



Consent

BY

**CHIEF EXECUTIVE
OFFICE OF ENVIRONMENT AND HERITAGE
(Park Authority)**

TO

**AUSGRID OPERATOR PARTNERSHIP
(Applicant)**

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CONSENT commenced the 1st day of November 2016

by

CHIEF EXECUTIVE, NSW OFFICE OF ENVIRONMENT AND HERITAGE (Park Authority)

to

AUSGRID OPERATOR PARTNERSHIP ('Ausgrid') the party identified at item 1 of the reference schedule (Applicant)

BACKGROUND

A The Applicant has requested that the Park Authority grant to it a consent under the *National Parks and Wildlife Regulation 2009* to conduct the Activity within the Park.

B The Park Authority has agreed to grant to the Applicant a consent to conduct the Activity within the Park on the following terms and conditions.

1 INTERPRETATION

1.1 Definitions

In this Consent unless the contrary intention appears:

Act means the *National Parks and Wildlife Act 1974* as amended from time to time and any Act replacing the same.

Activity means the activity for which the Consent is required as prescribed at Item 4 of Reference Schedule.

Activity Area means that part of the Park on which the Activity is undertaken.

Additional Conditions Schedule means Schedule 2 of this Consent.

Applicant means the party identified at Item 1 of the Reference Schedule.

Applicant's Equipment means all equipment brought onto the Activity Area by the Applicant for the Activity.

Authorised Officer means any of those persons holding the positions in the Department identified at Item 6 of the Reference Schedule.

Commencement Date means the commencement date of the Consent set out at Item 3 of the Reference Schedule.

Consent means this Consent and all schedules to and variations of this Consent.

Department means the Office of Environment and Heritage within the Department of Planning and Environment, which context includes any department or authority replacing same.

Law means any law whether common law or any law under any statute, ordinance, regulation or code.

Park means the area of land permanently reserved or acquired under the Act and named at Item 2 of the Reference Schedule.

Park Authority means the Chief Executive of the NSW Office of Environment and Heritage and includes any person for the time being acting as such or in such alternative position or office as the Park Authority may notify from time to time.

Plan of Management means the plan of management for the Park as amended from time to time pursuant to the Act or such other plan that replaces it and fulfils in substance the same functions.

Protocol means the protocol between the Chief Executive of the Office of Environment and Heritage and Ausgrid setting out procedures for the undertaking of inspection, maintenance and emergency works on Ausgrid network assets and associated infrastructure.

Reference Schedule means Schedule 1 of this Consent.

Regulation means the National Parks and Wildlife Regulation 2009 as amended from time to time.

Relevant Authority means, in respect to a particular context or circumstances, any government or any governmental, semi-governmental, quasi-governmental, administrative or judicial body, department, commission, authority, tribunal or entity having jurisdiction and responsibility in respect to that context or circumstances and which may include the Park Authority.

Term means the term of this Consent set out at Item 3 of the Reference Schedule.

Termination Date means the termination date of the Consent set out at Item 3 of the Reference Schedule.

1.2 Interpretation

In this Consent unless the context otherwise requires:

- 1.2.1 words denoting the singular number shall include the plural and vice versa;
- 1.2.2 words denoting any gender shall include all genders;
- 1.2.3 words denoting individuals shall include corporations and vice versa;
- 1.2.4 any covenant or agreement on the part of or in favour of two or more persons shall be deemed to bind them or be in favour of them jointly and each of them severally.

2 GRANT OF CONSENT

2.1 Grant

Pursuant to the provisions of the Regulation the Park Authority grants to the Applicant a consent to undertake the Activity in accordance with the provisions of this Consent.

2.2 Term

This Consent is granted for the Term stated at Item 3 of the Reference Schedule.

3 CONDUCT OF ACTIVITY

3.1 Use of Activity Area

3.1.1 The Applicant shall use the Activity Area for the Activity, in accordance with the terms of this Consent.

3.1.2 The Applicant will not use the Activity Area for any purpose other than the Activity.

3.2 Compliance with Statutory Requirements

The Applicant will at the Applicant's expense observe and comply with and cause to be observed and complied with in respect to the undertaking of the Activity and the conduct of any person in the Park under the consent of the Applicant (express or implied):

3.2.1 the requirements of all Laws including workers' compensation requirements and of any Relevant Authority and all notices, orders and directions which may be given under the Law or by any Relevant Authority;

3.2.2 any Plan of Management for the Park; and

3.2.3 the requirements of all instruments, controls and policies whether federal, state or local.

