28 October 2024

Ms Pam Allan
Chairperson
Development Assessment Panel
Tasmanian Planning Commission
Level 3, 144 Macquarie Street
HOBART TAS 7000

By email: tpc@planning.tas.gov.au

Dear Ms Allan,

Bell Bay Wind Farm Major Project

Draft Assessment Criteria

I refer to your draft assessment criteria that have been prepared for the Bell Bay Wind Farm Major Project. Please accept this letter as a submission made by Equis Wind Australia (Equis) in accordance with section 60ZL(2) of the *Land Use Planning and Approvals Act 1993* (the LUPA Act).

1. Acceptable level

As noted in the Preamble, a draft assessment criteria will be satisfied where the Panel considers that an 'acceptable level' has been achieved. The Panel's consideration of whether the assessment criterion have been achieved will involve forming a judgment on a range of interrelated matters, and may be assessed in light of the project as a whole.

The Preamble also provides that many of the assessment criteria include a list of factors the 'Panel may have regard to', noting also that such factors are included when the Panel considers:

(a) professional practice has demonstrated there are likely to be particular factors that may be relevant to the criterion; or

(b) it is important for a specific factor to be transparently mentioned.

We have concerns regarding the procedural fairness afforded to all parties by relying on the term 'acceptable level' where the assessment criteria have not listed the 'have regard to' considerations. In the draft assessment criteria, all criteria under 1.0 Policy context and strategy, do not include any 'have regard to' considerations. As a result, it is not sufficiently clear how 'acceptable level' will be determined which undermines the procedural fairness to our client.

We have addressed specific issues in relation to criteria under 1.0 Policy context and strategy below. Notwithstanding, we also submit that the Panel should articulate the 'have regard to' matters for criteria 1.1, 1.2, 1.3 and 1.4.

2. Description of Terms

The description of <u>delivered cost</u> is too broad. We request the description is narrowed to the cost of generation including transmission costs (all costs up to and including the cost to connect to the grid). The cost to consumers and power system management costs are influenced by factors beyond this project.

We submit that the description of <u>delivered cost</u> be amended as proposed in the summary below.

The description of <u>listed native fauna</u>, <u>listed native flora</u> and <u>listed native vegetation communities</u> include species and communities listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As this project will be separately assessed under the EPBC Act, the inclusion of Commonwealth listed species in the state assessment process presents a risk of duplication and inconsistency and appears to be beyond the scope of the state assessment process.

We submit that the description of listed native fauna, listed native flora and listed native vegetation communities are amended to exclude reference to species and communities listed under the EPBC Act, as proposed in the summary below.

The description of project site introduces a new term that does not align with the LUPA Act. Section 60R, 60S and 60TB all refer to 'land'. We submit that the description of project site be amended to project land as proposed in the summary below.

Summary of submission

In summary we submit the following descriptions be amended as follows:

> *delivered cost: is the total cost of ~~supplying electricity to consumers and includes~~ generation including transmission ~~and power system management~~ costs.*
>
> *Listed fauna: threatened fauna species under the Threatened Species Protection Act 1995~~, listed threatened fauna species under the Environment Protection and Biodiversity Conservation Act 1999 and migratory species listed under the Environment Protection and Biodiversity Conservation Act 1999.~~*
>
> *Listed native flora: native threatened flora species under the Threatened Species Protection Act 1995 ~~and native listed threatened flora species under the Environmental Protection and Biodiversity Conservation Act 1999.~~*
>
> *Listed native vegetation communities: ~~ecological communities listed as endangered or critically endangered under the Environment Protection and Biodiversity Conservation Act 1999 and~~ threatened native vegetation communities under Schedule 3A of the Nature Conservation Act 2002.*
>
> *project ~~site~~ land: the area described as the 'project location' in the Bell Bay Wind Farm Major Project declaration.*

3. Criterion 1.1

There are concerns with this criterion as currently worded.

Our first concern is in regard to the use of the term 'low delivered cost'.

While it is recognised that the MPIS should provide consideration of the project's contribution to the Tasmanian Government's policies and strategies, there is no relevant policy or strategy within the legislative policy hierarchy under the LUPA Act that mentions cost effectiveness or low cost. This includes the Objectives of the Resource Management and Planning System, State Policies, draft Tasmanian Planning Policies (TPP) and the Northern Tasmania Regional Land Use Strategy.

The only mention of cost effectiveness in these documents is in the draft TPPs in regard to coordinating and sequencing growth areas for settlements. This is irrelevant to this assessment. Instead, the policy hierarchy focusses on demonstrating that sustainable development is achieved. This is a different concept to low cost and relies on an understanding of overall economic cost benefits.

Further, low delivered cost is a relative term. It is not clear how the panel will be determining low delivered cost and whether this is a comparison to other forms of energy production, other wind farms, and whether these are also located in Tasmania or in other jurisdictions. Indeed, there are an unspecified number of comparisons that may assist in determining low delivered cost.

Importantly, the market will determine whether the delivered cost (as described in Section 2) is acceptable.

We submit that the panel should clarify how 'low' will be assessed.

Our second concern is the subclause (c) which references industry development strategies relating to the future use of the Bell Bay industrial area.

