

30 March 2016

**NSW Planning Assessment Commission Determination Report
Yass Valley Wind Farm Project (SSD 6698)
Yass Valley and Harden Shire LGA**

1. INTRODUCTION

The proposed Yass Valley Wind Farm Project (the project) is located about 16 km west of Yass, in the Yass Valley and Harden local government areas. Epuron Projects Pty Ltd (the Applicant) lodged the Environmental Assessment (EA) for the project with the Department of Planning and Environment (the Department) in November 2009. Following public exhibition of the EA and detailed assessment, the Department referred the application to the Planning Assessment Commission for determination on 3 February 2015.

In view of the nature of the application, the issues involved and the recommendation from the Department that the application not be approved, the Commission arranged to meet with the Applicant and the Yass Valley and Harden Shire Councils, and visited the site and its surrounding areas on 4 March 2015. During the site visit, the Commission also spoke to a number of landowners. Details of the site visit and meetings are provided in Appendix 1.

In response to the Department's assessment report (Assessment Report 2015), the Applicant sought to provide further information to the Commission to address the issues raised by the Department. Their initial submission was received on 13 February 2015. A detailed submission was received on 27 February 2015 and the additional technical submission was received on 26 March 2015.

The extent of information provided to the Commission required careful assessment before a decision could be made on the application. On 27 March 2015, the Commission referred the additional information to the Department for its review and requested an updated Assessment Report to be provided.

On 1 February 2016, the Commission received the revised Assessment Report (Assessment Report 2016) for its determination of the project.

2. THE PROJECT

The original project proposed the construction of 152 turbines and ancillary infrastructure in 4 discrete precincts over a 24km span east to west along the Hume Highway, and a 12km span north to south. The project has been modified several times over the assessment period. Table 2 in the Revised Assessment Report (2016) provides a comparison of the key changes to the project since the EA. Table 3 summaries the key components of the final project for this determination.

The project as currently proposed is for the construction of up to 124 wind turbines and associated infrastructure across 4 precincts: Coppabella precinct to the west (79 turbines), Marilba precinct (27 turbines) and Conroy's Gap Extension precincts to the east (18 turbines), along with the 330kV connection precinct (transmission infrastructure only).

The nominal capacity is between 1.5 and 3.6MW with a maximum turbine height of 150m (to blade tip) and blade length between 45m and 60.5m.

Key infrastructure includes an operation and maintenance facility, construction compounds, substations and overhead and underground power lines.

The project, if approved, would disturb about 226.4ha of land, including 200.6ha of Box Gum Woodland (an endangered ecological community) and Box Gum Woodland derived grassland areas. The biodiversity offset requires the provision of suitable land for long term conservation.

The major transport routes would be mainly via the Hume Highway and Burley Griffin Way. Key road works include internal access tracks and improvement to Whitefields Road, Paynes Road, and Illalong Road.

The estimated capital investment value is about \$670 million with a potential to create 167 construction jobs and 34 full time equivalent operational jobs.

3. DELEGATION TO THE COMMISSION

The project was declared a major project under Part 3A of the EP&A Act in October 2008. Although Part 3A was repealed in October 2011, the project remained a 'transitional Part 3A project'. It was transitioned to the State Significant Development process under Part 4 of the Act in March 2014. The Minister for Planning is the consent authority for the project. However, in September 2014, the Minister announced that all wind farm development applications would be referred to the NSW Planning Assessment Commission for determination.

The Commission constituted to determine this application comprised Ms Lynelle Briggs AO (chair), Ms Annabelle Pegrum AM and Ms Robyn Kruk AM.

4. THE COMMISSION PROCESS

The Commission process is briefly summarised in the table below. Details of meetings with stakeholders and key pieces of correspondence are in Appendices 1 and 2.

13 Nov 2009	Exhibition of the Environmental Assessment of the project
3 Feb 2015	The project was referred to the Commission for determination. The Assessment Report (2015) recommended the application be refused.
13 Feb 2015	The Department briefed the Commission. It advised that the project could have been supported if there was certainty in the final layout and sufficient information to allow a proper assessment of potential impacts. Significant concerns included the impact on aviation, visual impacts on nearby non-associated residences and biodiversity issues. The Department also expressed the view that it would not have major issues with the proposal if only the western part of the site were developed.