3.3 Occupational Health and Safety

3.3.1 The Applicant acknowledges that it may be a person with management and control of the Activity Area while carrying out the Activity, within the meaning of the *Work Health and Safety Act 2011* or any act replacing same.

3.3.2 The Applicant shall, so far as is reasonably practicable, carry out the Activity on the Activity Area in a safe manner and must comply with the *Work Health and Safety Act 2011*, its amendments and regulations.

3.3.3 The Applicant shall notify the Park Authority of any natural events or activities on the Activity Area or the surrounding area, which it becomes aware of, which may give rise to a risk to health and safety.

3.3.4 The Applicant shall take all reasonably practicable steps to ensure the health and safety of all persons present on the Activity Area and shall, without limitation, take all reasonably practicable steps to eliminate or minimise any risks to health and safety that may arise as a result of the Activity including subject to clause 3.11, erecting signage warning the public of any hazards arising from the Activity.

3.3.5 The Park Authority shall consult, co-operate and co-ordinate its activities with the Applicant in relation to the Activity Area to ensure compliance with the *Work Health and Safety Act 2011*.

3.4 No Noxious Use

The Applicant will not:

- 3.4.1 carry on or permit or suffer to be carried on any unlawful, noxious or offensive use, act, trade, business, occupation or calling in the Activity Area;
- 3.4.2 permit or suffer any riotous, disorderly, offensive or improper conduct upon or near the Activity Area by the Applicant or permit or suffer any person associated with the Applicant who is drunk or behaving in a riotous, disorderly, offensive or improper manner to be or remain upon or near the Activity Area;
- 3.4.3 cause, allow or suffer to occur any unreasonable annoyance, nuisance, injury, disturbance or obstruction to the Park Authority or other persons rightfully using or being in the Activity Area or in the Park;
- 3.4.4 carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this Consent, may adversely affect the use and enjoyment of the Activity Area by the public, or in the Park Authority's reasonable opinion are unsuitable or objectionable or may damage the image of the Park or the Department.

3.5 Conduct of Activity

The Applicant will ensure that the Activity is conducted, controlled and promoted at all times in good faith and in a proper, orderly, efficient, reputable and businesslike manner.

3.6 Movement of Vehicles

The Applicant and all persons authorised by it will comply with the reasonable directions of the Park Authority and his or her officers in relation to the movement and parking of vehicles.

3.7 Pollution

The Applicant will not take any action which has the effect, whether direct or indirect, of causing any contamination or pollution of the Park. In particular the Applicant will not permit any waste matter or fluid of any description or any fumes to emanate from its undertaking of the Activity except as may be approved by the Park Authority and subject to such conditions as may be specified by the Park Authority.

3.8 Fire Safety

The Applicant will comply with all requirements of the Park Authority and all other Relevant Authorities in relation to fire safety and will take all reasonable precautions to minimise the risk of fire whilst undertaking the Activity.

3.9 No Sound Equipment

Unless authorised in writing by the Authorised Officer the Applicant will not use or allow to be used any audible means of advertising such as a public address system or other music or sound amplification equipment to or in connection with the Activity.

3.10 Signs

The Applicant:

- 3.10.1 will not without the prior written approval of the Park Authority erect, display, affix, paint or exhibit on or to or elsewhere within the Park any sign, advertisement, notice or hoarding;
- 3.10.2 on the termination of the Activity or otherwise at the request of the Park Authority will remove any such signs, advertisements, notices, hoarding or markings put in place by or on behalf of the Applicant.

3.11 Removal of Rubbish and Materials

The Applicant will remove from the Park all rubbish, debris and litter deposited or stored as a result of the undertaking of the Activity by the Applicant.

3.12 Cleaning

The Applicant will:

- 3.12.1 cause the Activity Area, and the adjacent area of the Park, to be cleaned in a proper and workmanlike manner and kept clean and free from dirt, rubbish and flammable materials;
- 3.12.2 provide and keep in good order and condition proper refuse bins and other containers of such style and in such numbers and locations as are required by the Park Authority.

3.13 Applicant's Equipment

The Applicant shall keep and maintain clean and in good order, repair and condition all equipment of the Applicant used for the Activity.

3.14 Licences

The Applicant will obtain and keep current all consents and approvals required by all Relevant Authorities for the conduct of the Activity.

3.15 Park Authority's Directions

The Applicant will comply with all reasonable directions of the Park Authority and the Authorised Officer in relation to the conduct of the Activity.

3.16 Structures

The Applicant must not erect or construct or cause or suffer to be erected or constructed any structure, improvement, works or access way nor carry out or permit to be carried out any addition, alteration, modification to or replacement of any structure, improvement or access way without the prior written consent of the Park Authority.

