

# ENVIRONMENTAL ASSESSMENT REPORT

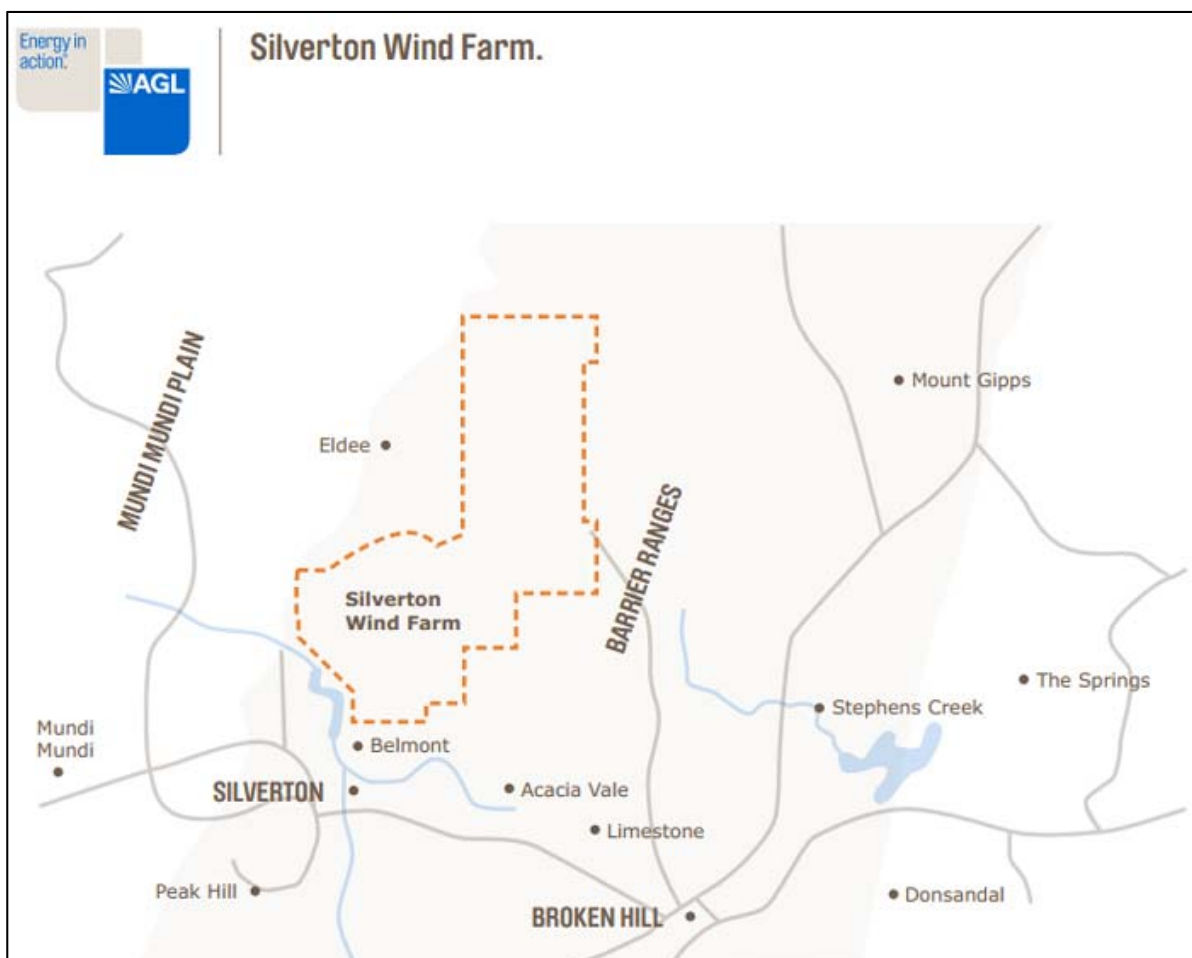
## Silverton Wind Farm

### Extension of Approval Lapse Date (08\_0022 MOD 2)

#### 1 BACKGROUND

The Silverton Wind Farm (the project) is an approved renewable energy development located within the Unincorporated Area in the far west of NSW, approximately 25 kilometres (km) northwest of Broken Hill and 3 km north of Silverton (see **Figure 1**).