13 Feb 2015	The Applicant's initial submission to the Commission requested time to provide additional information to address the issues raised in the Department's Assessment Report.
27 Feb 2015	A detailed submission from the Applicant was received by the Commission.
3 Mar 2015	Department responded to the information provided by the Applicant.
4 Mar 2015	The Commission visited the site, met with a number of landowners, the Applicant and the Yass Valley and Harden Shire Councils.
26 Mar 2015	The Applicant provided an additional technical submission to the Commission.
27 Mar 2015	The Commission referred the additional information to the Department for assessment and requested an updated Assessment Report.
1 Feb 2016	The Department referred the Revised Assessment Report (2016) to the Commission for determination recommending approval of the Coppabella precinct only and not the other components of the project.
12 Feb 2016	The Applicant wrote to the Commission in response to the Department's Revised Assessment Report (2016).
26 Feb 2016	Mr Alan Cole sought information from the Commission and claimed that he was not consulted by the Applicant.
8 Mar 2016	The Commission wrote to the Department seeking clarification of a number of the recommended conditions.
18 Mar 2016	The Department responded to the Commission's request and provided an updated set of recommended conditions. The Department also responded to the Applicant's letter of 12 Feb 2016.
23 Mar 2016	Department advised the Commission that Departmental staff met with Mr Cole in September 2015 and has on-going discussions with him.

5. SECRETARY'S ENVIRONMENTAL ASSESSMENT REPORT

5.1 Assessment Report (2015)

The Assessment Report (2015) identified several fundamental concerns with the project, including uncertainty in the final layout, access to supporting infrastructure, aviation impacts and biodiversity impacts and, in particular, the number of key issues raised by public authorities that had largely remained unresolved.

The Department's assessment found that:

The Applicant has failed to provide an appropriate level of information to support its application, and subsequently failed to fully demonstrate, to a reasonable level, the full impacts associated with the development of the wind farm and appropriate mitigation measures to achieve satisfactory environmental and social outcomes.¹

The Department concluded that *"the nature and scale of the proposal's potential impacts are unacceptable and recommends the Development Application be refused..."²*

5.2 Revised Assessment Report (2016)

Following a review of the information provided by the Applicant to the Commission, the Department received further information from the Applicant to address the residual issues.

¹ Department of Planning and Environment, *State Significant Development Assessment: Yass Valley Wind Farm (SSD08_0246)*, *Secretary's Environmental Assessment Report*, January 2015, p.ii

² Ibid, p.iv

The Department engaged independent consultants to review the visual impact assessment and aviation assessment. It also undertook further consultation with key stakeholders including Airservices Australia and the Office of Environment and Heritage.

On the basis of the additional information and comments from the key agencies, the Department found it now had sufficient information to carry out a proper assessment of the project.

Its final assessment concluded that:

The impacts of the western part of the project comprising 79 turbines (i.e. the Coppabella precinct) can be effectively managed to achieve acceptable environmental and amenity outcomes for the local community, and should be approved, subject to conditions.

However, due to the significant landscape and visual impacts of the eastern part of the project, the Marilba and Conroy's Gap Extension precincts should not be approved.

The Department has also recommended that an associated high voltage transmission line (known as the 330kV Connection precinct) should not be approved, as the remaining Coppabella precinct can connect to the network via an existing 132kV transmission line.

While the removal of the Marilba precinct, Conroy's Gap Extension precinct and the 330kV Connection precinct would not completely eliminate the landscape and visual impacts of the project, the Department considers that it would allow a viable wind farm to be developed while removing the most significant visual impacts of the project on the local community.³

The Revised Assessment Report (2016) recommends the project be approved with conditions subject to the removal of the Marilba, Conroy's Gap Extension and the 330kV Connection precincts. In simple terms, the recommendation is for the approval of the construction of the seventy-nine turbines in Coppabella Precinct only.

6. COMMISSION'S CONSIDERATION

As is clear from Sections 1-5 of this report, the project application has a long and drawn out history. Over many years, the Department has given the Applicant many opportunities to prepare for the project and to make its case for the entire Yass Valley Wind Farm project. The totality of the additional information provided by the Applicant eventually allowed the Department to carry out a full and proper assessment of the potential impacts of the project in 2015-16. As a result of this assessment, the Department recommended the approval of the Coppabella Precinct; not the other components of the project.

³ Department of Planning and Environment, *State Significant Development Assessment: Yass Valley Wind Farm (SSD-6698), Assessment Report*, February 2016, p.ii

In reviewing the Assessment Report (2015), the Commission considered a number of issues including the status of the associated property owners and land tenure; consistency regarding the layout of the wind farm; aviation and radar interference; the impact on local airstrips; biodiversity; consultation with the Applicant; public exhibition and consultation; and the recommended conditions.

6.1 Impact on Aviation Services

Of particular concern to the Commission was the potential impact on aviation services including impacts on the radar systems and local airstrips. The Commission notes that Airservices Australia is now satisfied that its concern could be managed with the recommended conditions of approval, which requires a detailed independent report to be prepared on all potential impacts of the project and implementation of all recommended mitigation measures to the satisfaction of Airservices Australia.

Although the Commission finds this issue has been addressed for this proposal, it considers that there is a need for the Department to see that further research is carried out on the potential impact of turbulence arising from the operations of wind turbines.

