Civil Aviation Safety Authority, July, 2007). Note: this advisory is currently withdrawn however a replacement has to date not been issued.</i>		
<i>The NSW State Groundwater Quality Protection Policy (DLWC, 1998)</i>		
<i>The NSW State Groundwater Dependent Ecosystems Policy (DLWC, 2002)</i>		
<i>Department of Water and Energy's Guidelines for Controlled Activities (February 2008)</i>		
<i>Draft Guidelines for Aboriginal Cultural Impact Assessment and Community Consultation (DEC, July 2005)</i>		
<i>Draft Guidelines for Threatened Species Assessment (DEC, 2005)</i>		
<i>Wind Farms - Environmental Noise Guidelines (South Australian Environment Protection Authority, 2003)</i>		
<i>NSW Industrial Noise Policy (EPA, 2000)</i>		
<i>Environmental Criteria for Road Traffic Noise (NSW EPA, 1999)</i>		
<i>Environmental Noise Control Manual (EPA, 2004)</i>		
<i>Assessing Vibration: A Technical Guideline (DECC, 2006)</i>		

5.2.4 *State Environmental Planning Policy (Infrastructure) 2007*

The *State Environmental Planning Policy (SEPP) (Infrastructure) 2007* was developed to improve the efficiency of the existing planning system in delivering essential public infrastructure and services, by repealing 20 existing environmental planning instruments. The *SEPP Infrastructure* also overrides most other environmental planning instruments in the event of inconsistencies, excluding *SEPP (Major Projects) 2005*, *SEPP 14* and *SEPP 26*.

The *SEPP Infrastructure* outlines the planning processes for infrastructure projects under Part 3A, Part 4, Part 5 and exempt development. It also outlines the circumstances for the exempt development of wind monitoring masts in Clause 39(2) (a). Approximately four permanent wind monitoring masts will be required for the duration of wind farm operation, which is discussed in **Chapter 3** Project Description.

5.2.5 *State Environmental Planning Policy (Rural Lands) 2008*

The *State Environmental Planning Policy (SEPP) (Rural Lands) 2008* main aims are to:

- Facilitate the orderly and economic use and development of rural lands for rural and related purposes;
- 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;
- Implement measures designed to reduce land use conflicts;
- 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; and
- Amend provisions of other environmental planning instruments relating to concessional lots in rural subdivisions.

The *Rural Lands SEPP* does not directly impact the land use suitability of the proposed development, rather the aims of the *Rural Lands SEPP* are to ensure agricultural lands are not compromised by the pressure for other land uses, especially more intensive uses. The proposed wind farm is consistent with the *Rural Lands SEPP* as it is a development which can occur in unison with the continuing use of the land for rural purposes.

A further consideration in relation to the *Rural Lands SEPP* is that it has been used as a vehicle to restrict subdivision of rural lands where conflicts occur. The *Rural Lands SEPP* does not require councils to review their minimum lot size(s) or change those lot sizes in an existing Local Environment Plan (LEP). Councils have the option to transfer the existing minimum lot size(s) currently applying in its Local Government Area (LGA) into a new LEP. The *Rural Land SEPP* does not enforce change in the local controls, with the exception of concessional lot provisions.

5.2.6 *State Environmental Planning Policy 44 (Koala Habitat)*

State Environmental Planning Policy (SEPP) 44 (Koala Habitat) 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.

Under *SEPP 44*, areas of potential koala habitat are categorised as either core koala habitat or potential koala habitat based on the following criteria:

Core koala habitat: an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings and historical records of a population.

Potential koala habitat: areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15 % of the total number of trees in the upper or lower strata of the tree component.

Potential core koala habitat would be present within the Yandra portion of the study area, however given there is no known resident population of koalas on-site and there are no recent or historical sightings of a population onsite, the study area would not constitute an area of core koala habitat.

5.2.7 *National Parks and Wildlife Act 1974*

The *National Parks and Wildlife (NPW) Act 1974* outlines matters relating to flora and fauna and Aboriginal heritage. To ensure accordance with the relevant parts of the *NPW Act*, Eco Logical Australia has conducted an assessment on flora and fauna in **Appendix 10** with an overview provided in **Chapter 10** Flora and Fauna.

