



Biala Wind Farm (Mod 2)

*State Significant
Development Modification
Assessment
(SSD 6039 MOD 2)*



January 2020

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Executive Summary

Newtricity Developments Biala Pty Ltd (Newtricity) has approval to develop the Biala Wind Farm (the project), located approximately 15 kilometres (km) southwest of Crookwell in the Upper Lachlan Shire local government area.

Since its approval in 2017, the project has undergone one modification, involving approval for the installation and operation of one additional meteorological monitoring mast. The approved project includes the construction and operation of up to 31 wind turbines, and associated infrastructure.

Proposed Modification

Detailed design has identified that collocating the internal transmission line network with the internal access roads would present a safety risk during construction and the potential for ongoing disturbance to the internal access roads during the operation if maintenance was required.

The modification application seeks approval for a revised internal transmission line layout, which would be predominantly located adjacent to the internal access roads or across pasture areas and avoid native vegetation, heritage values and other environmental features as much as practicable.

Engagement

The Department published the application on its website on 19 July 2019 and sought comment from Upper Lachlan Shire Council, the Department's Biodiversity and Conservation Division, the Environment Protection Authority and Essential Energy. Nobody objected to the proposed modification.

Assessment

In assessing the merits of the proposed modification, the Department has considered the existing development consent conditions; previous environmental assessments for the project; the modification application and supporting information; applicable government policies and guidelines; and requirements of the EP&A Act. The key issue considered in the Department's assessment is the potential impact on biodiversity values.

The proposed modification would result in the clearing of 0.62 ha of native vegetation including 0.18 ha of the Ribbon Gum Grassy Woodland endangered ecological community (EEC). This impact would increase the project's offset liability by 10 biodiversity offset credits. The Department is satisfied that the modification would not result in any significant biodiversity impacts, subject to the provision of suitable offsets.

Other potential impacts to heritage, water, visual and noise would be minor and could be managed by the existing conditions of consent.

Summary

On balance, the Department considers that the proposed modification has merit, and is in the public interest. In this regard, the proposed modification would allow the benefits of the project to be realised, particularly as it would improve the project's constructability.

The Department's assessment has concluded that the modification would not result in any significant impacts beyond those that were previously assessed and approved. As such, the Department considers that the proposed modification should be approved.

In modifying the consent, the Department has taken the opportunity to update and strengthen the existing conditions relating to compliance reporting and environmental audits to better reflect contemporary conditions that apply to other wind farms in NSW.

Importantly, the revised internal electricity transmission layout would improve the constructability of the project. As such, the Department considers that the proposed modification should be approved.



1. Introduction

Newtricity Developments Biala Pty Ltd (Newtricity), has consent to develop the Biala Wind Farm (the project) located approximately 15 kilometres (km) southwest of Crookwell in the Southern Tablelands of NSW in the Upper Lachlan local government area (see **Figure 1**).