6.2 Visual Impacts

Potential visual impact on non-associated residences is a major issue raised in the submissions and Department's assessment. The Commission notes most affected landowners in the Coppabella precinct have reached agreement with the Applicant, but not in the other precincts. Further, the Commission notes that those most affected in the eastern precincts will also be visually impacted by other approved but not yet constructed wind farms nearby. See also Section 6.5.

6.3 Biodiversity Issues

The Commission notes the Department's advice that the removal of the Marilba and Conroy's Gap Extension precincts and the 330kV connection precinct would reduce the clearing of native vegetation from 226ha to 83ha. The Revised Assessment Report (2016) found the approval of the Coppabella precinct *"would not result in any significant impacts on threatened species or ecological communities, and would not pose a significant or unacceptable level of risk to bird and bat species in the vicinity of the proposed turbines"*. The Applicant's proposed biodiversity offset to compensate for the loss of native vegetation was considered appropriate and acceptable to both the Department and Office of Environment and Heritage and conditions of approval have been recommended accordingly.

The Commission also notes the recommended conditions of approval include the preparation of a monitoring program to report on the management and mitigation measures. The Commission is satisfied the issue has been adequately addressed.

6.4 Contribution

The Applicant has agreed to make a contribution to a "community enhancement fund" under a Voluntary Planning Agreement (VPA). Both Yass Valley and Harden Shire Councils indicated that they preferred to have a committee set up under the Local Government Act to manage and distribute the contribution. The Councils considered a two tier approach to the community enhancement fund should be considered as the fund should benefit the local community as

well as the whole community. During the site visit, residents indicated to the Commission that they considered the fund should benefit the local community where impacts occur.

The Commission notes the Department recommends the Applicant to enter into a VPA with the Councils in accordance with its offer. The general terms of the offer require the distribution of the contributions with a focus on funding community projects in the area surrounding the project site. The Commission agrees and considers it is an appropriate arrangement as the setting up of a committee to administer the fund under the Local Government Act is a matter for the relevant Councils.

6.5 Applicant's Response to the Revised Assessment Report (2016)

On 12 February 2016 the Applicant wrote to the Commission in response to the Department's assessment and recommendation. It considered the recommended significant reduction of the scope of the project not justified. However, it did acknowledge that the approval of the Coppabella Precinct would provide certainty to the Applicant, the community and the involved landowners. The Applicant advised that it did *"not intend to challenge the removal of turbines or the 330kV powerline from the project. However, should an appeal be made against the final determination of the project, we reserve our rights to make our case for the approval of all 124 wind turbines and the 330kV powerline connection."*

The Applicant's letter also commented on various aspects of the Revised Assessment Report (2016) including:

Visual Impact Assessment

The Applicant questioned the Department's preference to its own expert assessment of visual impact over the Applicant's expert even though the latter expert has *"vastly more experience in assessing visual impacts of wind farms"*. In particular, the Applicant claimed that of the 10 non-associated residences, three are expected to become associated following approval of the application. The removal of 12 turbines would mean *"no turbines being located within 2km of a non-associated residence"*. The letter further argued that *"the RLA Report raised concerns with only 26 of the 45 turbines"*, but the Department's recommendation is to remove 45 turbines from the eastern part of the site.

The Commission finds there are two key matters relating to this response that require consideration.

1. Associated or Non-associated Residence

The first is to determine whether a residence is associated or not. In the Commission's view, the determination should be made at the assessment stage, not after the approval of a project as the consent authority cannot assume something that may or may not happen. In some circumstances, conditional approval may be granted subject to the agreement between the involved residents and the Applicant. However, this could only occur if the assessment finds all other potential impacts and residual issues could be resolved subject to conditions.

In the circumstances here, the Commission notes the Revised Assessment Report (2016) stated that *"Epuron has not reached agreement with any of the landowners of the residences predicted to experience high visual impacts. Furthermore, Epuron has yet to obtain agreements with a*

number of landowners whose land is proposed to be used for construction of the wind farm in the Marilba and Conroy's Gap Expansion precincts." Given the topographic nature of the landscape and the proximity of residences, the Commission finds there is no certainty that the Applicant could secure the consent of relevant landowners for the construction of the wind farm or the cumulative visual impact could be resolved via conditions of approval.

2. Cumulative Visual Impact

The second matter relates to the issue of cumulative impact. The Commission notes the Department found:

That cumulative visual impacts are an issue in the eastern portion of the site with the proximity of the approved (but not yet built) Conroy's Gap Wind Farm. Many of the residences predicted to experience high visual impacts as a result of the project would also be able to see the Conroy's Gap turbines once they are constructed.⁴

The Commission agrees with the Department's assessment.

330kV Transmission

The Applicant questioned why the Department recommended the refusal of 330kV transmission line when its assessment concluded that *"the 330kV overhead power line is unlikely to result in significant visual impacts"*. The Applicant claimed *"the existing 132kV transmission line does not have the capacity to export this level of power"* (285MW generated by the turbines in the Coppabella precinct). The Commission sought advice from the Department on this issue.