As the Project is classified under Part 3A of the *EP&A Act*, Part 6 approvals of the *NPW Act* are not required, unless approval for an activity which will impact on any Aboriginal objects or declared Aboriginal Places is required. As the Project has the potential to impact on Aboriginal objects or declared Aboriginal Places, the *Interim Guidelines for Aboriginal Community Consultation – Requirements for Applicants* (IGACC) has been implemented with this Project to engage interested parties for Aboriginal Assessment and Advisory Services along with NSW Archaeological Pty Ltd. The completed assessment on Aboriginal heritage is attached in **Appendix 11**, with an overview provided in **Chapter 11** Cultural Heritage.

5.2.8 *Protection of the Environment Operations Act 1997*

The *Protection of the Environment Operations (POEO) Act 1997* is administered by the Department of Environment and Climate Change (DECC) and Environmental Protection Authority (EPA). The EPA issues licences to control the air, noise, water and waste impacts of a scheduled activity. Schedule 1 of the *POEO Act* lists the activities which require a licence.

As the source of energy generation is wind power, the *POEO Act* does not require a licence for the operation of the Project. However, during the construction phase a licence is expected to be necessary for:

- Mobile concrete batch plants if the total exceeds 30,000 tonnes per year of pre-mixed concrete or concrete products; and
- Crushing, grinding or separating if the activity has the capacity to process more than 150 tonnes of materials per day or 30,000 tonnes of materials per year.

5.2.9 *Threatened Species Conservation Act 1995*

The purpose of the *Threatened Species Conservation Act 1995* is to prevent impacts, conserve and protect biological diversity and ecologically sustainable development. The *Threatened Species Amendment Act 2004* further enhanced the purpose of the original Act by integrating conservation with main-stream decision making, under the *EP&A Act* on land usage and structure of the economy.

Eco Logical Australia Pty Ltd has undertaken a flora and fauna assessment to determine the significance for threatened species, presented in **Appendix 10** and summarised in **Chapter 10** Flora and Fauna.

5.2.10 *Threatened Species Conservation (Biodiversity Banking) Regulation 2008*

Biodiversity Banking (BioBanking) provides the means to address the loss of biodiversity in NSW. Landowners have the ability to establish biobank sites, which can be 'bought' by developers to secure the conservation of biodiversity in perpetuity.

The Project will be reviewing the use of BioBanking as a suitable alternative for offsetting threatened areas as discussed in **Chapter 10** Flora and Fauna.

BioBanking provides the means to address the loss of biodiversity in NSW. It is a market-based scheme that provides a streamlined biodiversity assessment process for development, a rigorous and credible offsetting scheme, as well as an opportunity for rural landowners to generate income by managing land for conservation.

The Proponent undertook a Biobank assessment across the Project site to ensure the principles in the DGR's are maintained and suitable sites are located for offsetting threatened areas as discussed in **Chapter 10** Flora and Fauna.

5.2.11 *NSW Catchment Management Authority Act 2003*

The *NSW Catchment Management Authority (CMA) Act 2003* aims to establish authorities for decision-making and provide natural resource planning at a catchment level. This is done through applying scientific and local community knowledge to achieve a fully functioning and productive landscape.

Under the *CMA Act*, Catchment Management Authorities are required to prepare a Catchment Action Plan (CAP). Under the Southern Rivers Catchment Management Authority (CMA) CAP, the following targets are applicable to the Project:

- By 2016 through voluntary participation by land managers, the area of land actively managed to conserve priority vegetation types will increase from 11,000 ha to at least 41,000 ha;

- By 2016 through voluntary participation by land managers, an additional 10,000 ha of native vegetation will be actively managed to build a resilient landscape with good connectivity that conserves biodiversity; and
- By 2016 the priority recovery actions identified in the Southern Rivers threatened species strategy will have been implemented.

5.2.12 *Native Vegetation Act 2003*

The main objects of the *Native Vegetation Act 2003* are to promote ecologically sustainable development, prevent broad scale clearing and protect and improve native vegetation.