The site is “Crown Land” administered by the NSW Department of Lands, Western Division, and the project is owned by Silverton Wind Farm Developments, which is a wholly owned subsidiary of AGL Energy (AGL).



*Figure 1: Regional Context*

The Silverton Wind Farm was approved by the then Minister for Planning on 25 May 2009. The approval has been modified once (to extend the lapse date of the approval by 2 years to 24 May 2016) and allows AGL to construct and operate the Silverton Wind Farm in two stages.

Stage 1 comprises the construction and operation of 282 turbines and a 24 km transmission line connection to the Broken Hill substation. Stage 2 involves the construction of a further 316 turbines and a 305 kilometre transmission line connection to Red Cliffs in Victoria.

The Silverton Wind Farm is also declared to be a “critical infrastructure project” under the *Environmental Planning and Assessment Act* (EP&A Act), in accordance with an order made by the then Minister for Planning on 25 February 2008 concerning energy generating developments with capacity to generate at least 250 megawatts (MW).

The declaration of the proposed Silverton Wind Farm as “critical infrastructure” means that the project was, in the opinion of the Minister, essential for the State of NSW for economic, environmental or social reasons.

## 2 PROPOSED MODIFICATION

AGL is seeking to modify the project approval to extend the approval lapse date by an additional 5 years (i.e. from 24 May 2016 to 24 May 2021).

In its application, AGL argues that a 5 year extension is required to allow sufficient time to (see **Appendix A**):

- undertake a review of the project taking into account improvements in wind turbine generation technology;
- finalise financing arrangements for the project now that the revised Renewable Energy Target (RET) has been agreed and AGL’s Powering Australian Renewables Fund has been announced;
- consult further with the local community about potential changes to the project; and
- if required, prepare and lodge a further modification to the project that takes into account the above matters.

AGL has also set out a number of reasons why it believes the proposed modification should be approved, including:

- *Renewable Energy* – the project would generate at least 700,000 MWh a year of renewable energy (sufficient to power 120,000 homes), reduce greenhouse gas emissions by approximately 588,000 tonnes of carbon dioxide (equivalent), and contribute to the NSW Renewable Energy Action Plan as well as the national target of 20 per cent renewable energy by 2020;
- *Economic Benefits* – the project would generate a range of economic benefits for the region, by generating 150 jobs during construction and capital investment of between \$300 and \$500 million;
- *Community Benefits* – AGL proposes to establish a community development fund up to \$15,000 per annum, facilitate indigenous employment, and improve local infrastructure throughout the life of the project; and
- *Environmental Impacts* – as there is no change in the scope of the project or the receiving environment surrounding the wind farm, the result of a further delay in the development of the project would not result in any additional environmental impacts.

AGL argues that the substantial benefits of the project to the region and to NSW would be foregone if the approval is not extended.

### 3 STATUTORY CONTEXT

#### 3.1 Section 75W

The project was originally approved under the former Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Although Part 3A was repealed on 1 October 2011, the project remains a “transitional Part 3A project” under Schedule 6A of the EP&A Act and is to be assessed and determined under Section 75W of the EP&A Act.

The lapsing date in the project approval (ie. 24 May 2016) has passed since the application was lodged (ie. 25 February 2016). However, the project approval remains valid as a result of the amendment made to the EP&A Regulation in 2015 which provides that an approval does not lapse if an application to extend the lapse date is lodged before the lapsing date in the existing approval.

Based on its assessment, the Department is satisfied that the application can be characterised as a modification to the existing approval (rather than a new project in its own right) as the proposal is administrative in nature, would not alter the approved footprint of the wind farm, and would not increase the environmental impacts of the approved project. Consequently, the Department considers the proposal to be within the scope of Section 75W of the EP&A Act.

#### 3.2 Approval Authority

The Minister for Planning was the approval authority for the original project application. Consequently, the Minister for Planning is the approval authority for this modification request. However, under the Minister's delegation dated 16 February 2015, the Executive Director, Resource Assessments and Business Systems may determine the application. This is because AGL made reportable political donations and there were 5 public objections to the proposal.

### 4 CONSULTATION

The Department publicly exhibited the application and accompanying documentation from 4 March until 18 March 2016.

During the public exhibition period, the Department:

- advertised the exhibition of the application in the Mildura Sunraysia Daily and Broken Hill Barrier Truth;
- made the application and accompanying documentation available on its website, and at Broken Hill City and Wentworth Shire Councils; and
- consulted with key government agencies.