3.17 Flora and Fauna

The Applicant must not bring into the Park any flora or fauna without the written approval of the Authorised Officer.

4 INSURANCES

4.1 Required Insurances

The Applicant shall effect and maintain at all times during the term of this Consent the following insurances:

- 4.1.1 a public liability policy covering personal injury and property damage including financial, economic or consequential loss (including loss of actual or anticipated income or profits, loss of contracts, loss of any benefit, loss of goodwill or reputation, loss of anticipated savings and loss of opportunity, revenues or business savings) arising as a result of such personal injury or property damage (in an amount of not less than the amount noted at Item 5 of the Reference Schedule) in connection with the activities of the Applicant in relation to this Consent in which the interests of the Park Authority, the Minister, the Department and the Crown in right of New South Wales shall be noted; and
- 4.1.2 employers liability and workers compensation insurance against any liability which may arise at common law or by virtue of any relevant workers' compensation legislation.

5 INDEMNITIES

5.1 Acknowledgment

The Applicant acknowledges that the exercise of its rights under this Consent is at the risk of the Applicant.

5.2 Release

- 5.2.1 Subject to clause 5.2.5 the Applicant releases to the full extent permitted by law the protected persons from all claims and demands as set out in this clause arising out of, in connection with, in respect to or as a consequence of the Applicant's operation from, occupation or use of the Activity Area the subject of this Consent.
- 5.2.2 The Applicant's obligations under this clause continue after the termination expiration or other determination of this Consent in respect to any matter or thing happening before such termination, expiration or determination.
- 5.2.3 In this clause:
 - 'protected person(s)' means
 - a) the Park Authority;
 - b) the Minister;
 - c) the employees or officers of the Park Authority;
 - d) any other person acting under the direction or control of the Park Authority or the Minister for any purpose;
 - e) the Crown in right of New South Wales.

'Claims and demands' means all actions, suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs, legal costs, charges

and expenses to which the protected persons or any one thereof is or may become liable in respect to loss of or damage to the fixtures or property of the Applicant, financial or economic loss, loss of opportunity or other consequential loss of the Applicant, injury to or death of any person claiming through the Applicant of any kind and however sustained and whether sustained on or outside the Activity Area the subject of this Consent.

5.2.4 It is immaterial to the obligations of the Applicant under this clause that a claim or demand arises out of any act, event or thing that the Applicant is authorised or obliged to do under this Consent or that any time waiver or other indulgence has been given to the Applicant in respect to any such obligation under this Consent.

5.2.5 The release given by the Applicant under clause 5.2.1 does not apply to the extent that the claims or demands arise from or are contributed to by any wilful or negligent act, default or omission on the part of any protected person.

5.3 Indemnity

5.3.1 Subject to clause 5.3.5 the Applicant indemnifies and will keep indemnified the protected persons from and against all claims and demands as set out in this clause arising out of, in connection with, in respect to or as a consequence of:

- a) the Applicant's operation from, occupation or use of the Activity Area the subject of this Consent; or
- b) any wilful or negligent act, default or omission by the Applicant, the Applicant's employees or officers or any person acting under the control or at the direction of the Applicant either on or outside the Activity Area the subject of this Consent or in the Park.

5.3.2 The Applicant's obligations under this clause continue after the termination, expiration or other determination of this Consent in respect of any matter or thing happening before such termination, expiration or determination.

5.3.3 In this clause:

'protected person(s)' means

- a) the Park Authority;
- b) the Minister;
- c) the employees or officers of the Park Authority;
- d) any other person acting under the direction or control of the Park Authority or the Minister for any purpose;
- e) the Crown in right of New South Wales.

'Claims and demands' means all actions, suits, claims, demands, proceedings, losses, damages, compensation, sums of money, costs, legal costs, charges and expenses to which the protected persons or any one thereof is or may become liable in respect to loss of or damage to the fixtures or property of any person, financial or economic loss, loss of opportunity or other consequential loss of any person, injury to or death of any person of any kind and however

sustained and whether sustained on or outside the Activity Area the subject of this Consent.

5.3.4 It is immaterial to the obligations of the Applicant under this clause that a claim or demand arises out of any act, event or thing that the Applicant is authorised or obliged to do under this Consent or that any time waiver or other indulgence has been given to the Applicant in respect to any such obligation under this Consent.

5.3.5 The indemnity given by the Applicant under clause 5.3.1 does not apply to the extent that the claims or demands arise from or are contributed to by any wilful or negligent act, default or omission on the part of any protected person.