Eco Logical Australia Pty Ltd conducted vegetation surveys to identify species potentially affected and the total area of disturbance. The results are in **Appendix 10** and findings are summarised in **Chapter 10** Flora and Fauna.

5.2.13 *Noxious Weeds Act 1993*

The *Noxious Weeds Act 1993* defines the roles of government, councils, private landholders and public authorities in the management of noxious weeds. The Act sets up categorisation and control actions for the various noxious weeds according to their potential to cause harm to the local environment.

Any weeds found on-site, as discussed in **Chapter 10** Flora and Fauna, will be managed in accordance with assigned Control Categories determined by the Act.

5.2.14 *Contaminated Land Management Amendment Act 2008*

The *Contaminated Land Management Amendment Act 2008* is the management of contaminated land, where contamination is significant enough to warrant regulation. The amendment to this Act is to allow contaminated sites to be cleaned more efficiently.

As discussed in **Chapter 18** General Environmental Assessment, if any contaminated sites are found during construction then the appropriate authorities will be notified and actions taken in accordance with the Act.

5.2.15 *NSW Rural Fire Act 1997*

The *NSW Rural Fire Act 1997* imposes obligations on the land managers to take all reasonable measures to prevent the occurrence and spread of wildfire to adjoining lands from lands under care and management. Fire management is implemented under a Bushfire Risk Management Plan.

Chapter 16 Fire and Bushfire discusses further impacts and possible mitigation methods.

5.2.16 *Roads Act 1993*

The *Roads Act 1993* addresses authorities, functions and regulation of activities relating to the use and type of roads.

Consultation with the Roads and Traffic Authority, Cooma-Monaro Shire and Bombala Council, as outlined in **Chapter 6** Stakeholder Consultation, is required to determine access and necessary

upgrading of access points, which could require permits under the Act. Further detail is provided in **Appendix 12**, with a summary in **Chapter 12** Traffic and Transport.

5.2.17 *Surveying Act 2002 No. 83*

Clause 24 (1) of the *Surveying Act 2002 No. 83* states that “A person must not remove, damage, destroy, displace, obliterate or deface any survey mark unless authorised to do so by the Surveyor-General”. The Department of Lands has been consulted, as discussed in **Chapter 6** Stakeholder Consultation, in regards to the close proximity of turbines to any Trigonometrical Stations (TS). While the Project does not directly impact on any TS, full results are discussed in **Chapter 18** General Environmental Assessment.

5.2.18 *Water Policies and Plans*

The Project, under the DGR’s, must consider the following policies and plans in water usage and quality during construction/dust suppression and concrete batching plant(s) facilities:

- Water Management Act 2000;
- Water Act 1912;
- NSW Wetlands Policy;
- NSW Weir Policy;
- NSW Groundwater Quality Protection Policy; and
- NSW State Groundwater Dependent Ecosystem Policy.

This EA addresses how the Project will consider each of these policies and plans in **Chapter 17** Water and **Chapter 18** General Environmental Assessment.

5.2.19 *Noise Regulation and Guidelines*

The SA Environment Protection Authority’s *Noise Guidelines for Wind Farms 2003* provides guidelines for the predicted equivalent noise levels from wind turbines. Recorded noise levels at relevant receivers should not exceed 35 dBA or 5 dBA above background noise levels, whichever is the greater. These guidelines are formally applied in NSW and as advised in the DGR’s have been used in the assessment of the Project as discussed in **Chapter 9** Noise.

During construction the Project will be regulated by the *NSW Industrial Noise Policy 2000* and chapter 171 of the *Environmental Noise Control Manual 2004*.

5.2.20 *NSW State Plan*

The NSW State Plan aims to support jobs and boost investment and growth. To meet these aims, the Plan has a number of priorities including a *reliable electricity supply with increase use of renewable energy and cleaner air and progress on greenhouse gas reductions*.

The Project aligns with these priorities by supplying NSW with new renewable energy generation and by displacing the output of greenhouse gas emissions from alternate power generation sources as discussed in **Chapter 4** Project Justification.