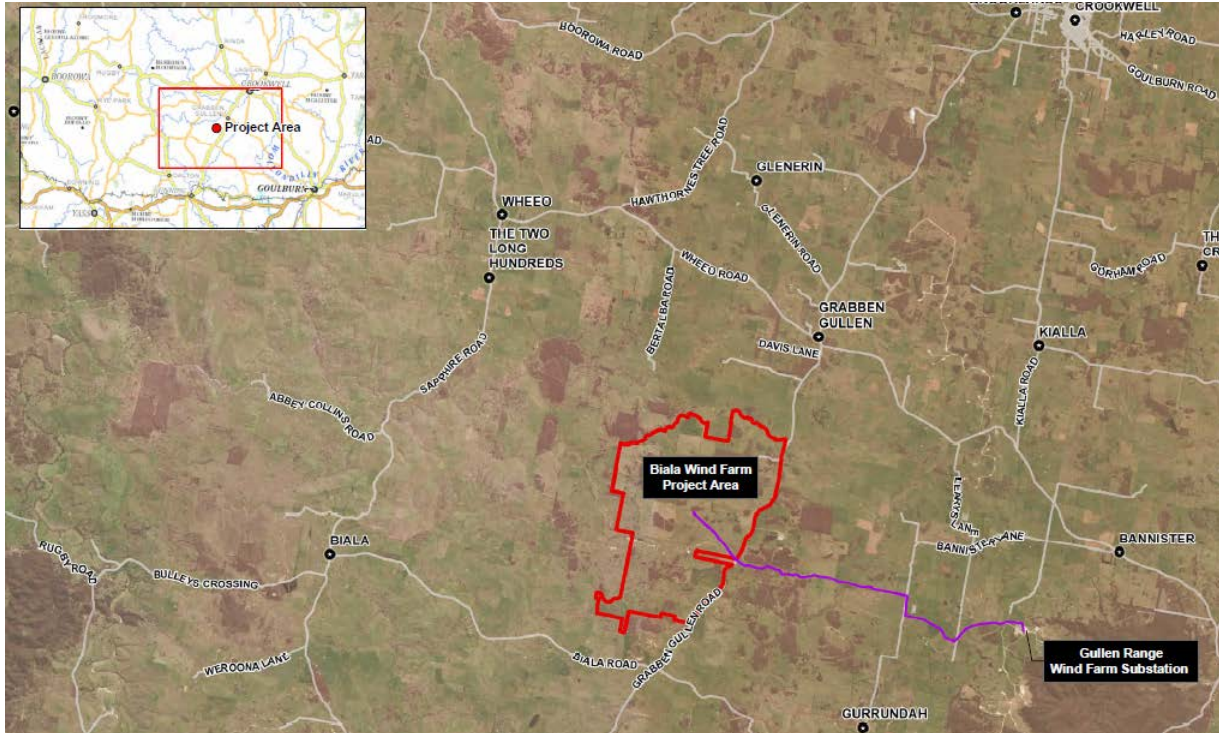


Figure 1 | Regional Context

1.1 Consent History

The project was granted development consent on 12 April 2017 by the then NSW Planning Assessment Commission (the Commission)¹ as delegate for the then Minister of Planning. A subsequent modification to the consent (Mod 1) involved the installation and operation of one additional 110 m meteorological monitoring mast, increasing the total number of masts for the project from three to four.

The project as currently approved allows for the construction and operation of:

- up to 31 wind turbines with a tip height of up to 185 metres (m);
- ancillary infrastructure, including three new intersections off Grabben Gullen Road, internal access roads, an operations/maintenance facility, internal electricity transmission lines and a substation;
- upgrades to the local road network, including both Kialla Road and Range Road, to facilitate the delivery of wind turbines to and from the site.

Early stages of construction of the project commenced in August 2019.

External Transmission Line

The existing consent does not include a connection to the external electricity transmission network and includes a deferred commencement condition that requires Newtricity to be granted approval for the

¹ Now the Independent Planning Commission

development of the transmission line required to connect the wind farm to the external electricity transmission network prior to the consent commencing.

Newtricity has since separately sought consent for the transmission line connecting the wind farm to the existing electricity transmission network. The Southern Regional Planning panel granted approval (DA 122/2017) for the external transmission line on 17 January 2019 and consequently the consent has commenced.

1.2 Approved Internal Electricity Transmission Line Network

Under the existing consent, the 31 wind turbines would be connected to the electricity transmission network via a network of 33 kV internal transmission lines.

The approved internal transmission network is predominantly underground, collocated with the internal access roads, with the exception of a section of overhead transmission line connecting turbines T29 and T30 in the southern portion of the site, as shown in the approved project layout (see **Figure 2**).

The original application contemplated that detailed design of the internal transmission lines may result in deviations from the internal access road alignment due to topographical and other constraints, such as biodiversity and heritage.

