

7 September 2015

**NSW Planning Assessment Commission Re-determination Report
Gullen Range Wind Farm Project Modification of Turbine Locations (07_0118 MOD1),
Upper Lachlan Shire LGA**

1. INTRODUCTION

The Gullen Range Wind Farm Project is located on a 25 km strip along the north-south ridges of the Great Dividing Range between the township of Crookwell and Goulburn within the Upper Lachlan Shire local government area. Gullen Range Wind Farm is operated by Goldwind Australia Pty Ltd (the Proponent).

There is a long and complex history to the project approval leading to the current modification application. Gullen Range Wind Farm was granted approval by the then Minister for Planning in June 2009 under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act).

The approved project associated infrastructure included access tracks, road upgrades, a control room and maintenance facilities and a substation. Initially the Proponent sought approval for the construction and operation of up to 84 wind turbines. The Minister's project approval resulted in the deletion of 11 turbines due to potential impacts on aviation safety at Crookwell aerodrome. It also included a condition (Condition 1.5) which removed "*the ability of the Proponent to relocate turbines from the locations indicated...by up to 250 metres, without further assessment and approval*" and a requirement for the Proponent to offer to buy some properties (related to certain turbines) on the grounds of unacceptable visual impacts.

In 2009 the merits of the Minister's approval were subsequently subject to an appeal in the Land and Environment Court (the Court) by the Proponent (seeking reinstatement of the turbines) and two other parties Parkesbourne / Mummel Landscape Guardians Inc and J & A King (due to the impact of the proposed turbines on properties on either side of Gullen Range). The Minister's decision was upheld by the Court in August 2010.

Construction of the wind farm commenced in late 2012. In late 2013 inconsistencies with the approval were identified with 69 turbines having been constructed in locations that differed (in varying degrees) to those approved with the greatest relocation being 187 metres. A modification seeking approval for the "as constructed" turbine layout was subsequently submitted by the Proponent in March 2014.

The Planning Assessment Commission refused the modification application on 2 October 2014 for the following reasons:

- The application is inconsistent with the intent and spirit of the *Draft NSW Planning Guidelines: Wind Farms*,
- The Application, if approved, would have significant visual impact on non-associated residences, and the proposed vegetation screening would not be able to mitigate the impact on all affected residences to an acceptable level.

Following the PAC's refusal, the Department issued a draft order on 10 October 2014 to the Proponent, requiring the "relocation or removal" of 9 turbines on the basis that some micro-

siting was permissible during construction but that these 9 had the “potential for increased environmental impacts”.

The Proponent responded to the draft order, claiming that it had not breached the project approval and should therefore not be required to relocate or remove the turbines and challenged the validation of the PAC’s refusal by way of a judicial review.

On 6 March 2015 the NSW Land and Environment Court set aside the PAC’s decision, leaving the modification undetermined. On 16 March 2015 the Commission referred the application back to the Department for re-assessment. The Department had regard to the additional information that was submitted by the Proponent in response to the draft order and during the Court proceedings, additional expert evidence commissioned by the Department including additional legal advice, and supplementary information from the Proponent.

2. CURRENT PROJECT MODIFICATION (07_0118 MOD1)

The Proponent has applied for a modification to approve the ‘as constructed’ locations for 69 out of the 73 approved turbines of the Gullen Range Wind Farm, and consequential changes to ancillary infrastructure such as access roads and cabling to the “as constructed” turbine locations.

The Department provided an assessment of the merits of the modification in May 2015 recommending that the application be approved as it considered that there is no evidence of environmental harm associated with the relocation of the turbines at the Gullen Range Wind Farm, and that the proposed modification is in the public interest and should be approved, subject to conditions.

This Report contains the Commission’s findings and outlines the reasons for the Commission’s determination

3. DELEGATION TO THE COMMISSION

The modification application was referred to the Commission on 15 May 2015 for determination, in accordance with the former section 75W of the Act.

Garry West (Chair), Annabelle Pegrum AM and David Johnson constituted the Commission to determine the project modification.

4. SECRETARYS ENVIRONMENTAL ASSESSMENT REPORT

4.1. 2014 Secretary's Environmental Assessment Report

The original modification proposal was lodged in 2014, subsequently the Department carried out the respective assessment.

The Secretary’s Environmental 2014 Assessment Report detailed the following key issues:

- Verification of Wind Turbine Locations;
- Visual Impact;
- Noise; and
- Biodiversity

In the 2014 report, the 69 wind turbine locations were assessed comparing the distances from the approved layout positions. Other issues considered by the Department in the report included: archaeology, air safety, telecommunications, soil and water management, traffic and transport, shadow flicker, health and crown roads.