The Department advised via a memorandum that its understanding from the Applicant's *final Preferred Project and Submission Report* that *"the Coppabella precinct can be built with connection to the 132kV transmission line to the north of the site and the 330kV transmission line would only be required if another precinct were to be constructed...assuming only the Coppabella precinct is approved, the Department does not consider that the retention of the 330kV transmission line as part of the project has been sufficiently justified"*. The Department also advised the project could be modified, or a new application could be submitted for the construction of the 330kV transmission line if it can be demonstrated that there is a capacity constraint following the commissioning of the turbines in the Coppabella precinct.

The Commission agrees and is satisfied that the issue has been adequately addressed by the Department.

6.6 Other Issues

With the removal of the Conroy's Gap Extension and Marilba precincts and with the recommended conditions of approval, the Department considered the project would be able to comply with the applicable noise criteria and that the risk of any residual health effects on nearby residents would be negligible as no turbines would be closer than 2.03km from non-associated residences.

⁴ Department of Planning & Environment, *State Significant Development Assessment Yass Valley Wind Farm (SSD-6698), Assessment Report*, February 2016, p.23

The Commission finds the recommended condition restricting micro-siting to within 100m from the locations indicated on the plans is satisfactory.

Another concern is the proposed staging of the project as it may extend the construction period to several years. The Commission considered the conditions should make it clear that the requirement of maintenance and repair of roads should cover all stages. The relevant conditions have been updated by the Department.

6.7 Draft Recommended Conditions of Approval

Following a review of the draft recommended conditions of approval, the Commission provided comments to the Department on 8 March 2016 and requested an updated set of conditions to be prepared. The comments related to a possible time limit on operations; staging of development; reporting on environmental performance and other minor matters.

The Department responded to the Commission's request on 18 March 2016 and relevant conditions have been updated to reflect the Commission's comments. The Commission is satisfied with the Department's advice and considers the updated conditions of approval reasonable.

6.8 Conclusion

On the evidence, the Commission finds most of its concerns have been addressed in the Revised Assessment Report (2016) and the updated conditions of approval.

The site visit in March 2015 made it clear to the Commission that the project has two distinct parts, the western (Coppabella precinct) and the eastern (Conroy's Gap Extension and Marilba precincts). The landowners responses to these two areas were also very different. The most affected landowners in the Coppabella precinct all have agreement with the Applicant, but none in the eastern precincts.

The Commission agrees with the Department that the potential visual impacts on non-associated residences in the Conroy's Gap Extension and the Marilba precincts are very significant, particularly when consideration is given to the neighbouring wind farms that have been approved, but not yet constructed. Given the topographic nature of the area, the proposed location of the turbines and the proximity to non-associated residences, it is unlikely that any mitigation measures could be implemented to reduce the impacts to an acceptable level. Therefore, a conditional approval is not an option for the eastern precincts without any agreement with the affected landowners.

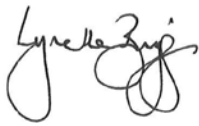
As to the 330kV Connection Precinct, the Commission agrees with the Department that there is insufficient justification for the 330kV transmission line, even though the visual impact assessment concluded that its impact is not significant. As pointed out by the Department, a modification to the approval or a new application could be lodged if there is justification for the 330kV transmission line following the construction of the turbines in the Coppabella precinct.

The Commission is satisfied that other issues including aviation, biodiversity, voluntary contributions, noise, health, traffic & transport, heritage, telecommunication, and water have been adequately addressed and residual issues could be managed with the recommended conditions of approval.

7. COMMISSION'S DETERMINATION

The Commission has considered the information available including the Assessment Report 2016 and associated documents, agencies and public submissions, information provided by the applicant, issues raised at meetings with stakeholders including landowners during the site visit.

The Commission is satisfied that the Department has considered and addressed all relevant issues and the recommendation to approve only the Coppabella Precinct is reasonable. The application is approved as recommended subject to conditions in Appendix 3 of this report.