5.2.21 *Guidelines for Wind Energy and Related Facilities*

Draft NSW Wind Energy EIA Guidelines 2002: This draft was designed to ensure early identification of issues in relation to ESD. The guidelines provide the basic requirements for a wind farm development in NSW, addressing necessary policies and regulations within the *EP&A Act*, general key issues, consultation processes and an additional guideline for an Environmental Management Plan (EMP).

Auswind's Best Practice Guidelines for the Implementation of Wind Energy Projects in Australia 2006: These guideline were developed by a broad range of both industry and regulatory organisations and provide an outline of best practice processes for all stages of wind farm site selection, development, construction and operation. These processes ensure that Australia's wind industry provides safe, reliable, economically and environmentally sustainable energy to Australia (AusWind, 2006).

5.3 Regional and Local Government Legislation/Policy

5.3.1 *Regional Policies*

The Project falls under the Southern Rivers CMA, within the Snowy Monaro Catchment. Under the DGR's, the Project must consider the *Southern Rivers Catchment Action Plan* to conform to the principles of an ecologically sustainable landscape. Further information is provided in **Chapter 17** Water and **Chapter 10** Flora and Fauna.

5.3.2 *Local Environmental Plans*

The proposed site for the Project occurs within the Bombala and Cooma-Monaro Shire Council areas, which means it is subject to two Local Environmental Plans (LEP's). The LEP's are an established framework for development within local government areas. For the Project to be classified as a Part 3A of the *EP&A Act*, the proposed activity is required to be permissible under the relevant LEP. The Project occurs on land zoned 1 (a) Rural Zone, which does not prohibit the erection of wind turbines or farms, as land can still be predominantly used for pastoral purposes. Turbines also provide additional income, allowing maintenance of rural properties without having to use other alternative methods such as subdivision. The requirements for each LEP, and how the proposal is addressing these requirements, are listed below in **Table 5.3**.

The DGR's also require the EA to address the suitability of the Project with respect to the potential land use conflicts and future surrounding land uses taking into account local and strategic land use objectives. Further detail is provided in **Chapter 4** Project Justification about mitigation methods for future potential land use conflicts.

Table 5.3 Cooma-Monaro LEP 1999 (Rural) and Bombala LEP 1990

Cooma-Monaro Rural LEP 1999	Bombala LEP 1990	Relevance to Proposed Development
Planning		
to establish effective, flexible planning which will make the administration of planning more efficient,	to consolidate existing environmental planning instruments and to provide flexible planning controls to assist the council in its administration of planning,	Addressed under the <i>EP&A Act</i> , Part 3A as Critical Infrastructure (s.75C) which excludes all environmental planning instruments (s.75R) except for SEPP's that specifically relate to the proposed development and council orders under Division 2A of Part 6 (related to enforcement).
	to enable the council to prepare development control plans to introduce more detailed policies and guidelines,	In preparing the environmental assessment requirements, the Director-General is to consult relevant public authorities and have regard to the need for the requirements to assess any key issues raised by those public authorities (s.75F(4)). Cooma-Monaro Shire and Bombala Councils have been consulted and provided input into the DGR's (s.75F(4)).
Agriculture		
to maintain and encourage diverse agriculture,	to protect prime crop and pasture land for agricultural use and to maintain and promote commercial agriculture,	The proposed development temporarily reduces the available land for grazing (during construction). However in the long term agricultural use would not be significantly impacted due to the limited amount of land-take required for the Project. The proposed development would provide off-farm income to land owners assisting agricultural enterprises during times of drought or other hardship (discussed in Chapter 19 Socio-Economic).
		The proposed wind farm is consistent with the <i>Rural Lands SEPP</i> as it is a development which can occur in unison with the continuing use of the land for rural purposes.
Environmental Protection		
to ensure that development occurs in a manner which minimises risks due to environmental hazards, and minimises risks to important elements of the physical and natural environment, including water quality,	to ensure that development occurs in a manner which minimises risks due to environmental hazards, and minimises risks to important elements of the physical environment,	This environmental assessment addresses the DGR's with regard to minimising environmental impacts and risks (see the <i>General Environmental Risk Assessment</i> , also prepared by Eco Logical Australia in June 2009). Results demonstrate the Project will develop in a manner which minimises risks to the natural and physical environment.
Cultural Values		