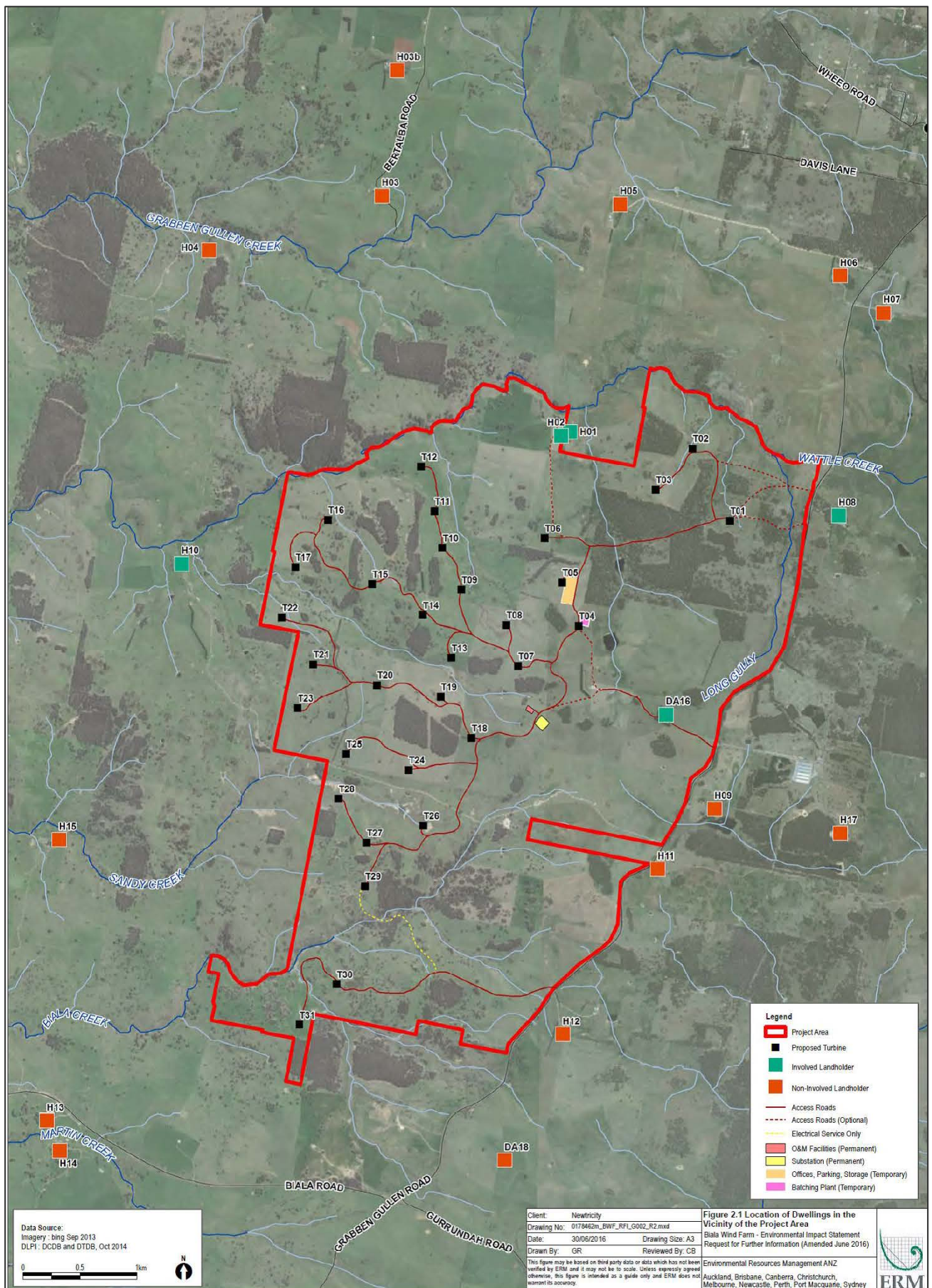


Figure 2 | Approved Project Layout



2. *Proposed Modification*

The modification application seeks approval for a revised internal transmission line layout. The modification is described in detail in the Modification Report (**Appendix B**)

Since development consent was granted, Newtricity has undertaken detailed design of the project, which has identified that collocating the internal transmission line network with the internal access roads would present a safety risk during construction and the potential for ongoing disturbance to the internal access roads during the operation of the project if maintenance was required.

The proposed layout has been optimised to avoid the internal access roads but predominantly remain adjacent to the access roads or across pasture areas, and avoid native vegetation, heritage values and other environmental features as much as practicable.

The revised layout would reduce the length of cable required for the project by approximately 5 km, would make it easier to construct the project. The shorter transmission line would also reduce the electrical transmission losses within the wind farm and therefore increases the energy efficiency of the project.

