



Native Vegetation Council

File: 2020/3022/921, NVC Mtg 230 Agenda Item 13

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18 December, 2020

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cc: EBS Ecology, Eyre Peninsula Landscape Board

REGULATION ADVICE NOTIFICATION

Regulation 12(34) – Infrastructure

Dear Alecia,

RE: EYRE PENINSULA TRANSMISSION LINE

I refer to ElectraNet's application dated 16th January 2020, in which approval was sought from the Native Vegetation Council (NVC) for the removal of native vegetation associated with the proposed Transmission Line project on the Eyre Peninsula under Schedule 1, Regulation 12, *Schedule 1; Clause 34 – Infrastructure*.

At its meeting of 4th November 2020 the NVC considered your application in conjunction with deliberation at previous NVC meetings and representation by Scott Haynes, Land Services Manager / Emergency Liaison Coordinator, David Tansell, Project Director and yourself, with a report from the Native Vegetation Branch. The application for the development, as detailed in the *EBS Ecology (2019) Eyre Peninsula Transmission Line Native Vegetation Assessment. Report to ElectraNet. EBS Ecology, Adelaide* and supplementary information reference: *14172-LND-LTR-045* dated 20 October 2020, was considered against Schedule 1, Regulation 12, *Schedule 1; Clause 34 – Infrastructure*.

The NVC considered that the proposed clearance of up to 192.021 ha of native vegetation satisfies the requirements of Schedule 1, Regulation 12, Schedule 1; Clause 34. In addition to recommended conditions of approval the NVC sought to include further conditions (8 & 11) to encourage reduced impacts within the project area.

The NVC resolved to endorse the use of Regulation 12, Schedule 1; Clause 34 to clear up to 192.021 ha of native vegetation as described in the *EBS Ecology Report*, and supplementary information subject to the following conditions:

1. No clearance to commence until confirmation of final impact areas has been provided to the Native Vegetation Branch. If there is any change to the clearance requirement for the development, ElectraNet Pty Ltd. is to confirm the final clearance area and SEB offset requirement on finalizing the detailed design of the Eyre Peninsula Transmission Line Project prior to undertaking clearance. The extent of clearance must include, but not limited to clearance for construction of the Transmission Line

Structures, Stringing Pads, Stringing Access Corridor, Spur Track, Substations, Construction Laydown Areas and Construction Camps

2. No clearance to commence until full development consent has been granted by the relevant planning authority under the *Planning, Development and Infrastructure Act 2016*.
3. No clearance is to occur until all required approvals have been obtained, including but not limited to, any approval that is required under the *Environment Protection and Biodiversity Conservation Act 1999*, *Native Title Act 1993* and *Landscapes SA Act 2019*.
4. No clearance is to occur on the relevant land until approval has been obtained from the owner of the land including: DEW Regional and Crown Lands Program - National Parks and Wildlife Service Division;
5. Prior to clearance commencing, the following Heritage Agreements must be varied, by consent of the Minister responsible for the agreements, to exclude any areas that are subject to this application from the Heritage Agreement.
 - HA 137
 - HA 381
 - HA 528
 - HA 729
 - HA 774
 - HA 833
 - HA 1398

No clearance is to occur at any time on land that remains subject to a Heritage Agreement under the *Native Vegetation Act 1991*.

6. Clearance is restricted to areas described in application documentation and as shown on Regulation Advice Plan No 2020/3022/921;
7. Prior to clearance commencing in an areas of vegetation under application, the applicant must define the area or trees approved for clearance with markings, barriers, pegs, flags or temporary fencing. The markings, barriers, pegs, flags or temporary fencing must remain in place, in good condition and clearly visible, for the period in which clearance is occurring.
8. The applicant is to develop and implement a document procedure for the induction, training and clearance permitting system for any employee, contractor, subcontractor or anyone else acting on behalf of or with the permission of the applicant on the land the subject of this approval, to ensure they are fully aware of their obligations under this approval. Any person undertaking clearance of native vegetation must be provided with written permission from the applicant prior to undertaking any clearance of native vegetation, with the written permission detailing the extent, location and manner of approved clearance. Documentation relating to this condition must be made available to the Native Vegetation Council upon written request.
9. When undertaking any clearing or other activity authorised under this approval, the applicant or anyone acting on their behalf must take the following steps to minimise the risk of the introduction and spread of weeds and dieback (*Phytophthora*):
 - a) clean earth-moving machinery of soil and vegetation prior to moving from an area of known or high phytophthora threat into an area of low or moderate pythophthora threat;
 - b) clean earth-moving machinery of soil and vegetation prior to moving into a new area of native vegetation (an area physically separate by cleared land to other areas of native vegetation) or immediately after operating in an area containing

weeds declared under the *Landscapes SA Act 2019*, to prevent the spread of weeds;