As has been explored by the panel appointed to the George Town Local Provisions Schedule (LPS) (AM-GEO-AMS-02-2023) there is currently no publicly available development strategy for the Bell Bay industrial area. Submissions made by the Office of the Coordinator General in that process has indicated that there is some ongoing work being progressed with land owners and industry, however this is yet to be finalised. George Town Council's structure plan for George Town, while covering a small component of the northern end of Bell Bay, does not address the broader Bell Bay area.

The cumulative effect of public announcements relating to Bell Bay indicate a high level of potential future activity and change for the area, however in the absence of any clear strategic plan or master plan, this criterion raises considerable uncertainty for Equis.

Long term plans for Bell Bay are a contentious issue within the community as evident from the LPS process. We are concerned that Equis will only be able to speculate in order to respond to this criterion, giving rise to consequential issues associated with community and industry confidence in the planning process.

Unless the strategic master plan for Bell Bay is finalised and released by the Tasmanian Government prior to the finalisation of the project assessment criteria, we submit it is not reasonably possible to address this element.

Summary of submission

In summary we submit that the panel should:

- clarify how 'low' will be assessed;
- amend the description of the term 'delivered cost';
- specify its 'have regard to' matters; and
- that Criteria 1.1 is reworded as follows:

The characteristics of the project ~~site~~ land and location as well as the proposed use and development are capable of providing a basis for a low delivered cost wind energy facility that positively contributes to the Tasmanian Government's:

(a) greenhouse gas emission reduction policies; and

(b) renewable energy targets;~~-~~and

(c) industry development strategies~~, including plans for future use of the Bell Bay industrial area~~,

to an acceptable level.

4. Criterion 1.2

We submit that this criterion is not for a proper planning purpose. The strategic coordination and planning of generation and transmission is a statutory role which falls with the Executive Director of Energy and Planning under the *Energy Coordination and Planning Act 1995*.

This matter is separately considered via other processes, and therefore should not form part of the planning assessment process for this project. To appropriately and adequately address this criterion, it would require the panel to have access to details of projects and strategies that are in their development phase, have not yet been finalised, and are currently being progressed on the basis of commercial in confidence information from other parties, including TasNetworks.

This criterion is also an example of where there is uncertainty as to how the panel will determine acceptable level.

Summary of submission

In summary, we submit that this criterion is deleted in its entirety. If the panel considers it necessary to consider the broader effects relating to transmission connections, this could be included as a subclause in Criterion 1.4.

5. Criterion 1.3

Demonstrating that the project land has suitable wind resource and is appropriately located are land use planning considerations. However, in our opinion, these matters should be addressed under one of the planning criteria, rather than a criterion relating to low delivered cost of electricity. Regardless of where the matters are addressed, long-term speed, direction, reliability and variability is commercial in confidence information and exceed what is required to meet this criterion; therefore should be removed from this criterion.

Planned shared transmission network is separately considered via other processes, is influenced by factors beyond this project and therefore should be removed from this criterion.

Assessing 'current and potential future load' would require access to details of projects that are only in development, are not yet finalised and at best would be based on commercial in confidence information from other parties if indeed such information is available to Equis. Therefore, as 'current and potential future load' is influenced by factor beyond this project, it should be removed from this criterion.

Summary of submission

In summary we submit that the panel should clarify how 'low' will be assessed, amend the description of the term 'delivered cost', and that Criteria 1.3 is reworded as follows:

The project ~~site~~ land characteristics and the design of proposed use and development including:

- wind resource across the project site~~, including its long-term speed, direction, reliability and variability;~~
- the location, siting and spacing of wind turbines;
- the scale of the wind energy facility; and
- its location with respect to the current ~~and planned~~ shared transmission network ~~and current and potential future load,~~

are capable of providing the basis for a wind energy facility with a low delivered cost of electricity to an acceptable level.

6. Criterion 1.4

Demonstrating the social, economic and environment effects of the project during construction and operational phases are land use planning considerations.

We do, however, have concerns with subclauses (g) and (h) in this criterion.

In regard to subclause (g), system security, and (h), augmentation to publicly owned/regulated infrastructure, these are managed by TasNetworks who have appropriate cost recovery measures in place for the project. The inclusion of these considerations would require the panel to have regard to the appropriateness of TasNetworks charging mechanisms which we submit is inappropriate for a planning authority and duplicates the role of the Tasmanian Economic Regulator. Further to this, generator constraint is influenced by factors beyond this project and will be uncertain to Equis at the time of the MPIS preparation and panel's assessment and decision.

We submit (g) and (h) should be removed from this criterion.