The proposed layout also realigns the overhead transmission line connecting turbines T29 and T30, reducing the length of the line from 900 m to approximately 450 m. The overhead line would then connect to underground cables at either end. The shorter overhead line would be constructed through a sparsely vegetated area and connected by three poles.

Figure 3 shows the proposed layout compared to the approved layout. The approved layout is indicated by the internal access road layout except for the overhead transmission line between T29 and T30.

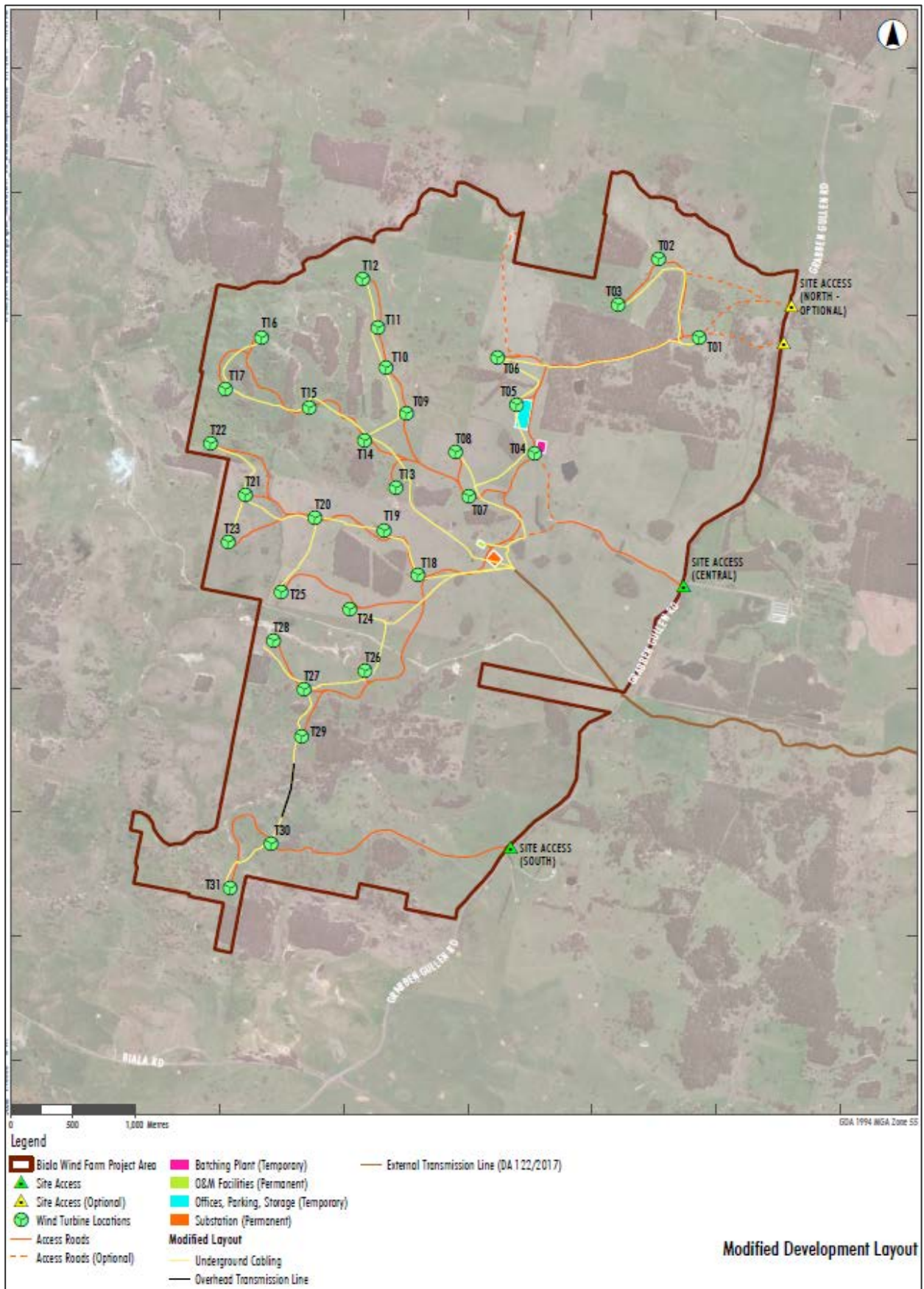


Figure 4 | Proposed Modification



3. Statutory Context

3.1 Scope of Modifications

Consideration as modification

The project was originally approved under Section 4.38 (previously Section 89E) of the Environmental Planning and Assessment Act 1979 (EP&A Act) and any modification to this consent must be made under Section 4.55 of the EP&A Act.