The Department also accepted and considered submissions that were received after the exhibition period had closed.

To supplement the formal exhibition process, AGL presented an overview of the proposed modification at its CCC meeting on 4 March 2016, and provided copies of the modification application to CCC members via email and in hard copy.

During the exhibition period, the Department received 7 submissions: 6 from the general public and one from a special interest group (Silverton Village Committee Inc.).

No submissions from agencies were received.

It is noted that many submissions criticised the consultation process undertaken by the Department, including the duration of the exhibition period. However, the Department considers that the nature and extent of consultation was commensurate with the administrative nature of the proposed modification, and that the local community and other stakeholders have been provided with sufficient access to relevant documentation and had sufficient time to make an informed submission.

## 4.1 Special Interest Groups

The **Silverton Village Committee Inc** objected to the modification application highlighting a number of key issues, which included: uncertainty for the Silverton community as a result of further extensions to the approval lapse date, health impacts, impacts on water quality in local waterways, impacts on regional tourism, and a continued lack of meaningful community engagement by AGL.

## 4.2 Public Submissions

Five of the public submissions objected and one submission supported the proposed modification.

The submission supporting the project highlighted the economic, environmental and climate change benefits of renewable energy developments.

The Department has summarised the key issues raised in these submissions in **Table 1** and considered these issues further in **Section 5**, noting that many of the issues raised related to the merits of the project in general, rather than the specifics of the proposed modification.

In this regard, the Department notes that no physical changes are proposed to the approved project, and the economic, social and environmental costs and benefits were fully considered in accordance with the EP&A Act when the project was approved by the Minister in 2009.

**Table 1: Summary of submissions**

<b>Issue</b>
<ul style="list-style-type: none"> <li>• <b>Environmental and Social Impacts:</b> <ul style="list-style-type: none"> <li>- construction activities will increase Silverton's water demand during a period of water scarcity;</li> <li>- the project will impact on tourism in the area, a key source of income for local businesses;</li> <li>- the project will reduce property values;</li> <li>- the project will impact flora and fauna of the Barrier Ranges;</li> <li>- the project will result in visual and health impacts for the Silverton community; and</li> <li>- construction activities will result in erosion and siltation of waterways.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <b>Geological Resources:</b> <ul style="list-style-type: none"> <li>- the Broken Hill region is considered to be a prospective mineral exploration area; and</li> <li>- the operation and decommissioning of the wind farm project will inhibit contemporary exploration techniques seeking to identify ore bodies, restricting future resource recovery.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <b>Consultation and Engagement:</b> <ul style="list-style-type: none"> <li>- the modification application should have been placed on exhibition for a longer period of time and hardcopies placed in Silverton to provide opportunities for residents without access to the internet or a computer to lodge a submission;</li> <li>- engagement undertaken by the various proponents, including AGL has not taken into account the suggestions and requests of the Silverton community; and</li> <li>- the Community Consultative Committee (CCC) is not operating as an effective forum for community engagement.</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• <b>Project Application:</b> <ul style="list-style-type: none"> <li>- the justifications used by AGL in support of the project are not factually correct or are exaggerated; and</li> <li>- the ongoing project extensions and delays by AGL contribute to uncertainty within the Silverton community.</li> </ul> </li> </ul>

## 4.3 Response to Submissions

AGL has provided a response to the issues raised in the submissions (see **Appendix D**).

## 5 ASSESSMENT

In assessing the merits of the modification application, the Department has considered the:

- modification application;
- existing conditions of approval;
- public submissions and AGL's response;
- applicable policies and guidelines; and
- requirements of the EP&A Act.

The Silverton Wind Farm was declared to be "critical infrastructure" by the NSW Government in 2008 as it would bring a range of economic benefits to the local and regional economy as well as to the NSW Government's plans to encourage the development of cleaner sources of energy for the community of NSW.

In this regard, the project has a capital investment value of at least \$300 million, would employ at least 150 people during construction, and generate at least 200 MW of clean energy for NSW consumers. This level of investment would also stimulate flow-on economic benefits in the local and regional economies, and contribute to Australia's Renewable Energy Target of sourcing 20 per cent of electricity from renewable sources by 2020.