The Department concluded that with the implementation of measures outlined in the recommended conditions of approval along with the Proponent's proposed mitigation measures, "the potential impacts of the proposed modification would be appropriately mitigated and/or managed to an acceptable level of environmental and social performance".

The project modification was recommended for approval, subject to conditions. As outlined in the Introduction to this determination, the modification application was refused by the Commission in October 2014.

4.2 2015 Secretary's Environmental Assessment Report

The revised 2015 Secretary's Environmental Assessment Report addresses the same issues as the 2014 Report but focuses on the locations of the 9 wind turbines that the Department considers to be inconsistent with the project approval. The Department considers that the remaining 60 that have been relocated were "constructed in accordance with the project approval, as the movement is within the scope permissible, and the consequential environmental impacts are negligible and within the limits contemplated under the original assessment of the project".

The Department focused its assessment of the 9 turbines on:

- visual impacts; and
- biodiversity impacts.

Other issues were also considered, namely:

- noise;
- shadow flicker;
- health;
- air safety;
- aboriginal heritage;
- traffic and transport;
- telecommunications;
- soil and water management;

The Department concluded that based on their assessment, including the advice of a range of experts, they are "satisfied that the impacts of the modified project are not materially greater than those associated with the project as originally approved." They also "consider that there is no evidence of environmental harm associated with the relocation of the turbines at the Gullen Range Wind Farm, and that the proposed modification is in the public interest and should be approved, subject to conditions."

The Department submitted supplementary information to its assessment where it answered concerns from the Commission that were raised at the public meeting in regards to noise and visual impacts along with turbine locations for all of the relocated turbines.

5. SITE VISITS AND MEETINGS

5.1. Meeting with the Proponent on site

On Wednesday 10 June 2015 the Commission visited the project site and was briefed by the Proponent. Representatives from the Department were also present. A summary of the meeting is included in Appendix 3.

5.2. Public Meeting

On Thursday 11 June 2015 the Commission held a public meeting at the Crookwell RSL Services Club, at Crookwell. Nineteen speakers presented to the Commission as listed in Appendix 1. A few speakers supported the proposal, while most raised concerns or objections regarding impact on visual amenity and noise. Several speakers raised concerns about why only 9 turbines were considered in the Department's latest assessment report, and questioned how this number was arrived at when 69 turbines had been built in different locations.

Issues raised both for and against the proposal and the key points from the submitted written comments are summarised in Appendix 2.

5.3. Meeting with the NSW Department of Planning and Environment

The Commission sought clarification from the Department regarding some of the issues raised at the public meeting including the Department's focus on 9 of the 69 turbines and visual impacts in particular, noise impacts, monitoring and overall compliance of the project with the Minister's approval. A meeting was held between the Commission and officers from Department on 15 June 2015 to outline these issues, (see Appendix 3) with a written response received from the Department on 17 July 2015 (see Appendix 4).

The Commission held a second meeting with the Department on 30 July 2015. At this meeting, the Commission noted that a cluster of residences (B28, B55 and B77) did not appear to have received the same consideration as residence B29 even though they have a similar proximity to turbine BAN 09. The Commission requested further information as to how these residences had been assessed.

6. COMMISSION'S ROLE AND APPROACH

6.1. Commission's role

The Commission must consider every modification application on its merits even when there has been a compliance breach of an approval. A breach of the original conditions of approval is not a reason to refuse an application. Equally the Commission in its determination of the application does not take into consideration the cost to the applicant of having to move the turbines.

6.2. Commission's approach to assessment of the application

In considering this application, the Commission has considered the assessment of all of the wind turbines that are in different locations from their original approved location. The Commission has had regard to both the Department's Assessments of July 2014 and May 2015. The Commission notes that 68% of the turbines moved less than 50 metres, 19% have moved between 50m to 100m and 13% have moved more than 100m, with the maximum distance being 187 metres away from the approved location.

Throughout the Environmental Assessment (EA) document submitted by the Proponent, it had specified, that the locations of the turbines were likely to change as the locations were "indicative" and not "final". The EA specified that the micro-siting would be within a radius of 250 metres taking into account a previous Court ruling (*Taralga Landscape Guardians vs Minister for Planning NSWLEC 2007*) where the court found in relation to relocation of wind turbines that "a 250 metre relocation of any of the elements is not unreasonable" in that circumstance.