Lynelle Briggs AO
Chair of the Commission



Annabelle Pegrum AM
Member of the Commission



Robyn Kruk AM
Member of the Commission

APPENDIX 1 MEETINGS AND SITE VISIT NOTES

Notes of meeting with the Department – 13 February 2015

Meeting note taken by: Rob Sherry	Date: Friday, 13 February 2015	Time: 11.45pm
Project: Yass Valley Wind Farm Project - Determination		
Meeting place: PAC Office		
Attendees: PAC Members: Lynelle Briggs AO (Chair), Annabelle Pegrum AM, Robyn Kruk AM PAC Secretariat: Rob Sherry Department of Planning and Environment: Chris Wilson, Karen Jones and Toby Philip		
The purpose of the meeting: For the Department to brief the Commission on the Assessment Report		
Discussion - Reasons for the Department's recommended refusal were discussed in detail The Department advised that: - In principle the project could have been supported and developed, however, after years of difficult negotiations and long delays by the Applicant in providing information and responses to concerns, the Department found it necessary to conclude its assessment (based on the available information) - Project kept changing with insufficient information to be able to support the application - Five changes have been made to the PPR since submission, with no impact assessment to the multiple changes - External advice was sought, which indicated that the project could be developed, but it was difficult to support it without adequate information for a proper assessment - Aviation - Air Services concern is across the full project site. Normally, the issue could be conditioned. However, Air Services has not supported the project - Impact on local air strips, both private and businesses, could work with local landowners to be compensated if their flights were impacted - Biodiversity - Project did not have an adequate biodiversity offset strategy, or offset sites identified - The Department would clarify why the project has been referred to the Commonwealth - If biodiversity and aviation issues resolved, the project could be approved and conditioned accordingly to address visual impact issues. - The Department would not have major concerns about the project if the Applicant requested to only develop the western part of the site. However, the aviation and biodiversity issues would still need to be addressed. - EPA is yet to support the proposal - The project is comparable to similar projects - The project could be conditioned, but the Applicant has not yet submitted information to offset impacts.		
Documents: NA		
Meeting closed:		

Notes of Site Visit– 4 March 2015

Meeting note taken by: Rob Sherry	Date: Wednesday, 4 March 2015	Time: 8.30am
Project: Yass Valley Wind Farm Project - Determination		
Meeting place: 1) Epuron site visit		
Attendees: PAC Members: Lynelle Briggs AO (Chair), Annabelle Pegrum AM, Robyn Kruk AM PAC Secretariat: Rob Sherry Applicant: Andrew Durran, Martin Poole, Andrew Wilson, Donna Bolton		
The purpose of the site visit is for the Commission to be familiar with the project site and surrounding areas		
The Commission toured the entire site with the Applicant including driving along the Hume Highway, Whitefields Road, Berremangra Road, Bogolara Road, Illalong Road, Campbell's Road and viewing the site at various locations including C04 and C05 to observe the elevated views across the precincts, hollow bearing trees, and the airstrip. As part of this tour, the Commission was also invited to meet with the following landowners and residents on the western part of the precinct: Mr Ian Shaw Mr Tony Reeves Ms Julie Reeves Mr Mark Glooer Issues raised by the residents included: • Difficulty in getting information from the Department. • Concern over the negotiations between the Applicant and the residents, and the Departments assessment, having been protracted over many years. A group of landholders had combined to negotiate collectively with Epuron. • The need for turbines to be sited away from houses to minimise impacts, and concern that in the eastern area of the precinct, turbines are closer to houses and working land • That a 'public' road proposed to go through a property must be fenced off to minimise stock loss. • That community funds should go to the local affected communities and non-associated farmers, not Yass, which is (generally) not impacted. • A community committee should have representative members to ensure funding is dispersed reasonably. Draft guidelines need to be more robust in the setting up of the committee, including neighbours • The impact of turbines on local aviation business		

Notes of meeting with the Applicant – 4 March 2015

Meeting note taken by: Rob Sherry	Date: Wednesday, 4 March 2015	Time: 1.20pm
Project: Yass Valley Wind Farm Project - Determination		
Meeting place: Royal Tara Motel, 23-27 Stephens St, Binalong		
Attendees: PAC Members: Lynelle Briggs AO (Chair), Annabelle Pegrum AM, Robyn Kruk AM PAC Secretariat: Rob Sherry The Applicant: Martin Poole, CEO Epuron Donna Bolton, Project Manager (Silverton) Andrew Wilson, Senior Project Manager (Yass Valley) Andrew Durran, Executive Director		
The purpose of the meeting: For the Applicant to discuss the Assessment Report's recommendation		
Discussion: • Epuron summarised the matters it raised in its written response to the PAC of 13 February 2015. These matters outlined its initial response to the Secretary's Environmental Assessment Report and a chronology of the development of the project. • Epuron disagrees with the Department's initial assessment that the project should not proceed • Epuron has 6 windfarm projects approved in NSW and 2 other projects being assessed • The process in Epuron's opinion is flawed: - they were impeded in their responses on the assessment of this project - there are errors of fact in the Assessment Report - the failure by the Department to consider key additional information provided - there was a communication issue with the Department - unrealistic timeframes - no government agencies objected to the proposal - no agreements in Coppabella are left outstanding • The project has great advantages and few impacts, which could be managed with the SOCs and approval conditions and should be approved • There is strong support from locals, not just involved landowners. The Councils (Yass and Harden) support regional economic development • Key issues are: - Clarity in the project description, consistency, constructability - o Epuron documentation is clear and consistent except for minor discrepancies - o Layout and co-ordinates to inform micro-siting are clearly set out on the maps - o The request in the Assessment Report for photomontages, visual impact and noise assessments - Biodiversity - o Issue of bio-banking to be clarified and would provide additional information in relation to biodiversity coverage within each precinct and risk levels - o All OEH suggestions have been adopted and SOCs updated accordingly - Aviation - o Impacts on local airstrips that could be addressed via SOCs and approval conditions - o Radar assessment that meets AirServices requirements could be carried out post approval/pre-construction. This approach is consistent with other recent approvals and DPE model conditions. If AirServices is not satisfied, options could include turbines removal, new/update software or relocate radar - Other issues - o Visual impact – all photomontages would be updated for the final layout. Strong reservations about the RLA review - o Traffic and transport – all requirements of RMS and Yass Valley Council have been incorporated into SOCs. Other issues could be managed via approval conditions. Bridge could		