Using the NSW Wind Farm Greenhouse Gas Saving Tool developed by the NSW Office of Environment and Heritage, the Silverton Wind Farm would reduce greenhouse gas emissions by up to 588,000 tonnes annually, which is equivalent to removing approximately 132,500<sup>1</sup> cars off Australian roads.

The Department considers that these benefits can be realised through an extension in the lapse date of the approval without any increase in the environmental impacts that have already been assessed, approved and subject to stringent conditions when the project was approved.

In this regard, the Department accepts that there have been no significant changes in the receiving environment or applicable NSW Government policies and guidelines during the intervening period that warrant re-assessment or amendments to the existing conditions of approval.

Given these significant economic and environmental benefits, the Department does not consider it would be reasonable or in the broader public interest to allow the project approval to lapse without providing additional time for AGL to develop the project.

Notwithstanding, the Department acknowledges the significant concerns of the local community regarding ongoing uncertainty and delays associated with the project, and the need to realise the benefits of the project as soon as practicable. In this regard, the Department notes that a 2 year extension has already been granted and that AGL is seeking another 5 years (i.e. until 24 May 2021). Under this scenario, it may be 12 years from when the project was originally approved before there is any material progress in developing the project.

On the other hand, the Department also acknowledges that requests by AGL to extend the project approval lapse date have been primarily as a result of uncertainties associated with the Commonwealth RET. This has profoundly affected investor confidence in renewable energy development over a number of years, and has been an issue for other NSW renewable energy projects and the communities in which they are proposed.

In its response to submissions, AGL has flagged its intention to lodge a further modification in the next few months that takes into account changes in wind turbine technology, including the size and scale of the approved project. Furthermore, on 5 April 2016, AGL invited tenders for the design, construction and commissioning of the Silverton Wind Farm. These steps, combined with the resolution of the revised RET and the announcement of AGL's Powering Australian Renewable Fund, provides a far greater level of confidence that the wind farm will be developed, and that this will occur far sooner than 2021.

---

<sup>1</sup> Assuming a 4t/annum emissions factor.

The current lapsing condition in the project approval states that the:

*"approval shall lapse seven years after the date on which it is granted unless the Proponent has confirmed to the satisfaction of the Director-General that orders have been placed for wind turbines, or demonstrated that work subject of this approval has been completed on the site before that time."*

In other words, AGL does not need to have fully developed the wind farm within the lapsing period. Rather, it only needs to demonstrate that it has placed orders for the wind turbines and/or completed some of the work required to develop the project under this approval.

Overall, the Department does not consider it is reasonable for the local community to have to live with ongoing uncertainty for another 5 years, particularly where the indications are that AGL is unlikely to require this length of time to meet its obligations under the lapsing condition.

Accordingly, the Department considers that extending the lapse date by another 2 years (i.e. until 24 May 2018), instead of 5 years, will provide sufficient time for any further modification to be considered, and for AGL to make meaningful progress in developing the project.

The Department considers this outcome provides an appropriate balance between addressing the concerns of the community and realising the significant economic and environmental benefits that the project would bring to the region and the State as a whole.

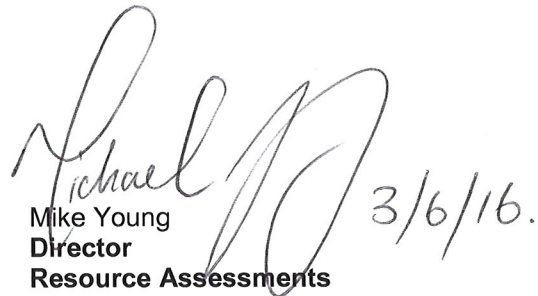
## 6 RECOMMENDATION

It is RECOMMENDED that the Executive Director, Resource Assessments and Business Systems, as delegate of the Minister:

- **considers** the findings and recommendations of this report;
- **determines** that the modification falls within the scope of section 75W of the EP&A Act;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification in **Appendix B**.



Phillipa Duncan  
Senior Planner  
Resource Assessments



Mike Young  
Director  
Resource Assessments

## **APPENDIX A: MODIFICATION APPLICATION**

Refer to: [http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7529](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7529)

## **APPENDIX B: NOTICE OF MODIFICATION**



## **APPENDIX C: CONSOLIDATED APPROVAL**

## **APPENDIX D: RESPONSE TO SUBMISSIONS**

Refer to: [http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7529](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7529)