Newtricity considered that the modified project would be substantially the same as the development that was originally considered in accordance with section 115(1) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

The Department has considered the scope of the modification application and the original consent, and considers that the modification is substantially the same development as originally approved and can be considered as a modification and does not require a new development application.

Type of modification

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase the environmental impacts of the project as approved;
- would not substantially change the approved development footprint;
- would not change the approved turbine numbers, dimensions or locations; and
- is substantially the same development as originally approved.

Consequently, the Department is satisfied that the application can be characterised as a modification to the existing consent under Section 4.55(1A) of the EP&A Act, as it would result in substantially the same project as originally approved.

3.2 Consent Authority

Although the Minister for Planning and Public Spaces is the consent authority for the application, the Executive Director, Special Projects, may determine the application under the Minister's delegation dated 11 October 2017 as Council did not object, Newtricity did not make any political donations and there were no public objections.

3.3 Matters for Consideration

In accordance with section 4.55(3) of the EP&A Act, the following must be considered in granting the modification application as relevant to the application:

- environmental planning instruments, proposed instrument or development control plan;
- any planning agreement;
- EP&A Regulation;
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts;
- suitability of the site;

- any submissions;
- the public interest; and
- the reasons for granting the approval for the original application.

The Department has considered the relevance of the considerations for the modification application below.

Environmental planning instruments, proposed instrument or development control plan

The environmental planning instrument relevant to this modification is the *Upper Lachlan Local Environment Plan 2010* (Upper Lachlan LEP). There are no proposed or draft LEPs or development control plans (DCPs) for Upper Lachlan LGA for consideration in this modification.

Any planning agreement

Newtricity currently has a voluntary planning agreement with Upper Lachlan Shire Council.

This modification application does not relate to these agreements and is not relevant to the modification application.

EP&A Regulation

There are no additional considerations relevant to the modification application in the EP&A Regulation.

Likely impacts of the modification application

The likely impacts of modification are considered in **section 5** of this report.

Suitability of the site

The suitability of the project site was assessed and considered by the Department in the original application and is not considered relevant to the modification application.

Submissions

The Department notified and sought advice from Upper Lachlan Shire Council, the Department's Biodiversity and Conservation Division, and the Environment Protection Authority, and this is discussed further in **section 4** of this report.

Public Interest

The consideration of public interest is provided in **section 6** of this report.

The reasons for granting the approval for the original application

None of the reasons given by the Commission for granting the approval to the original development application are relevant to the proposed modification.



4. Engagement

4.1 Department's Engagement

In accordance with the EP&A Regulation, the Department is not required to notify any other parties of the modification application. Notwithstanding, the Department sought comment from Upper Lachlan Shire Council, the Department's Biodiversity and Conservation Division, the Environment Protection Authority and Essential Energy. The application was also made publicly available on the Department's website on 13 November 2019.

As the modification application seeks to make changes to the transmission layout and connection to the external transmission line, the Department is required to notify and seek comment from Essential Energy under Section 45 of the *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP). Essential Energy raised no concerns with the modification.

4.2 Key Issues – Government Agencies

While none of the agencies objected to the proposed modification, several provided advice. This advice is summarised below, and where relevant, considered in more detail in **section 5** of this report.

The **Department's Biodiversity and Conservation Division** (formerly the Office of Environment and Heritage, BCD) and the **Environment Protection Authority** (EPA) provided advice and recommendations on implementing appropriate mitigation and management measures, and amendments to the relevant conditions and management plans to reflect the proposed modification.

The Department has considered biodiversity matters further in **section 5.1**.