- c) ensure that no known *Phytophthora* or weed-affected soil, mulch, fill or other material is brought into the area to be cleared;
 - d) restrict the movement of machines and other vehicles to the limits of the areas to be cleared;
 - e) where there is a known or high risk *Phytophthora* threat within the area of clearance, to minimise any spread, avoid machinery movement without appropriate mitigation in accordance with a Weed, Pest and Disease Management Plan (which may include washdown and/or treatment with Phytoclean) when in areas where soils are wet or muddy.
10. A pre clearance survey is to be undertaken by a suitably qualified ecologist to determine the presence of fauna species immediately prior to commencement of vegetation clearance. Where fauna are identified with the inability to independently relocate easily, the impacted individuals are to be relocated to suitable habitat nearby under supervision of a suitably qualified ecologist.
11. Where plant species listed under the *National Parks and Wildlife Act 1972* or threatened under *Environment Protection and Biodiversity Conservation Act 1999*, are known to occur within the area granted consent for clearance, all reasonable steps must be taken to avoid impacts on plants of these species, through microsite or careful selection of clearance locations, particularly to elements that can be easily varied such as track location.
12. Low impact methods of clearance and construction are to be undertaken, which may include stringing by drone, use of hurdles, minimising the stringing corridor width to 2m clearance corridors (or any other method that provides a similar reduction in vegetation clearance proposed by the construction contractor), or subject to Regulatory and ElectraNet endorsement, helicopter stringing, specifically in areas supporting;
- a) *Eucalyptus cladocalyx* Woodland/Open Woodland,
 - b) *Eucalyptus petiolaris* +/- *Eucalyptus odorata* +/- *Allocasuarina verticillata* Open Grassy Woodland,
 - c) *Eucalyptus peninsularis* Mallee, and
 - d) Where viable, National Parks and Wildlife Reserves and areas previously contained within land subject to Heritage Agreement, which has been excluded from the Heritage Agreement for the purposes of this approval.

Note; all reasonable efforts must be made by the applicant or anyone acting on their behalf, to employ low impact methods of clearance and construction when any impacts on native vegetation are likely to occur.

Prior to commencing clearance within the areas of vegetation as categorised above, ElectraNet is to provide the NVC with a report detailing investigations that have been undertaken to determine the extent to which drone or helicopter stringing will be used, and if or where it is unable to be used, provide supported reasoning.

13. Site preparation, construction and temporary clearance area rehabilitation activities will occur in accordance with an Environmental Management Plan(s) that is to be developed for the construction, rehabilitation and operational phases of the development as required under the *Planning, Development and Infrastructure Act 2016*, for any forthcoming planning consent, prior to commencement of construction,

in part, so as to minimize impacts on other native vegetation not approved for clearance on the subject land by, but not restricted to:

- a) Restricting vehicle movement to avoid damage to other native vegetation on site;
- b) Suppressing erosion or sedimentation;
- c) Site rehabilitation;
- d) Controlling the spread of pest plant and pathogenic material;
- e) Managing browse pressure from feral animals and kangaroos on regenerating native vegetation on temporary clearance area rehabilitation sites.

Note: A draft of the plans must be submitted to the NVB for review prior to endorsement and initiating;

14. In addition to the management as prescribed in the Environmental Management Plan (condition 13), site rehabilitation will occur in accordance with the following:

- a) Retain the vegetative material and topsoil removed in accordance with this approval and stockpile the vegetative material and topsoil in an area that has already been cleared or is void of native vegetation.
- b) At an optimal time within 12 months following completion of the use of any area cleared in accordance with this approval, revegetate the areas that are not required to be kept cleared of vegetation for ongoing operations or maintenance activities, by:
 - I. ripping the ground on the contour to remove soil compaction; and
 - II. laying the vegetative material and topsoil retained in accordance with this condition, on the cleared area(s).
- c) Within 24 months of laying the vegetative material and topsoil on the cleared area in accordance with section (b) of this condition, the applicant shall:
 - I. engage an environmental specialist to determine the species composition, structure and density of the area revegetated; and
 - II. where, in the opinion of an environmental specialist, the composition structure and density determined under Section (c) of this condition will not result in a similar species composition, structure and density to that of pre-clearing vegetation types in that area, revegetate the area by deliberately planting and/or direct seeding native vegetation that will result in a similar species composition, structure and density of native vegetation to pre-clearing vegetation types in that area and ensuring only local provenance seeds and propagating material are used.
- d) Where additional planting or direct seeding of native vegetation is undertaken in accordance with subsection (c) of this condition, the applicant shall repeat subsection (c) of this condition within 24 months of undertaking the additional planting or direct seeding of native vegetation;

Where a determination by an environmental specialist that the composition, structure and density within areas revegetated will result in a similar species composition, structure and density to that of pre-clearing vegetation types in that area, as determined in subsection (c) of this condition, that determination shall be submitted for the Native Vegetation Council for consideration. If the Council does not agree with the determination made under subsection (c) of this condition, the Council may require the Applicant to undertake additional planting and direct seeding in accordance with the requirements under subsection (c) of this condition.

15. Any clearance of native vegetation that is required in relation to the future decommissioning of existing transmission line infrastructure will require Native Vegetation Council approval
16. A Significant Environmental Benefit offset requirement equivalent to 16,972.85 SEB points based on 192.021ha clearance is to be delivered by payment into the Native Vegetation Fund of \$3,743,711.41 (\$3,548,541.62 Native Vegetation Fund, GST exclusive for clearance and \$195,169.79 administration fee, GST inclusive). The final SEB requirement may be subject to variation in accordance with Condition 1. Payment is to occur in Stages, with invoices being issued by the Native Vegetation Branch upon the applicant informing the Branch of the completion of each stage:
 - a) **Stage 1:** After all approvals required by South Australian Government are granted (including approvals under the *Development Act 1993*), but prior to clearance of native vegetation occurring - \$935,000;
 - b) **Stage 2:** After clearance of 25% of the vegetation on site has occurred (totalling 48ha) - \$935,000;
 - c) **Stage 3:** After clearance of 50% of the vegetation on site has occurred (totalling 96ha) – \$935,000;
 - d) **Stage 4:** After clearance of 75% of vegetation on site has occurred (144ha), to discharge the final instalment of \$938,711.41;

Note: ElectraNet may seek to vary condition 16 by providing an on ground SEB offset. Any application for variation to provide an on ground SEB area will be subject to the approval of the Native Vegetation Council who will have regard to the matters set out in the *Policy for a Significant Environmental Benefit under the Native Vegetation Act 1991 and Native Vegetation Regulations 2017* when considering the request.
17. Non-compliance with any of the conditions of this approval must be reported to the Native Vegetation Council as soon as practical after the non-compliance being detected, but must be within a maximum of seven days. The report must include details of the nature of the breach, the location and extent of the breach and the actions taken and associated timing for completion of those actions, to address the breach.
18. Members of the NVC or a person who is an authorised officer under the Act may at a reasonable time and having made reasonable attempts to notify the owner of the land, enter land subject to this application for the purpose of assessing and recording any matter relevant to this consent. This can be done by way of a request to ElectraNet who can arrange site access as part of an easement inspection. A person undertaking such an assessment may be assisted by other suitable persons.
19. The approval to undertake clearance of native vegetation in accordance with this decision ceases after 2 years from the decision date.

Note: In respect of the proposed clearance you are informed that the Native Vegetation Council makes this decision in accordance with the *Native Vegetation Act 1991* and accepts no responsibility to release the landowner from the requirements of the Commonwealth *Environment Protection & Biodiversity Conservation Act 1999*.

Please arrange for an authorised representative of ElectraNet to complete the attached form, “Understanding of Regulation Advice” (including signature and date; a scanned copy is acceptable), to confirm that you/they fully understand the Advice and Conditions detailed in this letter. **No clearance is to occur until this form is signed and returned.**

In relation to any future application or possible variations in relation to this application, the NVC strongly encourages early and ongoing engagement to ensure any impacts on native vegetation can adequately be considered and avoided.

