



Office of the Director General

Dr Ian Holland
Committee Secretary
Community Affairs References Committee
Australian Senate
Parliament House
CANBERRA ACT 2600

11/13680

Dear Dr Holland

I refer to your letter of 26 July 2011 concerning the *Australian Senate - Inquiry into the social and economic impacts of rural wind farms* and your invitation to respond to a submission from Mr David Brooks, Chairperson, Parkesbourne / Mummel Landscape Guardians Inc containing adverse comments about the planning system for wind farms in NSW.

As evident in Mr Brooks' submission, there is a high level of concern in affected local communities regarding wind farms. While Mr Brooks' submission reflects such concerns, many of the assertions made need clarification.

Under the *Environmental Planning and Assessment Act 1979*, one of the objectives is the "sharing of the responsibility for environmental planning between the different levels of government in the State". As a result, it is justified that the decision making for major projects of "State" significance should be made at the State level. Major wind farms are considered to be of State significance because of their potential contribution to meeting the national 20% renewable energy target by 2020. However, just because matters are determined at the State level, does not preclude local community and council issues being appropriately considered in the assessment and decision making, which does occur.

The NSW planning system provides for the independent, integrated and transparent assessment of major development, including wind farms. Under the State significant development provisions in NSW, the proponent prepares an environmental assessment to address issues set out in the "Director General's Requirements". These requirements are prepared following a site meeting and with input from agencies and the relevant local council. These comprehensive requirements are made public. This approach provides for environmental factors to be considered by the proponent in the layout and design of the project, as part of the proponent assuming responsibility for the environmental performance of the project, consistent with sustainability principles. Proponents are encouraged to undertake community consultation at this stage to inform their assessment. In fact, it is now emphasised as part of the Director General's Requirements that community consultation must be comprehensive and that evidence is presented that such consultation has occurred, and that all issues raised are tabled and addressed.

The environmental assessment is submitted to the Department for review prior to exhibition. If the assessment does not adequately address the issues, the proponent must provide additional information. This ensures that the document that is exhibited provides the community with information so it can be fully informed about the proposal and its likely impacts. The assessment is exhibited for public comment for a minimum of 30 days. Consideration is now being given to extend the exhibition period to 60 days and in some cases 90 days.

Submissions from the community, councils and agencies are sent to the proponent for consideration. The proponent may change the project in response to issues raised in submissions, for example by local residents. If there are changes, a report on the proponent's comments and proposed changes is made public. During this period, the Department may also meet with the local community on the issues of concern. The Department of Planning and Infrastructure along with other relevant agencies, then undertakes a rigorous analysis of the proponent's environmental assessment taking into consideration matters raised in public submissions and the proponent's response.

From Mr Brooks' comments, there appear to be three issues of key concern in relation to the assessment of the Gullen Range wind farm application – noise, health and property values.

In relation to noise and wind farms, the NSW assessment system includes specifying comprehensive assessment requirements based on "worst case" scenarios in the Director General's Requirements including stringent noise criteria. Currently in NSW, Director General's Requirements require noise impacts from wind farms to be assessed using the South Australian 2003 Wind Farm Noise Guidelines. These guidelines adopt a base noise limit of 35dB(A) (or background noise levels + 5, which ever is higher), which is stringent by Australian and world standards. This is more stringent than the base noise limit of 40dB(A) used in Victoria and New Zealand, 43dB(A) used in the UK, 44dB(A) used in Denmark, 50dB(A) used in the Netherlands, and 55dB(A) used in Illinois in the United States. It is also below the outdoor night noise limits of 40dB and the interim target of 55dB recommended in the World Health Organisation (2009) *Night Noise Guidelines for Europe* for the protection of public health including sleep disturbance.

The South Australian 2003 guidelines will continue to be used until the *NSW Planning Guidelines: Wind Farms* which is currently in development is finalised and adopted. In this guideline, it is proposed to further tighten noise controls by setting out required methodology along with performance criteria for dB(A) and low frequency dB(C) criteria for both day and night time. These provisions will require consideration of special audible characteristics including Van Den Berg effect (including excessive amplitude modulation) and tonality including the consideration of "worst case" scenarios regardless of the turbine model selected.

The assessment requirements take a precautionary approach in the consideration of issues such as health. It is noted that the Inquiry report referred to the National Health and Medical Research Council *Public Statement: Wind Turbines and Health (2010)* which found that there is currently no published scientific evidence to positively link wind turbines with adverse health effects, but agrees that further investigations should be undertaken. The NSW Department of Health supports the Inquiry recommendations. To that end, NSW Health supports an assessment framework that ensures noise, shadow flicker, electric and magnetic fields, visual amenity and other social and economic issues are adequately assessed and considered. NSW Health also supports using the most up to date evidence-based science to inform policy and will closely monitor the outcomes of any review by NHMRC.

I understand that the NSW Valuer-General has responded separately to Mr Brooks' claims regarding property values. I note that the independent consultant report commissioned by the NSW Valuer-General found no correlation in the majority of cases between a wind farm and expected sale prices where a wind farm was located 'close' to a property (that is, less than 500 metres) and, in any event, that the available evidence was insufficient to assess causality. Further, the report considered that setbacks derived through the merit assessment approach in NSW (that is, substantially greater than 500 metres) were appropriate to mitigate against property value impacts.

Regarding the allegation that the Department's assessment process is biased and does not recommend refusal of applications a number of points can be made. First, it is not uncommon for projects to be discontinued or withdrawn before reaching determination if major issues are identified which cannot be feasibly resolved. This includes during the assessment after an application has been lodged or during the pre-application / feasibility stage. Second, proponents may modify their project (eg by removing or relocating turbines) to address issues raised in pre-exhibition consultations and following the exhibition stage. Third, in many cases issues (such as noise or visual impacts) can be addressed through the Minister's conditions of consent. Lastly, refusal rates under Part 3A are comparable to council refusal rates under Part 4 of the EP&A Act. In 2009-10, two out of 125 Part 3A determinations were refused while 3 per cent of the 70,000 council determined projects under Part 4 were refused in the same period.

Notwithstanding the above, the NSW Government is taking steps to further strengthen the assessment framework for wind farms in NSW to provide greater certainty and transparency, and give community stakeholders such as Mr Brooks greater confidence that issues are being appropriately assessed and regulated. As part of the changes to the State significant development provisions, Part 3A is being deleted and being replaced by Part 4.1 State significant development provisions. In future, State significant wind farm applications will be determined by the independent Planning Assessment Commission, instead of the Minister for Planning. The direction making all wind farm proposals with a generating capacity of 30 megawatts or more *critical infrastructure* is being revoked. This will restore proponents' and community merit appeals rights.

Importantly, and as noted above, the Department of Planning and Infrastructure, in collaboration with other NSW agencies, is developing comprehensive *NSW Planning Guidelines: Wind Farms*. This guideline should be released for public comment in the coming weeks. Many of the issues raised by Mr Brooks will be clarified in the guidelines, including consideration of low frequency noise, sleep disturbance, amplitude modulation, landscape and visual issues, decommissioning and consultation to name a few. The guidelines also require proponents to establish community consultation and engagement plans early in the process of preparing an environmental assessment to ensure community issues are considered upfront.

Should you have any further enquiries about this matter, please contact me on 02 9228 6448.

Yours sincerely

Sam Haddad
Director General