Upper Lachlan Shire Council and **Essential Energy** had no comment or objection to the proposed modification.



5. Assessment

The Department has considered the merits of the proposed modification application in accordance with the relevant matters for consideration described in **section 3.3**.

In assessing the merits of the proposed modification, the Department has considered the existing development consent; previous environmental assessments for the project; the modification application; applicable government policies and guidelines; agency comments and requirements of the EP&A Act. A list of the key documents that informed the assessment is provided in **Appendix A**.

The Department has considered whether the proposed changes would result in any material increases in the environmental or amenity impacts of the project. The key matter for consideration on this project was impacts to biodiversity values.

5.1 Biodiversity

The biodiversity assessment prepared for the original development application surveyed the project site, including the areas of the proposed modification. The revised internal transmission line layout is predominantly located on exotic vegetation (pastoral grassland), which would be rehabilitated and returned to pasture once the cabling has been established.

The modification would result in the clearing of 0.62 ha of native vegetation, including 0.18 ha of the Ribbon Gum Grassy Woodland EEC.

The Department accepts that the proposed internal transmission layout has avoided impacts on native vegetation as far as practicable during detailed design but may be reduced further during construction and is necessary for the constructability of the project.

Given the minor clearing involved, the Department has also concluded that the proposed modification would not materially increase the biodiversity impacts of the development as approved.

Newtricity has updated the Biobanking Credit Calculator for the plant community types (PCTs) that would be impacted as part of this modification, which has resulted in an additional 10 credits required to be offset in accordance with the *NSW Biodiversity Offsets Policy for Major Projects*, as shown in **Table 1** below.

Table 1 | Vegetation Community Impacts

Native Vegetation Community/PCT	Biometric Condition	Approved Project		Proposed Modification		Total Credits Required
		Impact (ha)	Credits Required	Impact (ha)	Credits Required	
Brittle Gum - Broadleaved Peppermint – Red Stringy open forest in the north-western part (Yass to Orange) of South Eastern Highlands Bioregion [PCT 351]	Moderate_Good_Moderate	0.67	44	0.19	4	48
	Moderate_Good_Sparse	0.24		0.05		
	Moderate_Good_DNG	1.11	0	0.2	0	0
Ribbon Gum – Narrow-leaved Peppermint grassy open forest on basalt plateaux, Sydney Basin Bioregion and South Eastern Highlands Bioregion [PCT 1097]	Moderate_Good_Moderate	1.05	41	0.18	6	47

5.2 Other Considerations

Heritage

The Aboriginal Cultural Heritage Assessment Report submitted with the original project identified 21 Aboriginal heritage sites and areas of sensitivity within the project site. As part of the detailed design process, Newtricity commissioned a further archaeological survey to incorporate the areas now included in the proposed modification. The results of this survey informed the design of the revised internal transmission line layout to avoid all identified Aboriginal heritage sites or areas of archaeological potential.

The Department and BCD consider that the proposed modification would not increase the Aboriginal or historic heritage impacts of the project or require any changes to the heritage management conditions under the existing consent.

Water

The revised layout would require four additional watercourse crossings, including three first order streams and one third order stream. The impacts on these crossings would be temporary and appropriately rehabilitated once the underground cabling has been installed. The existing consent requires Newtricity to ensure all waterway crossings are constructed in accordance with the relevant guidelines. The Department considers that any potential impacts to the waterways can be adequately managed through the existing conditions including the soil and water operating conditions.

Visual

The proposed modification would not increase the visual impacts of the project as the installation of the underground cables would be a temporary disturbance, which is approved under the existing consent. Further, the existing consent requires the disturbance areas to be rehabilitated. The reduction in the length of the OHL between turbines T29 and T30 from 900 m to 450 m would reduce the potential visual impacts associated with the OHL. Further, the revised OHL is unlikely to be visible from the closest non-associated residence due to the distance (approximately 1.5 km), intervening topography and existing vegetation. The Department is satisfied that the proposed modification is unlikely to increase visual impacts and no additional mitigation measures are required.

Noise

The proposed modification would not introduce any new noise or vibration generation works and would be less than the highly noise affected level of 75dB(A).