6 APPLICANT'S EQUIPMENT

6.1 Placing and Removal of Applicant's Fixtures

6.1.1 The Applicant may at any time place in or on the Activity Area such Applicant's Equipment (including that of applicant's contractors) as may be reasonably necessary for the Activity subject to the approval of the Park Authority.

6.1.2 Upon the expiration or sooner determination of this Consent the Applicant shall remove from the Activity Area all Applicant's Equipment (including that of applicant's contractors) brought upon the Activity Area by the Applicant.

6.1.3 The Applicant shall in such removal do no damage to the Activity Area or shall forthwith make good any such damage occasioned thereto.

7 ASSIGNMENT

7.1 No Assignment

The Applicant must not assign, transfer, charge or otherwise deal with or dispose of its interest in this Consent or any part thereof or by any act or deed procure any of the foregoing.

8 TERMINATION

8.1 Termination

The Park Authority may terminate this Consent for any reason at any time by giving to the Applicant reasonable notice except where the Park Authority wishes to terminate this Consent as a result of a breach of this Consent by the Applicant in which case the Park Authority may terminate this Consent immediately. Such notice shall be in writing and shall be personally delivered or forwarded by prepaid post in accordance with the terms of this Consent.

8.2 Suspension of Consent

The Park Authority may immediately suspend this Consent for any breach of the terms and conditions of this Consent or as a result of the closure of the Park.

8.3 Termination Without Prejudice to Remedies

Termination of this Consent shall be without prejudice to any action or other remedy which the Park Authority has or may have for any antecedent breach by the Applicant.

8.4 No Compensation

In the event of termination or suspension of this Consent howsoever occurring no compensation will be payable to the Applicant.

8.5 Repair on Termination of Consent

Upon the termination of this Consent the Applicant shall peaceably surrender and yield up the Activity Area in good and substantial repair, order and condition and in a clean and sanitary state to the satisfaction in all respects of the Park Authority. In complying with this clause, the Applicant is only responsible for repairing or addressing any impacts which it has caused or contributed to (to the extent to which it has contributed to such impacts).

9 PROCEDURAL MATTERS

9.1 Consents or Approvals

Where anything in this Consent may be done with the approval or consent of the Park Authority the Park Authority may:

- 9.1.1 unless otherwise expressly provided in this Consent, give or withhold his or her approval or consent in his or her unfettered discretion; and
- 9.1.2 impose conditions on that approval or consent.

The consent or approval may be given by the Park Authority or an Authorised Officer.

9.2 Inconsistency with Protocol

In the event of inconsistency between the provisions of this Consent and the provisions of the Protocol, the provisions of the Protocol will prevail.

9.3 Notices

Any notice or other communication to be given under this Consent shall be sufficiently served on the Applicant if signed by an Authorised Officer for the time being and if forwarded by post, addressed to the Applicant at the address set out at Item 1 of the Reference Schedule, facsimile or by email.

9.4 No Tenancy

The Applicant acknowledges and agrees that this Consent shall not amount to or be construed as a demise nor shall it create any lease or tenancy in favour of the Applicant and it shall not give the Applicant any exclusive possession of the Activity Area.

10 CONTRACTORS OF AUSGRID

10.1 Acknowledgement by the Park Authority

The Park Authority acknowledges and agrees that the Applicant may, from time to time,

engage contractors and/or sub-contractors to undertake the Activity in the Activity Area on the Applicant's behalf.

10.2 Obligations of the Applicant

Where a contractor will undertake the Activity on behalf of the Applicant, the Applicant will:

- 10.2.1 Provide a copy of the Consent to the contractor; and
- 10.2.2 Request that the contractor act consistently with the requirements for the Applicant under the Consent.

11 ADDITIONAL CONDITIONS

The Applicant shall comply with the conditions contained in the Additional Conditions Schedule.

