

TASMANIAN PLANNING COMMISSION



ASSESSMENT CRITERIA

Project	Bell Bay Wind Farm Major Project
Proponent	Equis Wind (Australia) Projects (LHWF2) Pty Ltd as trustee for the Equis Wind (Australia) LHWF2 Holding Trust
Date	4 December 2024

Under section 60ZM of the *Land Use Planning and Approvals Act 1993* (the LUPA Act), the Development Assessment Panel (the Panel) has determined the assessment criteria.

The Panel outlines its consideration in this determination and provides the assessment criteria at Annexure A.

Pam Allan
Chairperson

Michael Hogan
Member

Alex Brownlie
Member

Louise Gilfedder
Member

ASSESSMENT CRITERIA

The considerations required for the Panel to determine the assessment criteria are specified in section 60ZM of the LUPA Act.

Due to the complexity of section 60ZM, it is not practical to report against each subsection. This is because section 60ZM contains multiple cross references to different sections and sub-sections of the LUPA Act, that in turn contain their own cross references.

To minimise repetition, this report addresses the considerations under each stage of the LUPA Act that relate to preparing the assessment criteria.

Draft assessment criteria

Section 60ZM of the LUPA Act requires the Panel to have complied with section 60ZK.

Before preparing the draft assessment criteria, the Panel considered the major project proposal to inform the relevant land use planning matters. In particular, it focused on:

1. the description of the project;
2. the features and characteristics of the site and broader location, including land tenure, land use, ecology, and heritage (Aboriginal and European); and
3. potential project effects, both positive and negative.

Section 60ZK of the LUPA Act requires the Panel to consider comments on what should be specified in the draft assessment criteria provided under subsection 60ZJ(3), as set out in subsection 60ZJ(4).

Comments were received from four participating regulators - the Department of Natural Resources and Environment Tasmania (NRE Tas), the Department of Premier and Cabinet (DPAC)¹, the Environment Protection Authority (EPA), and TasWater.

Comments were also received from the Department of Health (Public Health Services), George Town Council, Private Forests Tasmania, State Emergency Services (SES), TasRail, Tourism Tasmania, West Tamar Council, and adjoining landowners J Greig, L & P Kossman, and T Walker & G Bauer.

The comments received, informed determination of the relevant land use planning matters. In particular, the comments related to infrastructure, economic effects, natural values, amenity, pollution, landscapes and visual impacts, land use, noise, human health, scale and siting, aviation, public recreation, and residential growth.

The Panel prepared the draft assessment criteria within the relevant period, under subsection 60ZK(2)(b).

¹ In November 2024 the Department of Natural Resources and Environment Tasmania became the Department responsible for the *Aboriginal Heritage Act 1975* and the Department of Premier and Cabinet ceased to be a participating regulator.

Cross references to section 60ZM in subsection 60ZK(3) are set out under the headings 'land use planning matters' and 'participating regulator matters' below.

The Panel has complied with section 60ZK.

Representations

Under section 60ZL, the assessment criteria were advertised as a draft for 14 days up to 28 October 2024. Seventeen representations were received in the statutory period and four submissions were received after the statutory period and accepted by the Panel.

Representations and submissions were received from:

1. Les Teague;
2. Tasmanian Heritage Council;
3. Victoria Jansen-Riley;
4. Susan & Lawrence Wallis;
5. Environment Protection Authority Tasmania (EPA);
6. MBBO Pty Ltd;
7. Nick Wigg;
8. Department of Natural resources and Environment Tasmania (NRE Tas);
9. Graham Bauer & Timothy Walker;
10. Charles & Caroline Millen
11. TasWater;
12. Equis Wind Australia Pty Ltd;
13. Winston Archer;
14. C Walker & J Cauchi;
15. Bell Buoy Beach Residents Association;
16. Lynette LaBlack;
17. TasNetworks;
18. Department of State Growth;
19. State Emergency Service;
20. Tasmania Fire Service; and
21. Sustainable Timber Tasmania.