In determining the Gullen Range Wind Farm, the Court disagreed with the proposed micro-siting distance and removed reference to the 250 metre micro-siting, but did not specify new micro-siting boundaries. On this basis Goldwind considers that it has not breached the original approval for the relocation of the wind turbines.

The NSW Government later released the *Draft NSW Planning Guidelines Wind Farms* (the Draft Guidelines) in December 2011. These Guidelines provide that micro-siting "up to 100m from each turbine's nominated location will generally be permitted" (noise predictions) and that "the determining authority will not consent to micro-siting of turbines unless ...(it).. is satisfied that it will not give rise to an adverse change to assessed landscape, vegetation, cultural heritage, visual amenity, shadow flicker, noise, fire risk or aviation impacts when compared to the site shown on the endorsed plans. Any proposed micro-siting must be accompanied by supporting material addressing relevant matters to the satisfaction of the determining authority" (Appendix E micro-siting of turbines)

The Department in its July 2015 response to the questions posed by the Commission advised that whilst it "considered the quantitative assessment relating to how far the turbine moved, the key consideration (it) applied...was the potential for increased environmental impact, particularly in regards to noise, visual and biodiversity impacts". The Commission accepts that this is a reasonable approach for the Department to have taken and is in the spirit of the Draft Guidelines.

7. COMMISSION'S CONSIDERATION

Although the approval of the original application pre-dated the 2011 Draft Guidelines, the Commission is of the view that the modification should be considered against current policies and standards, notably the Draft Guidelines, as a useful input to its decision making process. It is noted that the previous 2014 Commission also gave consideration to the Draft Guidelines in its refusal of the modification application.

The Draft Guidelines identify seven key matters for assessment, namely:

- a) proximity of turbines to existing residences;
- b) Community consultation;
- c) Visual amenity;
- d) Noise;
- e) Health;

- f) Decommissioning; and
- g) Auditing and compliance.

Significantly, of these matters five are highly consistent with the key issues of concern raised by the speakers at the public meeting. The Commission has therefore considered each of these key matters from the Guidelines as relevant to this application.

7.1. Proximity to existing residential dwellings

One of the key areas of contention has been the question of whether the proposed (constructed) locations of the turbines are consistent with the original approval. The Proponent has argued that they are, while many in the community argue that the Proponent has breached the project approval.

While the Draft Guidelines do not prohibit the development of turbines within 2 km of a residential dwelling, Proponents are 'strongly encouraged' to consult particularly with such affected neighbours and occupiers and more detailed consideration of impacts is required for those residences. The guidelines particularly focus on noise and visual amenity issues. In this modification a number of the relocated turbines are within 2 km of non-associated residential dwellings.

The Draft Guidelines suggest that "*Micro-siting of turbines, up to 100 m from each turbine's nominated location will generally be permitted*". 9 turbines have moved more than 100 metres with the greatest movement being 187 metres.

The Commission considers that construction of turbines more than 100 m from the approved location is inconsistent with the original project approval. The Commission has been particularly interested to understand the extent to which the relocated turbines within 2 km of a residence have moved closer to existing residences. To that end the Department provided an additional table identifying how the modification has affected proximity to residents.

This table lists all of the 48 residences within 2 km of the relocated turbines and the extent to which the turbines (and how many of them) have been moved closer to the dwelling.

The Department has advised that the visual impact of the relocated turbines at the majority of residences in the area is acceptable and that the change due to the relocation is not obviously discernible. The exceptions are those residences that have now either been acquired, and those regarded as "associated" under an agreement with the Proponent to accept the impacts.

The Commission has given particular attention to the impacts of those turbines that have moved closer to a residential dwelling and more than 100 metres. The Commission also acknowledges that the impact of a wind turbine on a residential dwelling is not only determined by proximity. Impacts can differ considerably depending on variables such as topography and existing vegetation.

7.2. Visual Amenity

The Draft Guidelines provide:

"a comprehensive framework for assessing visual amenity impacts with a focus on visual impacts on neighbours close to turbines. The visual impact of a wind farm

depends on the extent of change to the landscape caused by the development, taking into account:

- *the visibility of the proposed development*
- *the locations and distances from which the development can be viewed*
- *landscape values and their significance*
- *the sensitivity of the landscape features to change”.*

As noted by the 2014 Commission in its previous decision, the assessment of visual amenity/impact is complex and highly subjective. Some people are not concerned about the aesthetics of wind turbines, while many others dislike them.

Many speakers at the public meeting expressed concern that the area had become industrial in character as a result of the project, and referenced the scale and height of the turbines. The Commission notes that the proponent already has approval to construct and operate 73 wind turbines and that this modification application is not seeking to change the number of turbines proposed to be built within the landscape.

