

Notice of decision

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

Application type	State significant development
Application number and project name	SSD-9697 Bayswater Power Station Upgrade
Applicant	AGL Macquarie Pty Limited
Consent Authority	Minister for Planning

Decision

The Executive Director under delegation from the Minister for Planning has, under section 4.16 (4)(b) of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted partial consent to the development application subject to conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning and Environment's Assessment Report is available [here](#).

Date of decision

18 February 2022

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 2000*;
- 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;
- the findings and recommendations in the Department's Assessment Report;
- 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 partial consent to the development application are as follows:

- *Uncertainties related to the proposed ash dam augmentation* - the NSW Environment Protection Authority and the Department are not satisfied that the assessment of the proposed ash dam augmentation provide sufficient certainty about impacts and proposed mitigation to manage residual impacts.
- *Benefits* – the balance of the project would provide a range of benefits for the region and the State as a whole, including \$35.9 million of capital investment, up to 60 construction jobs and up to 20 operational jobs and improved environmental outcomes at the site
- *Consistent with NSW Government Policy* – the project is consistent with NSW Government policies including the NSW Government's Net Zero Plan Stage 1: 2020–2030 (2020)
- *Impacts can be managed* - the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards.
- *Community views considered* - 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 (DPIE, July 2021)*, including the community participation objectives outlined in these guidelines.
- *Public interest* – weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The applicant engaged with the community during the preparation of the Environmental Impact Statement (EIS) as a requirement of the Secretary’s Environmental Assessment Requirements. The EIS detailed the findings of the engagement and how it influenced the scope and design of the project.

Once the EIS was submitted to the Department it was placed on exhibition from 1 July 2020 until 30 July 2020 (30 days). 21 submissions were received, including 16 objections and 2 in support of the project.

The Department also visited the site in March 2021

The key issues raised by the community (including in submissions) and considered in the Department’s Assessment Report and by the decision maker include impacts to water resources and biodiversity. Other issues are addressed in detail in the Department’s Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Ash dam augmentation</i></p> <ul style="list-style-type: none"> Concerns regarding the impacts of the ash dam augmentation to water resources 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The ash dam augmentation has the potential to increase seepage to surface and groundwater and increase discharges via the existing ash dam spillway. The NSW Environment Protection Authority and the Department are not satisfied that the assessment of these matters provide sufficient certainty about impacts and proposed mitigation to manage residual impacts. The Department does not consider that the uncertainties and potential costs associated with the ash dam augmentation outweigh the benefits associated with this component of the project. Other elements of the project are critical to the ongoing operation of the power station and would improve environmental performance at the site. <p><i>Conditions</i></p> <ul style="list-style-type: none"> Partial consent approving the balance of the project but excluding the approval of the ash dam augmentation and seepage collection infrastructure upgrades at this time.
<p><i>Greenhouse gas and climate change</i></p> <ul style="list-style-type: none"> Concerns regarding greenhouse gas emissions 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The project would not involve any increase in the production of electricity at the power station or extend the operational life of the power station beyond 2035. The project would therefore would not result in the generation of additional greenhouse gas emissions from the station. Minor quantities of greenhouse gases would be generated during construction from the operation of construction equipment. The Department considers the ongoing operation of Bayswater until its planned closure would contribute to ongoing stable and reliable electricity supply given the upcoming retirement of other coal-fired power stations, including Liddell by 2022/23, and to complement the transition to renewable energy sources. <p><i>Conditions</i></p> <ul style="list-style-type: none"> None required