The Panel provided the EPA and NRE Tas with representations that related to matters in their respective assessment requirement notices. Neither of these participating regulators provided an alteration notice in response to the representations in accordance with 60ZL(4).

In determining the assessment criteria, the Panel have considered the representations.

The Panel acknowledges many representations provided detailed information on:

- how they considered the major project would or could have positive or negative effects on matters, such as, health, amenity, natural values, natural hazards (fire risk), the environment, and community;

- the potential studies needed to support or otherwise understand the effects of the major project, including the need for transparent reporting, management plans and audits to support any permits;
- raised additional issues around matters such as economic costs, indirect taxpayer subsidisation, remediation and decommissioning, the need to examine alternatives; and
- sought clarity concerning scope, interpretation, meaning and the requirements of assessment criteria.

The Panel considers that the matters raised were largely already addressed within the scope of the draft assessment criteria, but also made the following changes after considering the representations:

- Changes to the wording of context statements to assist in understanding the scope of information to be addressed;
- Changes to the wording of some criteria to improve clarity;
- Minor clarification of considerations for the factors the panel ‘may have regard to’;
- Clarification of existing described terms; and
- Clarifications and addition of further information and guidance in the appendices.

The Panel notes that assessment criteria set a test to be achieved and require matters to be addressed but can’t require a proponent to undertake specific studies. The Panel considers that the studies or assessments representors called to be undertaken will be largely required to address the assessment criteria and limited modification of the guidance information in the appendices is necessary.

Some representors considered that some draft assessment criteria were not for a proper planning purpose, duplicated approvals required under other legislation, or raise issues concerning the scope, and whether the draft assessment criteria were required.

The Panel notes that these representations relate to what a strategic planning matter is, and the Panel considers providing further commentary on strategic planning matters is necessary.

Strategic Planning Matters

Under the LUPA Act assessment criteria are to be, in part, ‘relevant land use planning matters’. Relevant land use planning matters are matters that the Panel considers are reasonably required to enable the proper assessment of whether the project would be an effective and appropriate use and development of land.

The Panel’s consideration of relevant land use planning matters aims to address issues that may be related to aspects of the RMPS that are part of the determination under s.60ZZM (3) and (4). For example, under the LUPA Act the Panel is required, as one aspect of determining whether a project should be approved, to be satisfied that the project would be consistent with furthering the objectives specified in Schedule 1 of the LUPA Act.

Many of these relevant land use planning matters are related to strategic planning considerations. The assessment criteria include a set of criteria that are grouped under the heading of 'Policy context and strategy'.

In determining whether these or other more specific assessment criteria have been satisfied, the Panel is able to consider that in light of the project as a whole.

More broadly, many of the relevant planning matters for major projects such as wind farms, or other forms of economic infrastructure and industrial activity, relate to issues such as economic or social effects, and the provision of supporting infrastructure. For example:

- The capacity of a site due to its location or other spatial qualities, and the design and siting of an economic infrastructure project with its related transport linkages, bulk water supplies, energy requirements, and such like on that site, to provide the basis for low-cost supply of goods or services is a core and relevant land use planning matter. How a specific project or market sector establishes prices for goods or services is not likely to be a relevant matter.
- The effect that a project may have on the supply of or demand for additional or augmented infrastructure or facilities, how this relates to the orderly and coordinated provision of infrastructure as well as the economic consequences of infrastructure provision, is a core relevant land use planning matter.
- Where the network congestion effects of a project may require the provision of new or augmented infrastructure the consequences of this from an economic, cultural or ecological perspective is a relevant land use planning matter. The affect that network congestion may have on business outcomes for individual electricity generators or their price setting behaviour is unlikely to be a relevant matter.

The fact that there may be funding mechanisms, coordination frameworks or investment assessment procedures that are used by organisations that are pursuing a project or related infrastructure does not generally provide a basis for the Panel to avoid identifying or addressing relevant land use planning matters. However, the information arising from these procedures may well be relevant to the assessment of a matter or the project.

The Panel has made a number of revisions to the context of the strategic planning criteria to clarify the background.