be re-built if not load capable.

o Noise – supplementary study would be provided to address concerns in Assessment Report

- The Coppabella precinct could stand alone
- Due to RETS uncertainty, whole project is unviable to connect to 330kV line.
- Epuron offered to provide additional information to the PAC
- PAC sought clarification on the Statement of Commitment item 112 (B23) on page 21 of Initial Response in relation to construction vibration.

Documents:

1. Yass Valley Wind Farm presentation to NSW Planning Assessment Commission, 4 March 2015
2. Additional information in relation to noise and visual impact would be provided by 26 March 2015

Meeting closed:

Notes of meeting with Yass Valley and Harden Councils – 4 March 2015

Meeting note taken by: Rob Sherry	Date: Wednesday, 4 March 2015	Time: 4.30pm
Project: Yass Valley Wind Farm Project - Determination		
Meeting place: Yass Valley Council Chambers, 209 Comur Street, Yass		
Attendees: PAC Members: Lynelle Briggs AO (Chair), Annabelle Pegrum AM, Robyn Kruk AM PAC Secretariat: Rob Sherry Yass Valley Council: Chris Berry, Director of Planning and Environmental Services Harden Shire Council: Trevor Drowley, Acting GM Sharon Langman, Director Environmental Services		
The purpose of the meeting: For the Council to brief the Commission on the issues of concern		
The key concerns to Councils were roads, community enhancement fund and water issues. ROADS <u>Yass Valley</u> - Roads were built to budget - Trucks and oversize vehicles do most damage on roads. The November 2014 Council report indicated some of the roads were not fit for the purpose and the potential impact on the timber bridges was a major concern. They might require shore-up or rebuild. Applicant might not be aware of the issues as the Council report was submitted in November 2014. - All construction vehicles should be directed to haulage routes - Key roads should be upgraded before construction commences and 'made good' after completion <u>Harden Shire</u> - Concern as to where the water for the project would come from. Can't use farmers' bores because these/many are unlicensed and cannot use the town water supply. - Whitefields Road cut through EEC. The issue was not raised earlier because Council because the road was 'transferred' as part of the recent boundary adjustment with Yass. - Concentrated construction vehicle movements would impact on the conditions of road - Roads should be upgraded before construction and repaired if found damaged following construction - The extra traffic generated by the project requires the upgrade of the road conditions - The condition of the road would have an impact on fire fighting ability - Question whether turbines would impact on aerial fire fighting ability - Illalong bridge was 'not fit for purpose' and needed upgrading/replacing COMMUNITY ENHANCEMENT FUND - Councils should administer the fund through a committee (or similar) which could include the wind farmer - Council raised an equity issue because each project has a different contribution rate per turbine. - The contribution should benefit the whole community, not just those affected. A two-tier approach should be considered. - Reference was made to the Upper Lachlan Committee as a model - Council would like to administer the fund via a committee comprising of council officer, community representatives and preferably applicant's representative. Contribution could be made to non-council owned assets.		

WATER CONCERN

- Bores are not licensed
- Not to impact on farmers or town supply
- Murrumbidgee is main supply via Goldenfields

FIRE

- Yass Council was concerned about aerial fire fighting capability

OTHER ISSUES

- Decommissioning - wanted a condition to ensure decommissioning funding would be available when required – suggested a bond be held by Government, a bank guarantee or an annual levy be applied

Documents:

Meeting closed:

APPENDIX 2 KEY CORRESPONDENCES



Ms Lynelle Briggs AO
Chair
Planning Assessment Commission
GPO Box 3415
Sydney NSW 2001

Dear Ms Briggs

I refer to your correspondence of 18 February 2015, regarding the Applicant's response to the Department's Environmental Assessment Report for the Yass Valley Wind Farm, and a request for the Department to provide comment.

The Department has undertaken a review of the information, and has provided some comments for your consideration (See **Attachment A**).

