

# Notice of Decision

## Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

<b>Application type</b>	State Significant Development
<b>Application number and project name</b>	SSD 57107216 Tomago Battery Energy Storage System
<b>Applicant</b>	AGL Macquarie Pty Ltd
<b>Consent Authority</b>	Minister for Planning and Public Spaces

### Decision

On 8 November 2024, the Executive Director, Energy, Resources and Industry Assessments, granted consent to the development application for the Tomago Battery Energy Storage System subject to conditions, under delegation from the Minister for Planning and Public Spaces and section 4.38 of the *Environmental Planning and Assessment Act 1979* (the Act).

A copy of the Department of Planning, Housing and Infrastructure's (the Department) Assessment Report and Development Consent is available [here](#).

### Date of Decision

8 November 2024

### Reasons for Decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2021*;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted to the Department during the assessment of the development application and any additional information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for granting the development application are as follows:

- the project would provide a range of benefits for the region and the State as a whole, including:
  - enabling renewable energy to be stored and dispatched during peak demand, supporting grid stability;
  - contributing to a more diverse local economy;
  - creating up to 200 construction jobs and 6 operational jobs;
  - contributions to Port Stephens Council of \$2.2 million through a Voluntary Planning Agreement;
  - a capital investment of approximately \$1.068 billion;
  - storage of energy for dispatch to the National Electricity Market; and
  - assisting in transitioning the electricity sector from coal and gas fired power stations to renewable energy.
- the project is permissible with consent, and is consistent with NSW Government policies including the *NSW Climate Change Policy Framework (2016)*, *NSW Electricity Strategy (2019)*, *NSW Electricity Infrastructure Roadmap*, *NSW Net Zero Plan Stage 1: 2020 – 2030* and associated *Implementation Update* and *Central West and Orana Regional Plan 2041*;
- the impacts on the community and the environment can be appropriately minimised and managed to an acceptable level, in accordance with applicable NSW Government policies and standards;
- none of the NSW Government agencies nor Council object to the project;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the conditions of consent. Engagement on the project is considered to be in line with *Undertaking Engagement Guidelines for State Significant Projects*, including the community participation objectives outlined in these guidelines; and
- weighing all relevant considerations, the project is in the public interest, subject to strict conditions of consent.

## Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement (EIS) for the project from 16 November 2023 to 13 December 2023 (28 days) and received 23 submissions, 21 objecting to the project and two submissions supporting the project.

The Applicant engaged with the community during the preparation of the EIS and detailed the findings of the engagement, including how it influenced the scope and design of the project, in the EIS. The Department consulted with government agencies and Port Stephens Council throughout the assessment process.

The key issues raised by the community (including in submissions) and considered in the Department's Assessment Report and by the decision maker were hazards, biodiversity and reliability of renewable energy sources. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<i>Hazards / Fire risk</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>• The site is located within mapped bushfire-prone land.</li> <li>• To actively manage fire risk, an asset protection zone (APZ) would be established and maintained. In addition, a water storage tank with a minimum 20,000 litre reserved for fire-fighting purposes will be installed onsite.</li> <li>• The applicant committed to preparing a Fire Safety Study and Emergency Plan for the development, consistent with the recommendations of the NSW Rural Fire Service and Fire and Rescue NSW.</li> <li>• The Preliminary Hazard Assessment considered risk associated with transport and storage of hazardous materials, as well as operation of the BESS itself, in accordance with relevant legislation.</li> </ul> <p><i>Conditions</i></p> <ul style="list-style-type: none"> <li>• Develop a Fire Safety Study one month prior to commencing construction and an Emergency Plan prior to commissioning.</li> <li>• Comply with operating conditions including provision of an APZ and other requirements under Planning for Bushfire Protection.</li> </ul>
<i>Biodiversity</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>• The project will result in the loss of approximately 15 ha of native vegetation, which is comprised of approximately 6.6 ha of moderate to high condition Spotted Gum - Broad-leaved Mahogany - Red Ironbark shrubby open forest (PCT 1590) and 8.4 ha of associated derived native grassland.</li> <li>• The project has assumed the presence of the large-eared pied bat and eastern cave bat, which are considered a Serious and Irreversible Impact (SAIL) entity, under the Biodiversity Conservation Act 2016, however given that no optimal breeding or roosting habitat occurs within or adjacent to the site, the project would not result in an SAIL under the <i>Environmental Protection and Biodiversity Conservation Act 1999</i>.</li> <li>• Subject to the transmission connection route chosen, a total of 1524 species credits for the BESS and transmission connection option 1, or 1596 species credits for the BESS and transmission connection option 2, are required to be retired in accordance with the NSW Biodiversity Offset Scheme.</li> <li>• The project is not likely to have a significant impact on PCT 1590 and is unlikely to result in a significant impact on biodiversity values.</li> </ul> <p><i>Conditions</i></p> <ul style="list-style-type: none"> <li>• A Biodiversity Management Plan be prepared and implemented in consultation with BCS.</li> <li>• Credits to be retired in accordance with the consent. Subject to further species surveys, AGL may revise their species credit liability.</li> </ul>
<i>Energy Transition and Reliability</i>	<p><i>Assessment</i></p> <ul style="list-style-type: none"> <li>• The project would support the State's continued transition away from traditional power generation derived from fossil fuels, to renewable energy generation, in accordance with a range of Commonwealth and State policies.</li> <li>• Battery storage provides 'firming capacity' by contributing to dispatchable energy availability during peak energy demands or when renewable production is low.</li> <li>• The project would also contribute to energy security and reliability by providing frequency control ancillary services and system restart ancillary services.</li> </ul>