

A few
words.

23 June 2014

Carolyn McNally
Acting Secretary
Department of Planning & Environment
23-33 Bridge Street
Sydney NSW 2000

Dear Ms McNally



Request for Amendment to Development Consent Condition B32, Nyngan Solar Plant (SSD_5355)

Overview

AGL Energy Limited (**AGL**) is seeking a minor modification under section 96(1A) of the *Environmental Planning and Assessment Act 1979* to Condition B32 of the development consent for the Nyngan Solar Plant project, determined by the Planning Assessment Commission (under delegation from the Minister for Planning and Infrastructure) on 15 July 2013 (**Consent**).

The proposed modification involves minimal environmental impact.

Background

Condition B32 of the Consent specifies that:

An easement over the affected part of Lot 7300 DP1156652, with compensation payable to the Crown under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*, is to be created prior to commencement of energy generation at the site.

This condition was requested by the Department of Primary Industries in its submission following exhibition of the Environmental Impact Statement for the project (**Attachment 1**).

AGL is currently progressing transmission line easements across all of the affected properties to enable connection between the solar plant and the existing Nyngan – Cobar 132kV line. With respect to Lot 7300 DP1156652, Essential Energy (who will ultimately own the transmission line and have the benefit of the easement) is in the process of establishing the easement using its statutory powers of compulsory acquisition under the *Electricity Supply Act 1995*.

AGL prepared a survey of the proposed easement over Lot 7300 in March 2013, and proceeded to register a proposed plan of easement over this and other properties in June 2013 (DP 1185827, **Attachment 2**).

Essential Energy then put a submission to the Minister for Energy (then Minister Hartcher) on 15 October 2013 (**Attachment 3**) in which it requested ministerial consent to issue Proposed Acquisition Notices (**PANs**) to various stakeholders, including:

- Dept of Primary Industries, Crown Lands Division
- New South Wales Aboriginal Land Council



- Central West Livestock Health & Pest Authority
- Ngemba, Ngiyampaa, Wangaapuwan and Wayilwan peoples (Native Title Claimants)
- NTSCorp Ltd

The Minister for Energy provided consent to issue the PANs on 19 May 2014 (**Attachment 4**), and Essential Energy issued these letters to five stakeholders on 6 June 2014 (the PAN issued to NTSCorp on behalf of the Native Title Claimants is presented as **Attachment 5**).

From the date of issuance of the PANs, there is a minimum statutory 60 day period for recipients to lodge a claim for compensation. After 60 days, Essential Energy notifies the Valuer General of the PANs to determine compensation for the easement. After 90 days, Essential Energy “gazettes” the easement in the Government Gazette, at which point the easement is officially created, regardless of whether valuation has been determined or paid. Essential Energy has advised AGL that it is quite typical that the Valuer General does not respond before the easement is printed in the Gazette.

AGL is currently planning to energise the 132kV line (by connecting to the existing 132kV network) on 2 August 2014. Although energised, there will be some period of time (perhaps a month or more) before there is any actual generation from the solar plant. However, given the minimum statutory period of 90 days before the easement can be compulsorily acquired, and in consideration of the extensive delay in obtaining ministerial consent to issue the PANs, AGL will be unable to achieve the requirements specified in consent condition B32 to create the easement prior to energy generation from the site.

Proposed modification

For the reasons described above, AGL seeks to modify condition B32 of the Consent to allow for energy generation from the site prior to creation of the easement, noting that a Proposed Plan of Easement has been lodged and that a statutory process is being followed to establish the easement, and that this will occur in due course.

We would propose that condition B32 be amended as follows:

An easement over the affected part of Lot 7300 DP1156652, with compensation payable to the Crown under the provisions of the *Land Acquisition (Just Terms Compensation) Act 1991*, is to be created prior to Operation.

I note that “Operation” is a defined term in the Consent.

Please let me know if you have any questions or require additional information to support this application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Doug Landfear'.

Doug Landfear
Manager Power Development (Solar)
AGL Energy Limited

- Attachment 1 - Department of Primary Industries submission
- Attachment 2 - Proposed Plan of Easement (DP 1185827)
- Attachment 3 – Submission to the Minister for Resources and Energy (excerpt)
- Attachment 4 – Consent by the Minister for Resources and Energy to issue PANs
- Attachment 5 – PAN issued to NTSCorp on behalf of Native Title Claimants