Should you have any enquiries regarding the content of this letter, I have arranged for Mr Neville Osborne, Team Leader, Resource Assessments, to assist you. Mr Osborne can be contacted on telephone number (02) 9228 6337.

Yours sincerely,


Karen Jones 3-3-15
Director
Infrastructure Projects

Attachment A

1. Insufficient land tenure / involved/not involved property owners

- It is the responsibility of the Applicant to present an accurate environmental assessment to the Department, inclusive of an accurate description of the status of landowners contained within the project and a complete assessment of the environmental impacts of the project, inclusive of a complete assessment on landowners not “associated” with the project.
- Nominating a landowner as “associated” in its environmental assessment implies that the Applicant has obtained an agreement with the landowner with respect to negotiated compensation for consequential impacts to their property and/or residence. The Department therefore does not require the Applicant to fully assess the environmental impacts on the “associated” property.
- In this respect, the Department first requested confirmation on whether agreements for the construction and operation of the wind farm and associated infrastructure were in place for all “associated” landowners, in September 2013. The Applicant’s response was that *“the details of commercial agreements with the landowners are not relevant for the planning assessment”*.
- The Department responded that:
 - o It is relevant to the planning assessment, as it is an important element to deciding what recommendation to make; and
 - o The information is required to validate the accuracy of the assessment and maps, and if an agreement has not been signed with a landowner, then the assessment (and maps) should not be indicating the landowner as “associated”.
- It is therefore not a *“new issue not previously raised”*, as indicated by the Applicant.
- With respect to landowner 23/24/25, The Department spoke to the landowner on 19 August 2014, and the landowner advised the Department that no agreement was in place, he did not wish to be part of the project, and all infrastructure from his property should be removed.

2. Inadequate assessment/ Consistent layout and footprint/ Aspects not confirmed

- The environmental impacts of all project infrastructure have not been assessed, as indicated in the Department’s environmental assessment report.

3. Aviation – radar interference

- Airservices Australia has been clear in correspondence to the Department and the Applicant.
- Airservices Australia email of 2 July 2014:

- o It cannot support the Yass Valley wind farm until a full aeronautical assessment has been conducted to determine the full impacts on the Mt Majura and Mt Bobbara radars; and
 - o It understands the “catch 22” situation, however it cannot be resolved by Airservices making decisions based on incomplete information and potentially jeopardising the integrity of the critical safety surveillance systems.
- Airservices Australia email of 12 September 2014:
 - o It cannot provide any form of conditional assessment (Airservices Australia has therefore not agreed to a statement of commitment for the project and its impacts).
- Following the advice from Airservices Australia on 2 July 2014, the Department advised the Applicant on 11 July 2014 that:
 - o a full aeronautical assessment is to be conducted to determine the full impacts of the project on the Mt Majura and Mt Bobbara radars; and
 - o the additional required assessment will not be deferred until post approval (contrary to the Applicant’s assertion that “*Epuron have, to date, received no feedback from the Department on this issue and the appropriate course of action*”).

4. Aviation – local airstrips

- The Department first requested the Applicant’s aeronautical impact assessment be updated to undertake a risk assessment on private airstrips inclusive of agricultural aircraft movements in September 2013.
- The Department’s independent review of the Applicant’s aeronautical/aviation impact assessment was also forwarded to the Applicant for a response on 4 November 2014.
- It is therefore not a “*new assessment approach not previously raised with Epuron*”, as indicated by the Applicant.

5. Biodiversity

- In addition to the Biodiversity assessment provided in the May 2014 PPR (fourth), large amounts of information was sent by the Applicant directly to the Office of Environment and Heritage (OEH) in order for the OEH to undertake a review of the project. This additional information has not been presented as a consolidated Biodiversity assessment to the Department.
- In addition, the Supplementary Ecology Report for the project that was provided in the May 2014 PPR (which assessed the addition of turbines, access and electricity transmission easements and substations in areas not previously assessed, since the exhibition of the EA), was removed from the September 2014 PPR.
- All required assessment information has therefore not been provided to the Department.

- The Department recommends the PAC undertake consultation with the OEH with respect to the Applicant's Biodiversity assessment (Allison Treweek, Senior Team Leader, (02) 6229-7082).

6. Documentation and consultation

- The Department provided detailed comments to the Applicant on the First, Second and Third PPRs in January 2013, September 2013 and March 2014.
- Failure by the Applicant to adequately address the comments, and the additional changes made by the Applicant to the project has led to the large number of draft PPRs being re-submitted to the Department for review.