The Commission acknowledges that moving the turbines by up to 187 m has the potential to alter the visual impact at surrounding residential receivers. The Commission has carefully considered the visual impact assessment prepared by the Proponent, as well as the findings of the Department’s consideration of the visual impacts.

The Commission notes that the previous refusal of the modification highlighted impacts on dwelling B29, which has since been purchased by the Proponent. The Commission also noted that there are a number of other residents in relatively close proximity to B29 (B28, B55 and B77) and questioned the Department whether those residences should receive the same consideration that was provided for residence B29, and how these residences had been assessed.

The Department responded on 15 August 2015 stating that the visual impact was variously assessed in the Land and Environment Court decision (2010), the Assessment Report (July 2014) and the Draft Order issued to the Proponent in October 2014. In each case these assessments did not find that there was an unacceptable impact on those residences or recommend their acquisition. Additionally, some of these properties had agreed to receive landscaping provisions that have already been implemented. The exception is residence K2 where the owner did not want landscaping treatments even though they were offered by the Proponent.

The Department’s assessment suggests that *“it is possible to notice some subtle changes in the visual landscape where constructed turbines appear in slightly different position, or in situations where the turbines are constructed in significantly closer locations relative to a viewpoint, the specific turbine may appear to be taller and closer to the viewer”* The Commission acknowledges that vegetation proposed as landscape treatment may in some instances be insufficient to reduce/block the view until it has achieved adequate height, but notes that the vegetation will assist in screening the outlook and vista from the residence.

On balance, the Commission accepts that the change in the turbines locations does not make a substantive difference to the visual impacts at most non-associated residences, acknowledging the Department’s advice *“that the relocated turbines have not materially increased visual impacts on local residents.”* While visual impacts do remain, the Commission notes that these impacts are consistent with the level of impact contemplated in the Court’s original approval.

The Commission also notes the conditions approved by the 2010 Land and Environment Court that give all owners of existing or approved residential dwellings that are located within

3km of the project (a wind turbine or associated infrastructure) access to landscape mitigation measures if wind turbines are “visible from their residence” in order to minimise the visual impact on their property. The Commission accepts the Department’s assessment that this requirement is sufficient to mitigate visual impacts. Nonetheless the Commission raised concerns about whether the intent of the condition was clear and enforceable. The Department has subsequently provided an amended condition, to clarify the intent that landscaping measures are available to all non-associated residences within 3 km of a turbine. The Commission has incorporated this amended condition into the revised Notice of Modification.

The Commission received an enquiry from a landowner whose property has three holiday cabins and which was not accounted for in the project.. The Commission sought additional information in regard to this property and has been unable to find any evidence that the cabins are permanent approved dwellings. Ultimately, this landowner is not eligible for landscaping treatment as recommended condition 2.2 refers to “existing or approved residential dwellings”. While the Commission acknowledges the landholder’s concerns, it notes that the wind turbines are a permissible use in the zone.

7.3. Noise and associated Health Impacts

Concerns with the proposal raised at the public meeting included potential noise impacts, low frequency noise and associated health effects, notably ‘sleep deprivation’.

Some speakers also questioned the Department of Planning and Environment’s ability to investigate noise related non-compliances, and suggested that noise monitoring is sometimes carried out when the turbines are switched off.

In its previous consideration of the project, the 2014 Commission was advised that electricity works (wind farms) is a scheduled activity under the *Protection of the Environment Operations Act 1997* and therefore the Environment Protection Authority (EPA) is the regulatory authority, not the Department of Planning and Environment. The EPA, with technical specialists in the field of noise, is equipped to ensure the wind farm complies with noise conditions through the project’s Environmental Protection Licence.

Nonetheless, given the concerns raised at the public meeting, this Commission sought clarification on the status of the required noise monitoring and was subsequently provided with a copy of the Department’s technical review of the *Gullen Range Wind Farm Operational Noise Assessment (17 July 2015)*. This operational noise assessment was carried out by acoustic consultants in accordance with the Project Approval between December 2014 and June 2015. The Department has considered the monitoring results and advised the Commission that compliance with the noise criteria is being demonstrated at all of the nearest identified receivers under worst case scenarios. The Department advised that it is confident that the Gullen Range wind farm is operating within its noise limits and is meeting all requirements in regards to noise.