Please contact Peter Farmer on 8207 7704 if you have any questions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Emily Jenke', with a stylized flourish at the end.

Emily Jenke
Presiding member
Native Vegetation Council

Attachment 1

Native Vegetation Regulations 2017

Regulation 12(34) – Infrastructure

Division 5—Risk assessment

12—Risk assessment

- (1) Subject to this Division, native vegetation may be cleared in any of the circumstances set out in Schedule 1 Part 4, Part 5 or Part 6.
- (2) The operation of this regulation extends to native vegetation that is growing or is situated on land that is subject to a heritage agreement or a management agreement if a provision of the relevant Part of Schedule 1 setting out circumstances in which vegetation may be cleared specifies that the provision applies to such vegetation.

16—Clearance for other activities

- (1) Clearance of native vegetation for the purposes of activities of a kind specified in Schedule 1 Part 6 is permitted only if it is undertaken in accordance with—
 - (a) the written approval of the Council; or
 - (b) a standard operating procedure determined or approved by the Council for the purposes of this provision.
- (2) Authorisation to clear native vegetation under subregulation (1) is subject to—
 - (a) a condition—
 - (i) that the clearance of native vegetation is to be undertaken in accordance with a management plan, approved by the Council for implementation, that results in a significant environmental benefit; or
 - (ii) that the person undertaking the operations is to make a payment into the Fund of an amount considered by the Council to be sufficient to achieve a significant environmental benefit in the manner contemplated by section 21(6) or (6a) of the Act, as determined by the Council; and
 - (b) such other conditions as the Council thinks fit.
- (3) Clearance of native vegetation for the purposes of activities of a kind specified in Schedule 1 Part 6 is permitted only if any conditions that apply to the approval are complied with.

Schedule 1, Part 6

34—Infrastructure

- (1) Clearance of vegetation—
 - (a) incidental to the construction or expansion of a building or infrastructure where the Minister has, by instrument in writing, declared that the Minister is satisfied that the clearance is in the public interest; or
 - (b) required in connection with the provision of infrastructure or services to a building or proposed building, or to any place, provided that any development authorisation required by or under the *Development Act 1993* has been obtained.
- (2) In this clause—

infrastructure includes—

 - (a) flood mitigation works; and
 - (b) an airstrip; and
 - (c) a shipping channel; and
 - (d) a public reservoir.



Note: Please read the Regulation Advice Notification to acknowledge that you have understood the Advice made by the Native Vegetation Council, then sign and return this form by email or post to:

**Send to: Peter Farmer,
Native Vegetation Branch,
Department for Environment and Water,
GPO Box 1047
Adelaide SA 5001**

Email: peter.farmer@sa.gov.au

UNDERSTANDING OF REGULATION ADVICE

File: 2020/3022/921 ElectraNet P/L

I clearly understand the Native Vegetation Council's Regulation Advice Notification and the conditions associated with clearance.

Name of Landowner(s) or Company:

Signature of Landowner(s) or seal of Company and authorised signatory:

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Date :

Native Vegetation Regulation 12(34) Application ElectraNet - Eyre Peninsula Transmission Line



Government of South Australia
Department for Environment
and Water

REGULATION ADVICE PLAN

TO FORM PART OF THE DECISION TO THE
NATIVE VEGETATION COUNCIL

APPLICATION NO. 2020/3022/921 Multiple Councils
Cleve (DC), Franklin Harbour (DC),
Lower Eyre Peninsula (DC), Tumby Bay (DC),
Whyalla (C) & Unincorporated (Whyalla)

HUNDREDS of ASH, BUTLER, CAMPOONA,
CULTANA, GLYNN, HEGGATON, HUTCHISON,
JAMES, KOPPIO, LINCOLN, LOUTH, MANGALO,
MOODY, MOONABIE, NILGINEE, RANDELL,
ROBERTS, STOKES, VERRAN, YADNARIE
& YARANYACKA

Clearance over 216 land parcels, see file:
E90106A_Attachment 1_Property List (1) for detail

-  Clearance exempt under regulation, subject to conditions
-  NPWS Reserves- Heritage Agreements
-  Local Government Area
-  Road

Produced for: Native Vegetation Council
By: Native Vegetation Branch
Department for Environment and Water