SCHEDULE 1
REFERENCE SCHEDULE

Item 1 (clause 1.1)	Name and address of Applicant:	<p>Ausgrid Operator Partnership (ABN 78 508 211 731), a partnership carried on under that name by: (a) Blue Op Partner Pty Ltd (ACN 615 217 500) as trustee for the Blue Op Partner Trust; (b) ERIC Alpha Operator Corporation 1 Pty Ltd (ACN 612 975 096) as trustee for ERIC Alpha Operator Trust 1; (c) ERIC Alpha Operator Corporation 2 Pty Ltd (ACN 612 975 121) as trustee for ERIC Alpha Operator Trust 2; (d) ERIC Alpha Operator Corporation 3 Pty Ltd (ACN 612 975 185) as trustee for ERIC Alpha Operator Trust 3; and (e) ERIC Alpha Operator Corporation 4 Pty Ltd (ACN 612 975 210) as trustee for ERIC Alpha Operator Trust 4.</p> <p>Head Office:</p> <p>570 George Street SYDNEY NSW 2000</p>
Item 2 (clause 1.1)	Name of Park:	All parks and reserves within the Ausgrid area of operations
Item 3 (clause 2.2)	Term of Consent:	5 years with a Commencement Date of 1 st November 2016 and Termination Date of 31 st October 2021 unless otherwise terminated or discontinued as provided herein.
Item 4 (clauses 1.1 and 3.1)	Activity:	Inspection, maintenance and emergency works as defined in the Protocol between the Chief Executive OEH and Ausgrid dated 1 st November 2016.
Item 5 (clause 4.1)	Insurance:	\$20 million

Item 6 (clause
1.1)

Authorised Officer:

Means the Area Manager or Regional
Manager responsible for
management of the Park or portion
of the Park in which the activity is to
occur.

SCHEDULE 2
ADDITIONAL
CONDITIONS SCHEDULE

This Schedule attaches to the Consent issued by the Chief Executive Office of Environment and Heritage to Ausgrid which commenced on 1st November 2016.

In this Schedule:

'inspection, maintenance and emergency' works are as defined in the Protocol between the Chief Executive Office of the Environment and Heritage and the Applicant dated 1st November 2016.

Ausgrid will, unless otherwise approved by the Authorised Officer:

1. Give Appropriate Notification

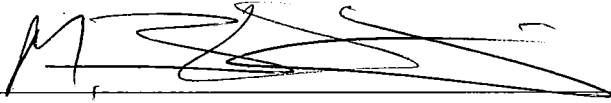
- a. in accordance with the process established in the Protocol.

2. Minimise impacts

- a. inspection, maintenance and emergency works must be undertaken in accordance with the Protocol and this Consent.
- b. it shall be the ultimate responsibility of Ausgrid to ensure compliance with this Consent and compliance by staff and contractors. The Consent does not relieve Ausgrid of the obligation to obtain and comply with all other approvals from relevant authorities required under any other legislation.
- c. the Ausgrid site supervisor, or contractor equivalent, will carry a copy of the notification and this Consent at all times when working within the park and will produce it on request of an Authorised Officer.
- d. the works will be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011*, its regulations, codes of practice or relevant industry guidelines and standards. Any contractors on the site are to have appropriate insurances, including public liability insurance.
- e. Ausgrid will not commence inspections or maintenance works before the Commencement Date without prior agreement from the Park Authority.
- f. Ausgrid will develop a Workplace Instruction outlining protocols for minimising the risk of vehicles and equipment spreading weeds and pathogens into lands reserved or acquired under the *National Parks and Wildlife Act 1974*.
- g. Ausgrid shall ensure, so far as is reasonably practicable, the health and safety of its workers and other persons in conducting the Activity. This may include, but is not limited to, the placement of appropriate barriers, warning signs and other measures to alert the public to the works and to restrict public access to work areas where necessary.
- h. fuel and other similar flammable materials are to be stored in appropriate fire-resistant storage containers.

- i. where earthworks or excavation are undertaken (excluding those relating to access tracks where OEH standards set out in the Protocol apply), works must be undertaken in accordance with the "Blue Book", meaning the published Managing Urban Stormwater series, which cover management of sediment and erosion issues associated with construction, unsealed roads and installation of services.
- j. if during the course of the works any:
 - threatened species, threatened populations or endangered ecological communities, as defined by the *Threatened Species Conservation Act 1995*, or
 - Aboriginal objects, as defined by the *NSW National Parks and Wildlife Act 1974*, or
 - historic heritage items, as defined in the Protocol, or
 - matters of national environmental significance under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*;are uncovered or discovered, Ausgrid must immediately notify the Park Authority and suspend all work pending further consultation with the Park Authority.
- k. if Ausgrid staff or contractors observe any apparent unauthorised access or other activities occurring within the park, Ausgrid shall report such observations to the Park Authority as soon as possible.
- l. Additional special conditions may be applied by the Park Authority to the undertaking of works by Ausgrid, following the process specified in the Protocol.

SIGNED by **Michael Wright, Acting Chief Executive of the NSW Office of Environment and Heritage (Park Authority)**

A handwritten signature in black ink, appearing to be 'M. Wright', written over a horizontal line.

(signature)

Date: 6.12.2016