In regards to health, the latest independent assessment by the National Health and Medical Research Council (NHMRC) of the scientific evidence on wind farms and human health was released in February 2015. The NHMRC Statement concludes that ‘*there is currently no consistent evidence that wind farms cause adverse health effects in humans*’. Given the project’s noise impacts are within accepted noise limits, the Commission is satisfied current conditions of approval are sufficient and appropriate to manage the noise impacts of the project.

7.4. Community Consultative Committee

At the public meeting there appeared to be a tangible lack of community confidence in the Proponent that the Commission considers is heightened by the lack of a functioning Community Consultative Committee (CCC). Concerns were expressed regarding the Proponent as not being forthcoming and that better communication would have gone some way to allay community concerns regarding the turbine locations – particularly with regard to visual amenity and noise compliance.

Although the turbines have already been constructed, the Commission is of the view that due to the Proponent's perceived distant relations with the community, this modification should trigger the establishment of a CCC. While the Draft Guidelines require a CCC to be established for the construction period, rather than necessarily having a longer-term operational role, the Commission has determined that a CCC should be established and is satisfied this would be consistent with the spirit and intent of the Draft Guidelines. The Commission considers that this will go some way towards restoring confidence in the community that the project will be managed with full compliance of the approved conditions and in accordance with the Draft Guidelines, will provide a *'forum for open discussion between representatives of the proponent, the community, the council and other stakeholders on issues directly relating to the assessment of the wind farm and if approved, its environmental performance and community relations, and to keep the community informed on these matters'*

7.5. Risks to the Powerful Owl and Little Eagle

The Commission recognises that the proposed (as built) turbine locations marginally reduce the biodiversity risks. Nonetheless, the existing Bird and Bat Adaptive Management Plan requirement to temporarily suspend the operations of turbines POM_03 and POM_04 during the fledging period for the Little Eagle remains. The Department has advised that the risks to the Powerful Owl are far more significant than any risk to Little Eagles in the area but that the modification would have no material effect on the risks to both species. The Commission supports the OEH's recommended condition that the Proponent be required to update the mapping of the area of the native vegetation impacted by the "as constructed" project and revise the biodiversity offsets to compensate for any additional impacts.

7.6. Other Issues

The Commission notes that speakers at the public meeting and in various correspondence pointed out that the project has generated both positive and negative economic and social impacts on the community and that some issues have become socially divisive. These issues are potentially further compounded by the proposal to relocate turbines closer to non-associated properties.

7.6.1. Property Values

Some speakers at the public meeting attributed what they believe is a fall in property values directly to the wind farm and expressed concern for impacted neighbours that they felt should have the right to negotiate with the Proponent for property acquisition, or, alternatively, that financial compensation for any reduction in their property values attributable to the wind farm be provided. Others noted that while host property owners receive a financial benefit from the turbines, their neighbours may receive no benefit at all while being subject to visual and economic impacts without compensation.

The Commission notes that the Land & Environment Court matter *King & Anor v Minister for Planning; Parkesbourne-Mummel Landscape Guardians Inc v Minister for Planning; Gullen Range Wind Farm Pty Limited v Minister for Planning* ([2010] NSWLEC 1102) considers property values for sites adjacent to a wind farm. The judgement determined that there was no loss of value to which the Court could lawfully have regard to, as the wind farm was permissible with consent. *If the concept of blight and compensation were to be applied to a private development, then any otherwise compliant private project which had some impact in lowering the amenity of another property (although not so great as to warrant refusal on general planning grounds when tested against the criteria in s 79C of the Act) would be exposed to such a claim.* The Commission accepts this judgement.

7.6.2. Substation / Switchyard

The Commission heard concern about the visual impact and compliance of the constructed substation and sought clarification from the Department. The Department advised that the substation was constructed within the scope of the original proposal. Notwithstanding this, the Commission noted that the substation has had a significant visual impact and drew on experience from other infrastructure projects (unrelated to wind farms) that the Commission has determined where colour treatment was conditioned to minimise impacts. The Department agreed that a requirement to provide a colour treatment to the fencing around the substation could help to mitigate the reflective glare of the substation fencing on the closest residence. A condition has been added to require colour treatment to be provided to reduce the impact on visual amenity.

8. COMMISSION'S DETERMINATION

The Commission has carefully considered the proposal and its associated impacts the information available including the Secretary's Assessment Reports, the Department responses to Commission questions, and stakeholder submissions and views expressed at the public and other meetings. The Commission has had regard to the *Draft NSW Planning Guidelines: Wind Farms* in making this determination.

The Commission notes the submissions by affected residents who dispute the Department's conclusion "that the impacts of the modified project are not materially greater than those associated with the project as originally proposed".

