

Review – Proposed updates to State code 23: Wind farm development and the associated Planning Guidance

1 Introduction

The Queensland Renewable Energy Council (QREC) welcomes the opportunity to provide comment on the proposed updates to State code 23: Wind farm development (code) and the associated planning guidance (guideline).

QREC is a recently established, not for profit, organisation that is focused on providing policy leadership and advocacy on matters relating to the development and operation of renewable energy projects in Queensland. We act in the best interests of our members in policy areas including social licence, co-existence, health & safety, environment, planning, assessments and approvals.

QREC is pleased to see continued Queensland Government support for the wind farm and renewables industry and the practical approach that has been adopted towards authorising development to date. QREC supports the intent of the proposed changes to the code and guideline and offers the following thoughts and comments in support of the review.

2 Issues

2.1 Retrospectivity and transitional arrangements

Section 1.1 of the guideline states, “The purpose of this guideline is to assist applicants in preparing development applications for new wind farms or changes to existing approvals”. It is not clear what is meant by “changes to existing approvals”. If this is meant to refer to proposed modifications or changes to an existing approved wind farm which may necessitate a modification or amendment to an existing approval then it may be better referred to as, “.....for new wind farms or applications to amend existing approvals”

As it currently reads, it may be interpreted as that the proposed changes to the code and guideline could be applied retrospectively to existing approvals or applications already submitted. QREC does not support the retrospective application of changes to the code and guideline as this approach has the potential to significantly impact development and investment certainty in the renewables industry.

2.2 New terms and consistency of language

The draft code and guideline material introduce several new terms, some of which appear to lack definition or are used in an inconsistent manner. Specifically, the following are of concern:

- ‘High environmental value’, ‘high ecological value’ and ‘highly sensitive areas’ are not defined. There may be benefit in referring to existing terms/definitions in the *Environment Protection Act 1994* (EP Act), the *Nature Conservation Act 1992* (NC Act), *Biodiscovery Act (2004)* or the *Environmental Protection and Biodiversity Act 1999* (EPBC Act) rather than creating new definitions.

- 'Significant vegetation' is defined very broadly as, "may include mapped or identified habitat for threatened species, threatened vegetation and other sensitive ecological matters such as.....". This may benefit from a more definitive definition (such as used in one of the aforementioned Acts). Vegetation mapping is also a derivative of the *Vegetation Management Act 1999* (VMA) which is not mentioned.
- 'Adversely impact' and 'unacceptable adverse impacts' are used interchangeably and also require definition.
- 'Protected from' is used in some sections of the guideline and may better be defined in terms of an allowable impact.
- 'Watercourses' requires better definition. Currently the resources industry are required to consider potential impacts to watercourses based upon their Strahler stream order. A similar approach could be of benefit to the draft documentation in order to ensure a risk based approach is adopted.

There is concern that some of the terminology used may unintentionally hinder development due to an overly restrictive interpretation or definition.

2.3 Rehabilitation and decommissioning

Rehabilitation and decommissioning expectations are significantly expanded in the draft code and guideline. QREC supports the intent of these changes but believes the requirements could be better defined, potentially leveraging existing definitions and requirements that are currently used in the EP Act and associated Environmental Authority conditions that are currently applied to the resources industry.

The proposed Performance Outcome (PO) 4 also states that areas cleared for construction are to be replanted to the maximum extent possible. Rather than specifically stating that replanting is required, it may be better to refer to the site being progressively rehabilitated (with a definition of this term that is consistent with other legislation and conditions) to allow for landholder preference and site specific considerations. This comment is relevant to both the code and the guideline where this PO is mentioned.

There are also references in the guideline section 3.1 (Meeting performance outcomes: Protecting areas of high environmental value and minimising environmental impacts) to the need for, "Areas to be cleared for construction purposes will be required to be rehabilitated to the maximum extent possible". Again, while understanding the intent, it may be beneficial to consider the current requirements of the EP Act and the progressive rehabilitation approach that has been adopted for the resources industry. While not needing to specifically call up these legislative requirements, there may be benefit in ensuring consistent wording is used. For example, the wording in this section could be changed to say, "Areas to be cleared for construction purposes will be required to be progressively rehabilitated as the land becomes available for rehabilitation."

There is a further dot point in section 3.1 that refers to outlining 'rehabilitation principles' which is unclear in its meaning and may require expansion. An additional suggestion is that reference to "re-establishing native ecosystems" be removed in relation to rehabilitation requirements. It may be that the areas to be rehabilitated are farmland or community areas and the reference to native ecosystems is not relevant.

As a whole, the intent of the rehabilitation and decommissioning requirements is supported but there is potential for significant simplification and benefit in adopting some of the terminology and requirements that already exist in other legislative instruments and tools and are used in other industries for this purpose.

2.4 Use of draft and subsequent conditioned plans

There are a significant number of newly required plans in the draft code and guideline. A list of those identified includes:

- Vegetation and fauna management plan
- Cleared vegetation management plan
- Draft bird and bat management plan
- Progressive rehabilitation plan
- Preliminary rehabilitation/restoration plan
- Replanting/rehabilitation plan
- Stormwater management plan
- Post-construction site stabilisation plan
- Erosion and sediment control plan
- Bushfire management plan
- Safety and emergency management plan
- Noise monitoring plan
- Waste management plan (for workers accommodation >50 beds)
- Construction and heavy haulage plans
- End of decommissioning management plan

Some of these plans appear to overlap or be duplicative in their requirements. They also appear to be inconsistently referred to in some instances. For example, progressive rehabilitation plan, preliminary rehabilitation/restoration plan and replanting/rehabilitation plan are assumed to be the same instrument but are referred to by these different names in various sections of the guideline. While the need for some of these is understood, consideration could be given to what plans may be required under what circumstances and if some consolidation may be possible.

