

# Development Consent

## Section 4.38 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, the Director Resource Assessments approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



Stephen O'Donoghue  
**Director, Resource Assessments**  
**Energy, Resources and Industry Assessments**

Sydney

6 February 2024

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### SCHEDULE 1

<b>Application Number:</b>	SSD-60938959
<b>Applicant:</b>	EnergyAustralia Development Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>Site:</b>	See Appendix 1
<b>Development:</b>	Tallawarra A Power Station Efficiency Upgrade

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## DEFINITIONS

The definitions below apply to terms used in this consent, unless otherwise stated or the context indicates otherwise.

Term	Definition
Applicant	EnergyAustralia Development Pty Ltd, or any person who seeks to carry out the development approved under this consent
Conditions of this consent	Conditions contained in Schedules 1 to 2 inclusive
Construction	All physical works associated with the development, including but not limited to demolition and removal of buildings or works, erection or installation of buildings and infrastructure, road upgrades, and the carrying out of works; but excludes minor pre-construction and preliminary works such as road dilapidation surveys, installation of fencing, geotechnical drilling and/or surveying)
Council	Wollongong City Council
Council Consent	Development consent granted by Wollongong City Council (D98/784) for the Tallawarra A Power Station
Department	Department of Planning, Housing and Infrastructure
Development	The development described in the EIS
EIS	The Environmental Impact Statement for the Tallawarra A Power Station Efficiency Upgrade dated 3 November 2023, the Applicant's Submissions Report dated 9 January 2024, and the additional information provided by the Applicant in support of the application and identified in Appendix A of the Department's assessment report on the Tallawarra A Power Station Efficiency Upgrade project.
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPL	Environment protection licence (EPL 555) issued by the EPA under the <i>Protection of the Environment Operations Act 1997</i> (POEO Act)
Feasible	Feasible relates to engineering considerations and what is practical to build or to implement
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul>
Minimise	Implement all reasonable and feasible measures to reduce the impacts of the development
Mitigation	Activities associated with reducing the impacts of the development prior to or during those impacts occurring
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Public infrastructure	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, irrigation channels, drainage channels
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Planning Secretary's Approval	A written approval from the Planning Secretary and/or delegate
Site	As listed in Appendix 1

## SCHEDULE 2

### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. The Applicant must implement all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the development.

### TERMS OF CONSENT

- A2. The Applicant must carry out the development:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary; and
  - (c) generally in accordance with the EIS.
- A3. If there is any inconsistency between the above documents, the most recent document must prevail to the extent of the inconsistency. However, the conditions of this consent must prevail to the extent of any inconsistency.

### PROTECTION OF PUBLIC INFRASTRUCTURE

- A4. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

### NOTIFICATION OF DEPARTMENT

- A5. The Applicant must notify the Department in writing of the dates on which it:
- (a) commences construction of the development under this consent;
  - (b) completes construction of the development under this consent; and
  - (c) commissions the development.

### TRAFFIC

- A6. Prior to commencing, and after completion of the development, the Applicant must undertake dilapidation surveys of the section of Yallah Bay Road used by heavy vehicles for the development.
- A7. Within one week of completion of the development, unless otherwise agreed the Planning Secretary, the Applicant must provide a dilapidation survey report to the Council and the Department.

### WASTE

- A8. The Applicant must:
- (a) minimise the waste generated by the development;
  - (b) classify all waste generated on the site by the development in accordance with the EPA's Waste Classification Guidelines;
  - (c) store and handle all waste generated on the site by the development in accordance with its classification until disposed of off-site;
  - (d) not receive or dispose of any waste on site; and
  - (e) ensure all waste generated by the development is either removed or disposed of at appropriately licensed waste facilities.

### ENVIRONMENTAL MANAGEMENT STRATEGY

- A9. The Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Planning Secretary. This strategy must:
- (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) set out the environmental management measures to ensure compliance with the conditions of this consent and commitments in the EIS to manage environmental risks;
  - (d) set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (e) set out the procedures (including timeframes) to be implemented to:
    - (i) keep the local community and relevant agencies informed about the operation and environmental performance of the development;

- (ii) receive, handle, respond to, and record complaints;
- (iii) resolve any disputes that may arise;
- (iv) respond to any non-compliance and any incident; and
- (v) respond to emergencies; and
- (f) include references to any relevant strategies, plans and programs required under the conditions of the Council consent or EPL.

A10. The Applicant must not commence construction until the Environmental Management Strategy is approved by the Planning Secretary.

A11. The Applicant must implement the Environmental Management Strategy as approved by the Planning Secretary.

### **COMPLIANCE**

A12. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

### **Incident Notification**

A13. The Planning Secretary must be notified in writing via the Major Projects website immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in Appendix 2.

### **Non-Compliance Notification**

A14. The Planning Secretary must be notified in writing via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance.

A15. A non-compliance notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A16. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## APPENDIX 1: SCHEDULE OF LAND

Development Site	
Lot	Deposited Plan
1092	1140369

## APPENDIX 2: INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

### WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A13 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - (a) identify the development and application number;
  - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (c) identify how the incident was detected;
  - (d) identify when the Applicant became aware of the incident;
  - (e) identify any actual or potential non-compliance with conditions of consent;
  - (f) describe what immediate steps were taken in relation to the incident;
  - (g) identify further action(s) that will be taken in relation to the incident; and
  - (h) identify a development contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - (a) a summary of the incident;
  - (b) outcomes of an incident investigation, including identification of the cause of the incident;
  - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (d) details of any communication with other stakeholders regarding the incident.