The Commission has reviewed the Proponent's most recent visual assessment and agrees that the visual impact of the "as built" positioning is consistent with the level of visual impact anticipated by initial assessment of the approved indicative layout, except for residences B12 and B29 that have subsequently been acquired.

The Commission has considered all of the wind turbines that have been constructed in locations that differ from the grid co-ordinates identified in the project approval and has adopted minor amendments to the proposed Revised Notice of Modification to provide clarity about the timing of the notification of landscaping provision and colour treatment to the perimeter fencing of the substation / switchyard. An additional condition has also been included for the establishment of a Community Consultative Committee.

The findings of this determination should not be used to justify any other applications for wind farms currently being planned or processed or those in construction. Applications need to be assessed on merits specific to each case, utilising the legal and technical tools

available including any relevant guidelines (including drafts) available at the time of determination.

On balance, the Commission considers that the final locations of the turbines are acceptable, noting that: impacts on residences B12 and B29 have now been addressed through acquisition and or negotiated agreement; visual impacts to non-associated residences are not significantly different to those already approved; and noise levels are within the approved operational noise criteria.

The Commission has considered the merits of the modification and has approved the proposal subject to some amendments to the conditions.



Garry West

Member of the Commission



Annabelle Pegrum AM

Member of the Commission



David Johnson

Member of the Commission

Appendix 1

List of Speakers

PLANNING ASSESSMENT COMMISSION PUBLIC MEETING, GULLEN RANGE WIND FARM PROJECT

Date: Thursday 11 June 2015, 9.30 am

Place: Crookwell RSL Services Club, 127 Goulburn Street, Crookwell

Speakers:

1. Shane Mortimer (Guumaal and Gundagar People)
2. David Brooks (Parkesbourne/Mummel Landscape Guardians)
3. John Formby (Upper Lachlan Landscape Guardians)
4. Dimity Taylor (Australian Wind Alliance)
5. Mark Tomlinson on behalf of Paige Davis
6. Charley Barber (Crookwell Landscape Guardians)
7. Sean Egan
8. John Carter (NSW Landscape Guardians)
9. Wentworth Hill
10. John Benjamin
11. James Henry Hudson
12. Charlie Prell
13. Michael Crawford – Residents against Jupiter Windfarm
14. Rosemary Howe
15. Malcolm Barlow - Friends of Collector
16. Victoria Mendl
17. John Mendl
18. Grant Winberg
19. Rob Post

Appendix 2

Summary of issues raised at the Public Meeting

Most speakers objected to the application while others supported it. Key issues across the speakers were:

- Visual Impacts
- Impacts on Amenity
- Noise Impacts (including low frequency noise)Property Values

Several speakers presented their views of the visual impacts on their properties and questioned the validity of the Proponent's visual assessment of the modified locations of the turbines particularly given their size, scale and industrial qualities. The turbines were said to dominate or industrialise the rural landscape. The Commission heard that these impacts not only have affected daily activities, but also have translated into decreasing value of their properties.

The residents that were to receive landscaping treatment through tree screening on their properties expressed concerns regarding the mitigation provisions. They argued that they would not receive any meaningful mitigation as trees take time to grow and the poor soils and climatic conditions are not conducive to quick vegetation growth.

The validity of the Proponent's noise assessment was also questioned. Some speakers suggested that the project was not meeting the noise criteria. Others believed that when operations were being audited or monitored, the Proponent switched the turbines off in order to comply.

Issues regarding health impacts arising from low frequency noise, infrasound and sleep disturbance were also raised. Some objectors argued that they are able to hear and feel the noise from within their homes, disturbing their quiet times. Some people were of the view that as turbines had been relocated closer to their residential dwellings contrary to the approved locations, noise impacts had worsened. Others suggested there is significant uncertainty regarding the health impacts related to noise.

Concerns were also raised over the impact on property values and the effect on future subdivision potential of rural properties. It was claimed that some properties were being taken off the market as they could not sell and those that were being sold had their value significantly reduced. It was also noted that rural properties represent a significant investment asset, and in some cases the sale of the property is relied on as a source of superannuation.

A speaker stated that he had not agreed to noise and visual impacts at his residence and has never been contacted regarding these issues although the Proponent stated it had.

Speakers in favour of the proposal highlighted that wind turbines reduce greenhouse gas emissions; are a source of renewable energy; are important for addressing climate change and provide an economic benefit to the local community.

Social impacts were said to have already occurred, with some people claiming that the proposal has divided the community. Speakers also questioned the level of community benefit with some suggesting that the proposal should include additional local contributions.