Imagery: ESRI World Light Gray Canvas Base

Date: 10/11/2020
Version: 01
Datum: GDA94

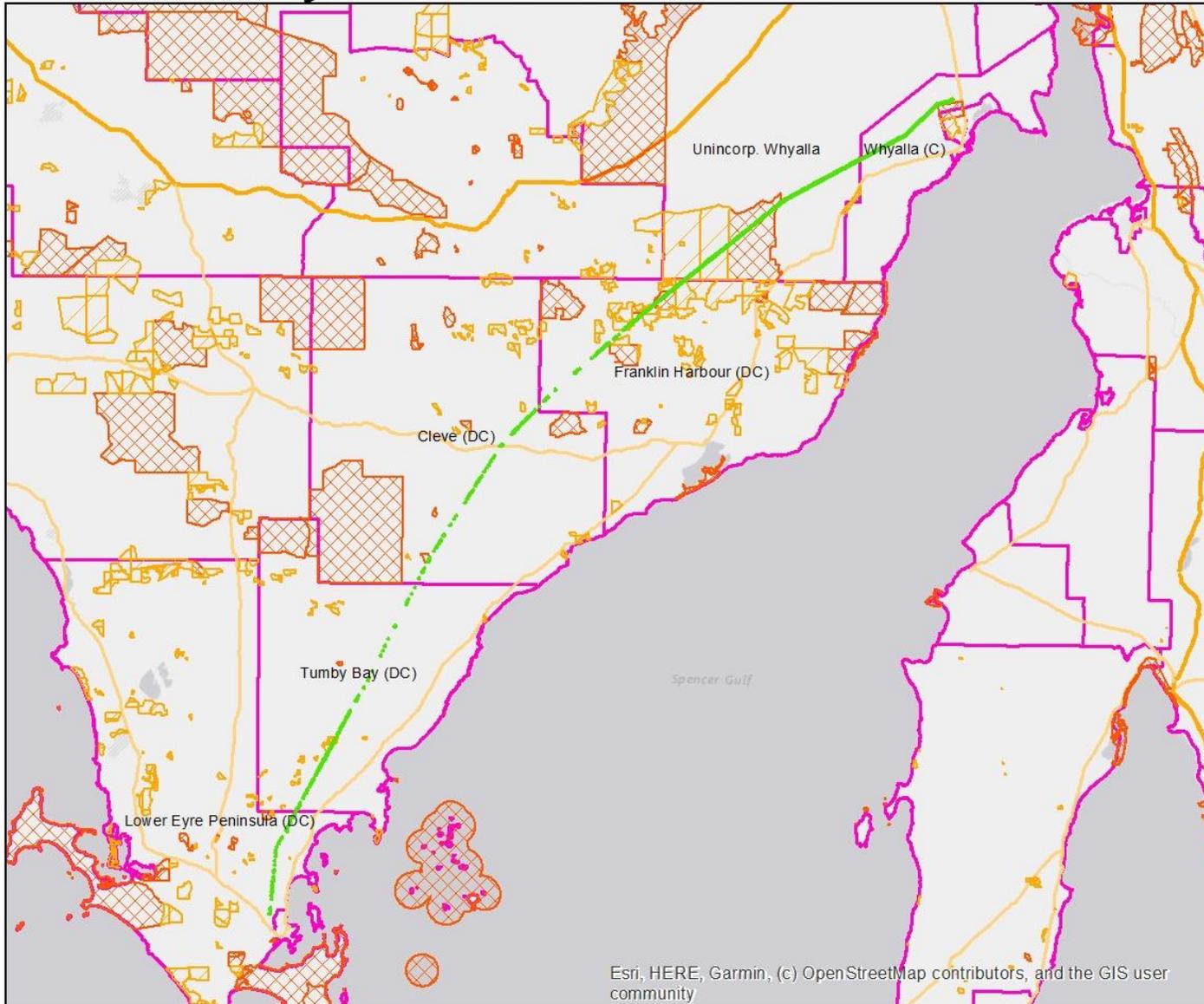
NVO: PF

Delegate, Native Vegetation Council

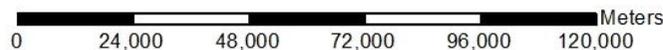
Dated: 18/12/2020



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