Cooma-Monaro Rural LEP 1999	Bombala LEP 1990	Relevance to Proposed Development
to protect and conserve the cultural heritage,	to ensure that development occurs in a manner which reflects and respects the opinions of the rural community,	Aboriginal Cultural Heritage surveys and Non-Indigenous surveys have been conducted in accordance with the DGR's (full detail Chapter 11 Cultural Heritage). This will protect and conserve the cultural heritage in the area. The community was contacted via a number of means as discussed in Chapter 6 Stakeholder Consultation, including an open day, public opinion surveys, website, media releases, door to door and newsletters, to ensure that the opinions of the rural community were heard.
	to conserve the environmental heritage of the Shire,	
Residential		
to enhance the residential and service functions of the main villages,	to recognise the role of the main villages in the Shire,	The proposed development is located 6 km south west of Nimmitabel. There is limited rural residential development in the vicinity of the proposed development. Bombala Council have advised that there are no pending development applications on neighbouring lots (Grantley Ingram - Director of Regulatory Services, Bombala Council) and Cooma-Monaro Council have advised there has been no approved subdivisions in the last five years (personal communication Ron Dakin).
to provide a range of housing opportunities, including rural residential development in the vicinity of Cooma and villages,	to provide a range of housing opportunities, including rural residential development in the Shire,	
Financial		
to promote and co-ordinate the orderly and economic use and development of land in the Cooma-Monaro area,	to ensure that development does not have the effect of placing financial burdens on ratepayers, particularly in relation to road upgrading and maintenance,	The community will be provided with a Community Fund for the life of the Project, and there will be added benefits to the community with increased jobs and economic activity as discussed in Chapter 19 Socio-Economic. Ratepayers will not incur any financial burdens as the Proponent will be responsible for any road upgrades and building of infrastructure required for the Project.
Industry		
	to provide opportunities for the expansion of the tourism industry,	Increased road traffic may be generated by the development on local roads to view the Project. A viewing platform or parking bay could be constructed to account for a possible increase in tourism if Council requires it (discussed Chapter 19 Socio-Economic). The proposal promotes an industry that would benefit the local community and wider population into the future. Due to the careful planning and proposed management of the Project there would be minimal nuisance caused by the proposed development (discussed Chapter 4 Project Justification).
	to promote the development of industry in the Shire, while ensuring that such development is located and carried out in a manner that minimises nuisance to residents,	

5.3.3 *Snowy Monaro and Bombala Bushfire Risk Management Plans*

The Project will be subject to two Bushfire Risk Management Plans, both of which are consistent with each other across the local government boundaries and do not present any planning difficulties. Both districts are under the one operational district for fire suppression and control.

Currently neither plan places any zoning on the Project site that may restrict Project activities nor suggests any specific recommendations for bushfire management. The Project will comply with provisions contained in the bushfire plans, and it is suggested that the plans incorporate the issues associated with the Project in the next review of the Bushfire Risk Management Plans to ensure any concerns arising are addressed.

5.4 Proposed Transmission Line

The *SEPP Infrastructure* allows development for the purpose of electricity transmission or distribution to be carried out by, or on behalf of, electricity supply authorities without consent. The proposed development (comprising transmission lines and a substation) is classified as a development for the purpose of electricity transmission or distribution and therefore could be assessed and approved under Part 5 of the *EP&A Act* by the Proponent on behalf of Country Energy. A Review of Environmental Factors (REF) will be required in order to gain approval for the preferred transmission line route in accordance with the *EP&A Act*.

Should the potential for significant impacts be identified then a more detailed assessment may be required and the need for an assessment of the project under Part 3A of the *EP&A Act* would be triggered. In this instance the DoP becomes the Approval Authority. The proposed transmission line is still subject to Commonwealth legislation and, if consider a Controlled Action, the accredited assessment process between State and Commonwealth will apply.