The PAC's credibility was questioned by some who alleged that it is not independent and cautioned Commissioners against accepting the Department's recommendation to approve the application.

Concerns with the Department's assessment were also raised and allegations made about bias in its retrospective support for the unauthorised works. Particular concern was expressed over the lack of timely action taken by government agencies in responding to community advice that the turbines were being erected in locations other than those approved. Speakers also suggested that the Department's assessment had not addressed the community's concerns or relevant planning legislation.

Other issues raised included:

- impacts on TV reception;
- that the project has no "Public Interest";
- alleged conflict of interest between the Department and Proponent;
- concern that Gullen Range is a bush fire risk because of the wind farm;
- concern that approval of the project would set a precedent for other developers who might undertake unauthorised works then seek retrospective approval through a modification application;
- the lack of acquisition rights for the non-associated residents.

Appendix 3

Summary of Meetings

SITE INSPECTION AND BRIEFING FROM GOLDWIND AUSTRALIA PTY LTD

This meeting is part of the Determination process.		
Meeting note taken by Megan Webb, Jorge Van Den Brande	Date: Wednesday, 10 June 2015	Time: 1:30pm
Project: Gullen Range Wind Farm Turbine Locations Modification		
Meeting place: Gullen Range Wind Farm, site office, near the Substation.		
<p>Attendees:</p> <p>PAC Members: Mr Garry West, Ms Annabelle Pegrum AM, Mr David Johnson. PAC Secretariat: Ms Megan Webb and Mr Jorge Van Den Brande</p> <p>Goldwind International: Mr Jeff Bembrick Development Compliance Manager Mr John Titchen - Managing Director Mr Ning Chen – Vice President Mr Weiwei Shi – Regional Director, Beijing Jingneng Energy Corp Mr Tom Froad - Asset Manager</p> <p>NSW Department of Planning and Environment: Mr Mike Young (Director) and Ms Nicole Brewer (Team Leader)</p>		
The purpose of the meeting was to inspect the site and receive a briefing from the proponent.		
<p>Meeting details:</p> <p>The Proponent:</p> <ul style="list-style-type: none"> • gave a summary of the project's background; • advised that the project approval only provided an indicative turbine layout and that it believed the final layout was consistent with the project approval, noting it had been signed off by the company's Environmental Representative; • highlighted that micro-siting within 250 metres was envisaged in the original application and that while this definition was deleted, no alternative definition was provided; • advised that it was undertaking ongoing community consultation and road maintenance works. <p>During the site inspection, photomontages were compared to the actual views of certain turbines.</p> <p>The proximity to native vegetation and bird habitat was also noted. The Proponent indicated that in many cases the constructed locations had a reduced impact on biodiversity as less vegetation was required to be cleared.</p>		
Documents provided: 2008 Environmental Assessment for the Gullen Range Wind Farm; the 2009 NSW Land and Environment Court Judgement; and the 2014 Visual Review – Modification Application		
Outcomes: Nil		
Meeting closed at 6 pm		

MEETINGS WITH THE DEPARTMENT OF PLANNING AND ENVIRONMENT

This meeting is part of the Determination process.		
Meeting note taken by Megan Webb, Jorge Van Den Brande	Date: Monday, 15 June 2015	Time: 4pm
Project: Gullen Range Wind Farm Turbine Locations Modification		
Meeting place: PAC Offices (Annabelle Pegrum conferenced by skype for the entire meeting)		
Attendees: PAC Members: Mr Garry West, Ms Annabelle Pegrum AM, Mr David Johnson. PAC Secretariat: Ms Megan Webb and Mr Jorge Van Den Brande NSW Department of Planning and Environment: Mr Mike Young and Mr David Kitto		
The purpose of the meeting was to seek clarification from the Department regarding a number of issues raised at the public meeting, and arising from the site inspection.		
<p>Meeting details:</p> <p>The Commission noted the concern, raised by many of the speakers at the public meeting, that the Department had focused its assessment only on 9 of the 69 relocated turbines and sought clarification on the extent of the change and the visual assessment for the remaining turbines.</p> <p>The Commission noted the community's concerns about noise impacts and sought advice on the status of the noise monitoring required to be conducted as part of the existing conditions, Landowner agreements were also discussed. The Commission noted that one landowner had raised concerns that impacts on his property had not been assessed – even though the agreement that he did have in place did not relate to visual or noise impacts of the project.</p> <p>The Commission reiterated the community's concerns about the compliance of the project with the Minister's approval. The Department noted that Part 3A contemplates some capacity for micro-siting.</p> <p>In relation to visual impact, the Department advised that the Court's approval contemplated a level of impact, with three options depending on the scale of the impact – removal of the turbine (or acquisition of the property), provision of some visual screening, or provision of no mitigation. This approach set out by the Court still applies to the project.</p> <p>The Department confirmed that the legal advice it had received suggested that 9 turbines were inconsistent with the approval and agreed to provide further information to the Commission, including consideration of whether landowner agreements related to all impacts of the project or only some elements.</p> <p>In regard to concerns raised about the approved scale of the substation, the Department advised that it had investigated whether the structure complied and found that it was consistent with the approval.</p> <p>The Department advised that current noise monitoring had taken longer than anticipated as the required weather conditions had not yet occurred for sufficient periods to collect all the data points required.</p> <p>The Department also explained its recommended changes to the conditions, noting that decommissioning had not been captured in all of the relevant conditions, and that this gap had now been rectified.</p>		
Documents to be provided: The Commission subsequently provided a written request for additional information, refer appendix 4		
Outcomes: Department to provide some additional information for the Commission		
Meeting closed at 6pm		

