



Department of Planning, Housing & Infrastructure

New South Wales Government

Submitted via online portal

30 January 2024

NSW Draft Energy Policy Framework

AGL Energy (**AGL**) welcomes the opportunity to make a submission in response to the NSW Government's draft energy policy framework (**draft framework**).

Proudly Australian since 1837, AGL delivers around 4.3 million gas, electricity, and telecommunications services to our residential, small, and large business, and wholesale customers across Australia. We operate Australia's largest electricity generation portfolio and have the largest renewables and storage portfolio of any ASX-listed company, having invested \$4.8 billion in renewable and firming generation over the past 20 years and added more than 2,350 MW of new generation capacity to the grid since 2003.

Draft Wind Energy Guideline

AGL acknowledges the work done by the Department of Planning, Housing & Infrastructure (**DPHI**) to try and address some of the visual impact assessment challenges in the Draft Wind Energy Guideline (**Draft Wind Guideline**) and Technical Supplement for Landscape and Visual Impact Assessment (**Visual Impact Technical Supplement**), which will hopefully lead to better outcomes for individuals, communities and proponents going forward.

We have provided some more specific feedback below, but some general comments we have include that:

- we would like some further clarity from the DPHI on the frequency at which the draft guidelines will be reviewed and updated moving forward as we consider regular reviews of the draft guidelines will ensure that the guidelines remain adaptive to the evolving needs of the industry and communities.
- DPHI consider allowing certain wind farm development applications, that meet the required eligibility criteria, to be code assessable. Queensland has taken a similar approach in its [QLD State code 23: Wind farm development \(QLD Wind Farm Code\)](#), which has helped to reduce the workload on the planning system along with approval timeframes for wind farm development applications.

Noise

It is important to ensure that there is a clear transition plan for existing projects with respect to any updates to the noise criteria in the *Technical Supplement for Noise Assessment* to help manage any impact to those projects.

AGL also considers that new noise criterion of 50dB(A) for passive recreation areas within National Parks is reasonable as this noise level will allow a setback of around 1-1.5km from any National Park Boundary.



Visual

AGL has some concerns that the visual setback requirements outlined in section 3.1 of the Visual Technical Supplement may not strike the right balance between the impacts of visual amenity and other factors important to the development of renewable energy projects, especially because it is unclear why a pre-defined setback is required when there is already a methodology for quantifying the magnitude of visual impact. Presumably the cell-based assessment would find that turbines within a certain distance of “sensitive receivers” would be classified as ‘high’ impact.

The application of the “largely screened” exemption (as shown in Figure 3 of the Visual Technical Supplement) also seems unreasonably restrictive. The figure shows turbines that are barely visible behind trees being classified as “not exempt from setback”.

Visual impact assessment process

It is not currently clear to AGL why NSW has decided to require a detailed visual impact assessment up to an 8km limit, rather than following the established process in other jurisdictions (like Queensland and Victoria) which place a 4km limit on the requirement.

In our opinion, reducing the range at which a detailed visual impact assessment must be taken in NSW from 8km to 4km would help reduce the volume, and therefore time and cost, of a detailed assessment, without compromising the assessment of receivers that are most impacted by a project.

Cumulative impact

There is no existing advice on how wind farm developers can measure the combined visual effects of their projects. By establishing renewable energy zones (**REZ**) and offering guidance for renewable energy development, it implies that there will be a higher number of renewable energy projects in certain areas, which also means more potential impacts on visual amenity. It would be an unreasonable result if wind farms are rejected based on their cumulative visual impact in locations that are otherwise identified as suitable areas for renewable energy development.

The Final Wind Guidelines should offer a measurable way of evaluating the acceptable level of change in any landscape from a visual impact point of view, especially in REZs and areas that are suitable for windfarm development.

Dwelling entitlements

As stated in the report released by law firm Herbert Smith Freehills and the Clean Energy Investor Group entitled Delivering Major Clean Energy Projects in NSW – Review of the Statutory Planning Approval Process (**CEIG Report**), proponents are subject to complex, costly and uncertain assessment requirements with respect to dwelling entitlements (as retained and not clarified in the Visual Technical Supplement).¹

The CEIG Report goes on to state that there is an opportunity for DPHI to “provide a clear and reasonable methodology for assessing impacts relating to dwelling entitlements and a mechanism to ensure that

¹ Please see pages 17-18 of CEIG Report [here](#)



dwelling entitlements are not used to inhibit the delivery of clean energy projects should be developed if assessment is required.”

AGL agrees with this statement and that there is a further “opportunity for greater clarity to be provided in the Visual Technical Supplement to establish a scope for the expected assessment and include guidance on the materiality of any findings for the approval process.”

Wind farm decommissioning

AGL is generally supportive of the concept of the wind farm decommissioning calculator. However, we will be keen to see some further details around the assumptions that the calculator is adopting to provide the decommissioning dollar estimate.