Other matters raised

In relation to issues raised in representations concerning overlap with Commonwealth environmental decisions, and the amount of information necessary to address the 'Management practices' assessment criteria or refinement of detailed management practices in management plans, the Panel provides the following responses:

- The Panel considers that not considering effects on species or communities because they are listed only under a Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) is not aligned with its decision-making requirements under the LUPA Act.

The Panel notes that ecological matters are relevant land use planning considerations at a variety of spatial scales.

In relation to the assessment of EPBC Act matters the panel notes the proponent chose to not pursue a coordinated assessment of these matters.

- The major project assessment process provides for the grant of a major project permit for the actual use and development of land.

The Panel is aware of the need for a final design of major infrastructure projects to refine the permitted use and development, including how the use and development are undertaken.

A major project permit, like a permit for a planning application, is able to accommodate necessary non-substantial modifications to the permitted plans or management actions, for a major project.

- The preamble to the assessment criteria provides commentary on the level of detail required by surveys and assessments.

Given, that the detail of information provided in addressing criteria will in part be reliant on on-ground findings, the Panel considers making use of the informal coordination of advice between participating regulators and the Commission on assessment procedures is a more effective approach. This approach increases the likelihood that the major project impact statement will address the assessment criteria to the extent necessary, rather than attempt to include exhaustive lists of information requirements in the assessment criteria or appendices.

The Panel's views have been informed by the broad range of representations, and the Panel has complied with section 60ZL.

Land Use Planning Matters

The assessment criteria are based in part on the Panel's consideration of relevant land use planning matters for the major project.

The Panel considers that the assessment criteria are reasonably required to enable a proper assessment of whether the major project would be an effective and appropriate use and development of the land.

The Panel has had regard to:

- a) the Tasmanian Planning Scheme - George Town Local Provisions Schedule (planning scheme), noting the assessment criteria address issues relevant to the provisions within zones and codes that apply to the land;
- b) amendments to the planning scheme that may be required in order to provide certainty and clarity on the planning provisions that apply to provide for the effective ongoing use and development of the wind farm facilities and to ensure the major project could be lawfully carried out; and
- c) the Northern Regional Land Use Strategy (regional strategy), particularly in relation to policies for the Regional infrastructure network, Rural and natural production resources, Biodiversity and native vegetation, Coasts

and waterways, Integrated land use and transport, Cultural heritage, Landscape and scenic amenity, and Tourism.

After having regard to the regional strategy and providing for the assessment criteria to address matters that arise in relevant policies and actions, the Panel considers the assessment criteria are not inconsistent with the regional strategy.

The Panel considers that the assessment criteria seek to further the objectives of schedule 1 of the Act. In particular, the assessment criteria seek to provide for clear consideration of the social, economic and cultural effects of the major project. The assessment criteria also seek to promote the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community. In conjunction with consideration of physical and ecological matters, the assessment criteria seek to promote sustainable development.

The Panel considers that the assessment criteria are consistent with each applicable State Policy (including National Environment Protection Measures) by addressing issues relevant to each state policy, including:

- protection of agricultural land;
- water quality;
- coastal values;
- air quality and emissions; and
- contamination.

The Panel notes the Tasmanian Planning Policies are not yet in effect.

In determining the assessment criteria, the Panel has considered the above matters and is satisfied that the assessment criteria meet subsections 60ZM(4)(a), (5), (6), and (7) of the Act.

Participating regulator matters

Assessment requirement notices were received in relation to the *Aboriginal Heritage Act 1975*, the *Environmental Management and Pollution Control Act 1994*, the *Nature Conservation Act 2002*, and the *Threatened Species Protection Act 1995*.

No alteration notices were received.

The Panel considers that the assessment criteria include the matters that the participating regulators required to be addressed in their assessment requirements notices, noting the Panel has structured and arranged the assessment criteria differently to the assessment requirement notices.

Guidance and advice provided by participating regulators has been incorporated at a high level into factors the Panel may have regard to, and are also set out in full, in Appendix C to the Assessment Criteria.

Attachments

Annexure A - Assessment Criteria