This meeting is part of the Determination process.		
Meeting note taken by Megan Webb, Jorge Van Den Brande	Date: Thursday, 30 July 2015	Time: 4pm
Project: Gullen Range Wind Farm Turbine Locations Modification		
Meeting place: PAC Offices (Annabelle Pegrum conferenced by skype for the entire meeting)		
Attendees: PAC Members: Mr Garry West, Ms Annabelle Pegrum AM, Mr David Johnson. PAC Secretariat: Ms Megan Webb and Mr Jorge Van Den Brande NSW Department of Planning and Environment: Mr Mike Young, Mr David Kitto and Ms Nicole Brewer		
The purpose of the meeting was to seek clarification from the Department on some concerns in respect to the visual assessment and the noise monitoring compliance report commissioned by the Proponent.		
<p>Meeting details:</p> <p>The Commission noted when reviewing the visual assessment that a cluster of residences within 2km (B28, B55 and B77) appeared not to have received the same consideration as residence B29. The Commission requested further information on how these residences were assessed given their close proximity to the same turbine (BAN 09) as residence B29. The Department agreed to provide further advice on the visual impacts to these properties.</p> <p>The Commission questioned the visual assessment for property G32, where a turbine had moved 101 m closer to the property, but a photomontage did not appear to be available directly from that property. The Department noted that while the turbine had moved closer the viewing angle had not changed. The Department advised it was satisfied that the impact has not changed dramatically.</p> <p>The Department also advised that the existing conditions provided for landscaping to be available to all non-associated residences within 3 km of a turbine. The Commission noted that the existing condition was not as clear as it should be and the Department agreed to amend the condition to clarify the intent.</p> <p>The Commission noted it had received an email from a landholder who claims that he has not been contacted by the Proponent. The property sits within 2km of three turbines and appears to have three cabins. The Department advised that it was not aware of the matter and would seek further information for the Commission.</p> <p>In regards to the Community Consultative Committee (CCC), the Department advised that it considers that whilst the CCC has an important role during construction, impacts from operations are unlikely to change significantly over the life of the project and there is limited value in retaining a CCC during this phase of a wind farm project. The Commission noted that the project has divided the community and suggested that a CCC should be put in place for a specific period of time to help open communication channels between the Proponent and the community and perhaps repair some of the divisions in the community. The Department accepted this approach and agreed it would amend the recommended conditions accordingly.</p> <p>The Department provided an overview of the noise monitoring report noting that it had only done a preliminary review to date, but that it appeared to have adopted a conservative approach and showed compliance with the criteria. The Commission and the Department noted that the accepted noise levels would still be audible at some residences but that this is compliant within the policy. The Department advised its noise specialist would be examining the monitoring results more closely and agreed to provide the Commission with written advice</p>		

on the issue.

In regards to the substation, the Commission advised that it felt that some additional visual mitigation was warranted – as has been required by the Commission for similar infrastructure on some mining projects it had considered. The Department agreed the perimeter fence could be colour treated to reduce visual glare and that some further landscaping provisions could be required. The Department agreed it would amend the recommended conditions accordingly.

Documents to be provided: The Commission Secretariat to provide the Department with further details regarding the above-mentioned property with three cabins.

Outcomes: Department to provide some additional advice and amendments to the recommended conditions.

Meeting closed at 5pm

Appendix 4

Correspondence to and Addendum from the Department of Planning
and Environment