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**Our Ref: BWF\_DPE\_022**

30 July 2021

Dear Nicole

**State significant development consent SSD 6039 - Biala Wind Farm  
Retirement of biodiversity offset credits under Condition 19 of Schedule 3**

We refer to State significant development consent SSD 6039 granted to Newtricity Developments Biala Pty Ltd (**Newtricity Biala**) for the Biala Wind Farm on 12 April 2017, as modified on 9 October 2018 and 9 January 2019 (**SSD Consent**).

This letter:

- provides the Department of Planning, Industry & Environment (**DPIE**) with an update on the progress made by Newtricity Biala towards retiring the biodiversity credits for the Biala Wind Farm as required by Condition 19 of Schedule 3 of the SSD Consent (**Condition 19**); and
- respectfully requests that the Secretary of the DPIE (**Secretary**) agree to a 6 month extension of time under Condition 19, until 5 February 2022, so as to enable sufficient time for arrangements to be finalised for the retirement of the biodiversity credits.

**Condition 19**

Condition 19 of the SSD Consent provides as follows:

Within 2 years of the commencement of construction, the Applicant must retire biodiversity credits of a number and class specified in Table 3 below, to the satisfaction of BCD, unless the Secretary agrees otherwise.

The retirement of the credits must be carried out in accordance with the *NSW Biodiversity Offsets Scheme*, and can be achieved by:

- (a) acquiring or retiring 'biodiversity credits' within the definition of the BC Act;
- (b) making payments into an offset fund that has been established by the NSW Government; or
- (c) providing suitable supplementary measures.

Table 3: Ecosystem credit requirements

| Biometric Vegetation Type                                                                                                                                   | Biometric Condition                    | Impact Area (ha) | Credits Required |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|------------------|------------------|
| PCT ID 351: Brittle Gum – Board-leaved Peppermint – Red Stringy open forest in the north-western part (Yass to Orange) of South Eastern Highlands Bioregion | Moderate_Good_Moderate                 | 0.86             | 48               |
|                                                                                                                                                             | Moderate_Good_Sparse                   | 0.29             |                  |
|                                                                                                                                                             | Moderate_Good_Derived Native Grassland | 1.31             |                  |
| PCT ID 1097: Ribbon Gum – Narrow-leaved Peppermint grassy open forest on basalt plateaux, Sydney Basin Bioregion and South Eastern Highlands Bioregion      | Moderate_Good_Moderate                 | 1.23             | 47               |

*Note: Following repeal of the TSC Act on 25 August 2017, credits created under that Act are taken to be "biodiversity credits" under the BC Act by virtue of clause 22 of the Biodiversity Conservation (Savings and Transitional) Regulation 2017.*

As construction of the Biala Wind Farm commenced on 5 August 2019, Condition 19 of the SSD Consent operates to require the biodiversity credits to be retired by 5 August 2021 unless the 'Secretary agrees otherwise'.

### Progress Towards Retiring the Biodiversity Credits

Newtricity Biala is committed to retiring the biodiversity credits required by Condition 19 as soon as practicable. To this end, we have:

- engaged environmental consultants to provide advice and assistance regarding the options available to secure the biodiversity credits required;
- carried out a comprehensive assessment, including as to the estimated costs, of the different options available to satisfy Condition 19, including acquiring and retiring biodiversity credits, establishing an offset site and making payments into the Biodiversity Conservation Fund;
- liaised with various landowners in an "expression of interest" process regarding the potential purchase of biodiversity credits;
- liaised with the Biodiversity Conservation Trust in relation to the Biodiversity Offsets Payment Calculator to assist in the "expression of interest" process;
- liaised with BAM Support to confirm some issues related to the credit transfer and retirement process;
- evaluated our findings and concluded that payment into a Biodiversity Conservation Fund is the preferred option; and
- submitted an application for an assessment of reasonable equivalence to convert credits created under the (now repealed) *Threatened Species Conservation Act 1995* (NSW) (**TSC Act**) to credits under the *Biodiversity Conservation Act 2016* (NSW) (**BC Act**).

### Unavoidable Delays

However, finalisation of the commercial arrangements required to create and surrender the biodiversity credits has been unavoidably delayed for reasons beyond the control of Newtricity

Biala. In particular, one of the key landowners who participated in our "expression of interest" is still awaiting approval of their Biodiversity Stewardship Agreement and, as a result, cannot yet create biodiversity offset credits or transfer these to Newtricity Biala.

Further, Newtricity Biala has been advised by its environmental consultants that the process for determining the amount payable to the Biodiversity Conservation Fund has been delayed and complicated by:

- the anticipated removal of the Biodiversity Offsets Payment Calculator; and
- other factors relating to differences in the original assessment of the Biala Wind Farm under the TSC Act as opposed to the current framework under the BC Act.

As a result of these issues, our environmental consultants has advised that it will not be possible to retire the biodiversity credits required by Condition 19 by 5 August 2021 and that a six month extension of time is required to provide sufficient time for Newtricity Biala to achieve compliance with Condition 19.

### **Next Steps**

Thank you for considering our request that the Secretary agree to a 6 month extension of time under Condition 19, until 5 February 2022, so as to enable sufficient time for arrangements to be finalised for the retirement of the biodiversity credits for Biala Wind Farm. We look forward to receiving a response at your earliest convenience.

Please contact me on 0406 221 465 or at [jochen.rasmussen@bjceaustalia.com](mailto:jochen.rasmussen@bjceaustalia.com) if you would like any further information or to discuss the matters outlined in this letter.

Yours sincerely,



Jochen Rasmussen  
Biala Wind Farm