The Department is satisfied that any noise impacts from the proposed modification would be short-term and minor and would be sufficiently limited and managed by the existing conditions of consent.

5.3 Summary

In summary, the Department considers that the proposed modification would not result in any significant environmental or amenity impacts beyond those currently approved for the project and that the revised conditions of consent would adequately address any potential impacts.



6. Evaluation

Proposed Modification

The Department has assessed the modification application in accordance with the relevant statutory requirements, having regard to the Modification Report and documentation relating to the original project. The Department has assessed the proposed modification to allow for a revised internal transmission line layout.

Likely impacts of the modification application

In assessing the merits of the proposal, the Department has considered the:

- relevant matters for consideration identified in **section 3.3**;
- existing conditions of consent;
- previous Environmental Assessments for the project; and
- requirements of the EP&A Act.

The Department considers that the proposed modification application meets these requirements as:

- the proposed modification would not significantly impact on the natural and built environments, and there would not be any social and economic impacts beyond those already assessed;
- there are no draft environmental planning instruments, development control plans and planning agreements or requirements in the EP&A Regulation relevant to the modification application;
- there are no land use conflicts between the land and the use of surrounding land in the locality (including agricultural land) noting that the wind farm and associated infrastructure have been assessed in detail and the existing consent would effectively manage and minimise any residual impacts associated with the project; and
- the modification application is consistent with the reasons given for the original consent.

The Department's assessment has found that the proposed modification would not result in any significant impacts beyond those that were assessed and approved under the existing consent. Any residual environmental and amenity impacts associated with the proposed modification could be mitigated and managed through the revised conditions of consent.

Importantly, the proposed modification would allow the benefits of the project to be realised, particularly as it would improve the constructability of the project.

Consequently, the Department is satisfied that the proposed modification is in the public interest and should be approved.

The Department has drafted a Notice of Modification (see **Appendix C**) and a consolidated version of the development consent as modified (see **Appendix D**). To permit the proposed modification, the conditions have been updated with a new definition of the EIS and updated development layout plan.

Additionally, in modifying the development consent, the Department has taken the opportunity to update and strengthen the existing conditions relating to compliance reporting and environmental audits to better reflect contemporary conditions that apply to other wind farms in NSW (see **Appendix F**). Newtricity has reviewed the proposed changes to the conditions and does not object to them.



7. Recommendation

It is recommended that the Executive Director, Special Projects, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report; and
- **determines** that the application Biala Wind Modification 2 falls within the scope of section 4.55(1A) of the EP&A Act;
- **forms the opinion** under section 7.17(c) of the *Biodiversity Conservation Act 2016* that a biodiversity development assessment report is not required to be submitted with this application;
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to grant/refuse consent/approval to the application;
- **modify** the consent SSD 6039;
- **signs** the attached approval of the modification (Appendix C).

Recommended by:

8/01/2020

Natasha Homsey
Environmental Assessment Officer
Energy Assessments



8. Determination

The recommendation is: **Adopted** Not adopted by:

9/11/2020

David Kitto
Executive Director
Special Projects



Appendices

Appendix A – List of Documents

Modification Application titled *Statement of Environmental Effects – Biala Wind Farm – Minor Modification, Internal Electrical Reticulation Network*, prepared by Umwelt (Australia) Pty Limited, November 2019.

Additional Information titled *Confirmation of Biodiversity Credit Requirement for Modification 2 Revised Project Disturbance Area – Internal Electrical Reticulation Network*, prepared by Umwelt (Australia) Pty Limited, December 2019.

Additional Information titled *Biala Wind Farm – Modification Application 2*, prepared by Newtricity, December 2019.

Appendix B – Modification Application

Appendix C – Notice of Modification

Appendix D – Consolidated Consent

Appendices B-D – See the Department’s Major Projects website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25886>

Appendix E – Summary of Administrative Changes to Conditions

Condition Number	Consideration	Reason for changes
Definitions	Definitions	Including contemporary definitions for wind farm development consents and updating agency names.
Schedule 4: conditions 4 to 8	Compliance Reporting and Independent Environmental Audit	Conditions updated to reflect contemporary wind farm development consents