Some communities are now insisting on bank guarantees be obtained from commencement of commissioning. Bank Guarantees should not be required at year 1 of the project but instead they should be required year 15 as the project has a project life of 25+ years.

Proponents should also have the ability to provide Parent Company Guarantees instead of bank guarantees.

Planning Framework

The CEIG Report also notes that there is limited access to CSSI planning pathway for the clean energy projects, which are delivering a critical State need.² The CEIG Report recommends the broader use of CSSI declarations to meet the State’s critical energy needs through either:

- The Minister for Planning and Public Spaces using his discretion under section 5.13 of the EP&A Act to declare any relevant categories of clean energy and transmission development to be CSSI on the basis that it is essential for economic, environmental, or social reasons.
- DPHI may also reduce the stated ‘significant energy storage system’ guidance (a delivery capacity threshold of 750 MW or more) for the Minister to consider CSSI requests. This would encourage greater requests for CSSI and appropriately reflect the need for projects of varying sizes across the State.

AGL is agrees of these recommendations and considers that some further clarity on the criteria for CSSI declaration for Wind and Solar projects would be helpful.

Community and Industry Feedback

The overview of the draft framework states that the Draft Wind Guideline provides an opportunity to address ‘emerging issues and feedback’. AGL considers that it would be beneficial to include a structured mechanism for incorporating feedback from both the industry and local communities. This will ensure a more inclusive and well-rounded guideline.

² Please see page 10-11 of the CEIG Report [here](#)



Draft Transmission Guideline

Route selection

AGL is very supportive of the statement outlined in section 3.1 of the Draft Transmission Guideline that “transmission infrastructure should be co-located with existing infrastructure and/or maximise the use of already disturbed land (such as land already cleared of vegetation for other purposes) where possible to help maximise efficiency and reduce environmental and social impacts.”

Setback criteria

AGL welcomes the statement at section 1.2 of the Technical Supplement for Landscape and Visual Impact Assessment to the draft Transmission Guidelines (**Transmission Technical Supplement**) that the land and visual impact assessment criteria outlined in the Transmission Technical Supplement does not apply to development adjacent to existing transmission lines.

Draft Benefit-Sharing Guideline

Renewable energy projects in regional areas not only create jobs both directly and indirectly, but they also offer additional benefits to the local communities near the project. AGL supports having community funds for renewable energy projects to contribute to local communities and share project benefits.

The draft Benefit-Sharing Guideline (**Draft Benefit-Sharing Guideline**) proposes establishing ‘advised rates’ for wind (\$1050/MW/year) and solar (\$850/MW/year) projects.

We consider the nominated ‘advised rates’ to be generally reasonable and consider making these payments on an annual basis a better approach than as a single upfront payment. We also see value in having these amounts standardised, as it provides more clarity and certainty around what is expected for both industry and communities.

However, the Draft Benefit-Sharing guideline should make it clear that the benefit-sharing calculation should be based on the number of megawatts that are built or connected to the grid, not the initial project application or the approved capacity of the project.

Voluntary Planning Agreements

It is our understanding that the advised rate and the benefit-sharing framework are meant to replace the current system of proponents making Voluntary Planning Agreements with each Council. We are supportive of this change but note that this point could be more clearly stated in the Draft Benefit-Sharing Guideline.

Community funds

AGL considers it important that the people who live close to renewable energy projects get a fair part of any benefit-sharing schemes.

We consider it important that a project proponent is able to choose to establish a broader community fund, to support the local community beyond the immediate project neighbours. If a proponent establishes such a



fund, and it is considered best practice³, then the community fund should have clear rules and the fund allocation should be controlled by selected members of the community and the proponent.

AGL already has successfully implemented these types of funds for Wind Farm Developments. Typically, there are two application rounds per year where the funding is applied for, and elected members of the community and representative of the proponent decide on where the funding is to be best spent.

Revision/adjustment of the 'advised rate'

AGL welcomes the inclusion of a trigger for re-evaluating the suggested rate if there are changes to Council rates or other aspects of the contribution framework in the Draft Benefit-Sharing Guideline.

Draft Private Agreement Guideline

AGL is supportive of private agreements being part of the new Energy Policy Framework.

Any private agreements should be entered as a caveat on title so that the agreement runs with the land if the property is sold into the future to avoid the requirement of needing to renegotiate with any incoming purchaser. This would also ensure that any incoming purchaser is aware that the agreement exists.

Should you have any questions in relation to this submission, please contact Leilani Kuhn (Policy Manager) on 03 8633 6934.

Yours sincerely,

AGL Energy

³ See page 30 of RE-Alliance's report entitled Building Stronger Communities for further details on what may constitute best practice for a community benefit fund.