There is also a reference to some of the plans forming part of the required Ecological Assessment. Generally speaking, it may be better to separate an independently prepared assessment, which should identify what is there and what impacts may occur, from the development of plans to manage the identified potential impacts and risk areas.

A further consideration is whether the requirement for plans as a result of conditions of approval results in a 'nested approval'. Any plans that are identified as required by conditions of a development application approval should not require additional approval once they are developed.

2.5 Miscellaneous issues

Code PO18 – Development delivers local and state-controlled intersection upgrades to ensure construction activities do not adversely impact transport networks and infrastructure. While not explicitly stated, it is assumed that this PO is only relevant where it is determined such upgrades are required. It may add clarity to insert 'necessary', 'required' or 'where identified' as part of the wording.

Guideline Section 2.0 – Pre-lodgement. There is a dot point in in this section regarding engagement with the local community prior to seeking pre-lodgement advice from SARA. There is a line in this dot point where it states, "Community stakeholders have become increasingly critical of the fact that most wind farms are code assessable and therefore proponents have no statutory requirement to consult". Engagement with the local community prior to and during lodgement and assessment is encouraged and supported by QREC, however, it is suggested that this line be removed as it appears to be commentary and not suitable for inclusion in guidance material for the purpose of a development application in accordance with the code.

It is also noted that there are new recommendations for engagement prior to seeking pre-lodgement advice which include engaging with the Department of Energy and Public Works and the Department of Resources as well as considering applying for a PMAV ahead of submitting a development application. While the intent of these is understood, one of the key purposes of the State Assessment and Referral Agency was to ensure a coordinated and whole of government approach to the assessment and consideration of development applications and it may be of benefit to consider how these requirements to engage could be considered as part of the initial pre-lodgement meeting and advice rather than a precursor to making the pre-lodgement request. The guidance on submitting a PMAV may be better moved to section 3.1 of the guideline.

Guideline Section 3.0 – SDAP Assessment. The preamble contained in this section has been updated. QREC feels that wording contained in the existing version of the guideline may be the better version.

Guideline Section 3.1 – Meeting performance outcomes: Protecting areas of high environmental value and minimising environmental impacts. The mitigation hierarchy may be a better way of addressing some dot points in this section. For example, there are several dot points which refer to minimising or avoiding impacts. These may be better addressed through consideration, in order, of measures to avoid, minimise, mitigate or offset potential impacts to the identified environmental values.

Guideline Section 3.4 - Meeting performance outcome: Natural hazards and extreme weather events. The intent of this section is understood but may be better focused on emergency and response planning. There are existing model conditions for Environmental Authorities utilised by the resource industry that may provide some useful definitions and terminology.

Guideline Section 3.10 - Meeting performance outcome: Transport Networks. In the context section there is a paragraph which states, "Some wind farms have had significant difficulties in securing feasible haulage routes after gaining MCU approvals. As a

consequence, SARA now requires proponents to support applications with analysis that provides a high level of confidence that heavy vehicle haulage can be organised to support project construction after a MCU approval.". While the point is understood, it may be beneficial to remove the commentary and just state the requirement that, "Proponents must support applications with analysis that provides a high level of confidence that heavy vehicle haulage can be organised to support project construction after a MCU approval"

3 General issues for consideration

3.1 Existing industries and legislative tools

It is clear from the proposed changes that there is a focus on ensuring that potential broader impacts, such as social, community, supply chain, road/transport, rehabilitation and decommissioning issues, are better considered as part of new windfarm development. QREC supports this intent and believes that consideration of these issues will be essential to ensure the successful expansion of the wind farm and renewables industry. Similar issues have been considered within the resources industry over a number of years and there are many existing examples, definitions, conditions and approaches that have been embedded into legislation over time that may be of benefit to consider when determining how best to ensure these requirements are considered and applied to the construction and operation of wind farms.

For example, there are elements of the EP Act, Biodiscovery Act, VMA, NC Act, EPBC Act and the *Strong and Sustainable Resource Communities Act 2017* which may be of benefit to consider, at least in terms of ensuring consistency of terms and definitions, if not adopting some of the approaches in certain instances. QREC would welcome the opportunity to work with the Department of State Development, Infrastructure, Local Government and Planning to further explore how the learnings from the resources industry and existing legislative tools could best be leveraged and applied to the development of wind farms and other renewable energy industries.

3.2 Suitably qualified personnel

The use of a suitably qualified person to prepare various plans and meet certain requirements is a key part of the existing code and guideline and seems to have been removed in relation to the preparation of some required plans in the proposed drafts. It is unclear why this is the case and may be beneficial to reinstate in some instances.

3.3 Minor wording and readability

There are a number of instances where minor changes in wording would provide greater clarification/simplification and aid in the readability of the document. If the draft updates were to be provided in word format, QREC would be willing to provide a marked up copy of the draft code and guideline with suggested amendments if this is considered beneficial.

4 Conclusion

Thank you for the opportunity to provide comment on the proposed updates to the code and guideline. In summary, QREC is largely supportive of the intent and reasoning behind the proposed updates and would welcome the opportunity to continue to work with the Queensland Government and relevant stakeholders on this important issue.

I look forward to further iterations of the updated code and guideline and discussing the details of our submission. The QREC contact on this submission is Andrew Brier, who can be contacted on abrier@qrec.org.au or 0428 582 923.

Sincerely,

A handwritten signature in purple ink, appearing to read "Katie-Anne".

Katie-Anne Mulder

Chief Executive Officer
Queensland Renewable Energy Council