Summary of submission

In summary we submit that the panel should specify its 'have regard to' matters and that this should specify the relevant cost benefit guidelines that the panel will be relying on. Further we submit that Criteria 1.4 is reworded as follows:

> *The effects of the project during both construction and operating phases, on the social, cultural and economic wellbeing of local, regional and State communities including:*
>
> *(a) the distribution of economic and material benefits;*
>
> *(b) the degree to which labour, material, or products required for the project are sourced locally;*
>
> *(c) effects on the availability of workforce for other industries;*
>
> *(d) opportunities for employment, business, and training;*
>
> *(e) opportunities for co-located, aligned, or downstream community and commercial activities; and*
>
> *(f) changes to the supply and affordability of housing , visitor accommodation and community and business services;*
>
> ~~*(g) increased costs to electricity consumers due to requirements for system security management or due to generators being constrained by network congestion; and*~~
>
> ~~*(h) increased demand for public/customer funded augmentations to publicly owned/regulated infrastructure,*~~
>
> *are at an acceptable level.*

7. Criterion 2.2

Criterion 2.2 requires details of management actions in relation to a range of matters. It is not clear the level of detail required by the panel in order to satisfy the acceptable level threshold.

It is usual practice at the primary consent stage to deal with management practices through commitments in the impact statement. These will often be focussed on preparing specific plans to manage project elements or impacts in order to achieve a stated outcome. A review of typical decisions of the Environment Protection Authority Tasmania (EPA) under the Level 2 pathway is demonstrative of this.

This criterion does, however, suggest that the panel is expecting considerable upfront detail, rather than what is usual practice in the environmental impact sector to emphasise reliance on secondary consents through conditions.

It is impractical for a project of this scale and nature to have full confidence at the primary assessment stage in management actions. Due to the time lag between permit issuance and commencement of works, additional confirmation surveys are often required on site, along with further design refinement. We note that variation in approval timeframes across Australia can largely be attributed to the reliance on the secondary consent phase. It is important to balance the need between upfront details, which provides certainty about project outcomes, with the risk of requiring highly detailed documentation that may need updating prior to the commencement of construction.

Summary of submission

In summary, we submit that the panel more clearly articulates the level of detail required in management actions in order to meet the acceptable level threshold.

8. Criteria 3.13

Criterion 3.13(b) requires adherence to a limit of modelled shadow flicker not exceeding 30 hours per year and 30 minutes per day at any existing residential dwelling. This presents two potential challenges.

Firstly, it is not clear from which guideline or policy these limits are drawn. It is our understanding that there are several policies and guidance documents available in other jurisdictions in relation to wind farm shadow flicker modelling and management; some of which reference only the 30 hours per year limit, and others which also reference the 30 minutes per day limit. These various guidance documents each have their own set of methods, assumptions and recommended limits, which should be interpreted in context not isolation.

We note that the Appendix C to the Draft Assessment Criteria refers to the shadow flicker section of the Draft National Wind Farm Development Guidelines (2010), which specifies recommended exposure limits of 30 hours per year modelled (Table E-1) but does not specify a daily modelled exposure limit.

In our opinion the criterion should clearly specify the guideline or standard from which these limits are drawn, to provide clarity and allow the assessment to be conducted in accordance with a recognised standard.

We additionally note the EPA's recent wind farm assessments in Tasmania has focussed on 30 hours per year and this has by industry taken to be an informal standard.

Secondly, criterion 3.13(b) and (d) also does not differentiate between involved dwellings (i.e. those who have entered into a commercial arrangement with the wind farm proponent) and non-involved dwellings (those that have not entered into a commercial arrangement). Such commercial arrangements for involved receivers take into consideration the potential for amenity impacts and are consistent with the Australian Energy Infrastructure Commissioner's guidelines for managing impacts in renewable energy project.

We submit the criterion is reworded to recognise involved receivers consistent with the Victorian Planning Guidelines.

Summary of submission

In summary we submit that the panel should specify the guideline or standard to which the project should comply, with regard to modelled shadow flicker limits. Additionally, we submit that the criteria regarding shadow flicker should be limited to 30 hours per year consistent with the EPA's approach and should differentiate between involved and non-involved receivers.

> *The proposed use and development, maintains communication service quality and the amenity of the project site and vicinity by:*
>
> *(a) protecting pre-existing radio communication services from interference due to physical structures or electric and magnetic fields to an acceptable level;*
>
> *(b) not exceeding a modelled blade shadow flicker impact at any existing residential dwelling of 30 hours per year ~~and 30 minutes per day~~, <u>unless an agreement has been entered into with the relevant land owner waiving this requirement</u>;*
>
> *(c) complying with New Zealand Standard NZS 6808:2010, Acoustics Wind farm noise for the sound level of operating wind turbines, including an assessment of whether a high amenity noise limit is applicable to locations zoned General Residential or Low Density Residential;*
>
> *(d) minimising the operating sound and vibration levels from substations, energy storage systems, and overhead power lines at noise sensitive premises to an acceptable level, <u>unless an agreement has been entered into with the relevant land owner waiving this requirement</u>;*
>
> *(e) minimising effects of blade glint at any existing residential dwelling, General Residential Zone or Low Density Residential Zone to an acceptable level; and*

(f) *maintaining the amenity of public recreation users of the project site and adjacent land in relation to shadow flicker and noise and vibration to an acceptable level.*

We trust that our submission will assist the panel in finalising the draft assessment criteria. Should you have any queries regarding our position, please do not hesitate to contact me at andrew.kerley@equis.com or on 0438 289 193.

Yours sincerely,

Andrew Kerley
Director, Wind