7. Exhibition and Consultation

- With respect to the Department's notification procedure for the exhibition of the EA and PPR, the Department did not notify all of the residences surrounding the wind farm of the exhibition of the documents. The Department notified government agencies, and placed a notification advertisement within the local papers. The EA and PPR were placed in the offices of Yass Valley and Harden Council and Libraries for viewing, and on the Department's web-site.
- The Department did not undertake a formal adequacy assessment of the first PPR/Submissions Report prior to placing it on exhibition. The Department therefore never accepted the document, and its level of information, as adequate. The Department did however provide a detailed preliminary review of the PPR/Submissions Report in January 2013, which identified a number of matters to be addressed to allow the Department to undertake a proper assessment of the proposal (See **Attachment B**).
- For your information, the Yass Landscape Guardians employed Galaxy research to undertake the Yass Valley Wind Farm Community Survey, which was forwarded to the then Minister on 22 January 2014 (see **Attachment C**).

8. Miscellaneous

- The Department can advise that no new issues have been raised by the Department in its Environmental Assessment Report, and the Department considered all of the information the Applicant submitted in formulating its recommendation.
- In this respect, the Department also notified the Applicant on 4 November 2014 that it was keen to finalise the assessment and forward its assessment and recommendation to the Planning Assessment Commission. The Department also noted that it is not in a position to support the proposal given there are a number of issues associated with the wind farm which require clarification. These relate to Aviation impacts, lack of clarity around the final turbine locations and subsequent visual impacts; the final listing of all associated landowners where appropriate agreements are in place; and the

final biodiversity offsets package and response to any outstanding OEH issues. The Applicants subsequent response(s) did not satisfactorily address the Department's issues.

- With respect to the model conditions, the Department notes that these conditions are an example of standard conditions that could apply when giving approval for a project. These are amended accordingly for each project, following the assessment of the project and identification of any site specific matters.
- For your information, should the PAC decide to determine the project by way of approval, the Applicant is required to get landowners consent from a number of landowners, or demonstrate that it has complied with legislative requirements enabling exemptions from the need for owners consent, prior to any such approval, as:
 - o In accordance with Clause 8F of the *Environmental Planning and Assessment Regulation*, the Applicant was required to give notice to the owner of the land before the end of period of 14 days after the application is made¹. The Applicant did not give notice to all public authorities (of particular relevance are the transmission line crossings over public roads). The consent of the relevant Public authorities (such as the Roads and Maritime Authority and Yass Valley Council), must therefore be obtained by the Applicant.
 - o The applicant included a number of additional land parcels within its PPR for the project. Owners' consent and notification requirements apply to that new land. The consent of the owners of the new land is therefore required to be obtained by the Applicant under the requirements for the development under Part 4 of the *Environmental Planning and Assessment Act, 1979*².

¹ At the time of lodgement the application was critical infrastructure under Part 3A of the *Environmental Planning and Assessment Act, 1979*.

² As the project has now been transitioned to State Significant Development, Clause 49 of the *Environmental Planning and Assessment Regulation* applies.

27 March 2015

Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms McNally

**Yass Valley Wind Farm Project
SSD08-0246**

I refer to the Acting Secretary's letter dated 3 February 2015 referring the above application to the Planning Assessment Commission (PAC) for determination under Ministerial delegation.

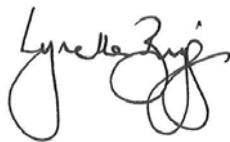
During its consideration of the project, the PAC received an 'initial submission' response from the proponent dated 13 February 2015 seeking to provide further information addressing the Department's concerns. A further submission titled *'Detailed Submission in Response to the Secretary's Environmental Assessment Report'* was received on 27 February 2015. The proponent also undertook to provide additional technical information by the 26 March 2015 to address the concerns raised by the Department.

In view of the extent of the additional information provided by the proponent to address the Department's concerns, the Commission considered it appropriate to refer them to the Department for assessment before a decision is made on the application.

I therefore return the Assessment Report and the project file along with the proponent's additional submissions for your consideration and request an updated Assessment Report to be provided to the Commission as soon as practicable.

Should your Department have any questions on this matter, Mr Rob Sherry can be contacted on 9383 2108.

Yours sincerely



Lynelle Briggs AO
Chair
Planning Assessment Commission

12 February 2016

**The Commissioners
Planning Assessment Commission
Level 13, 301 George Street,
Sydney NSW 2000**

By email: pac@pac.nsw.gov.au

Dear Commissioners,

YASS VALLEY WIND FARM (SSD-6698)

Epuron is the proponent of the Yass Valley Wind Farm which has recently been provided to PAC for determination. At its proposed capacity of 124 turbines, the project would have the potential to:

- generate 975 gigawatt hours (GWh) of clean electricity per annum, enough power for the average consumption of 133,500 homes;
- save ~1 million tonnes of greenhouse gas emissions each year and 3.3 million tonnes by 2020;
- bring jobs and opportunity into the region from a \$620 million investment; and
- provide local community benefits via a community fund of \$2,500 per wind turbine, or more than \$300,000 per annum if all turbines are built.

These benefits are significant for the region and the state of NSW, and a major contribution to the achievement of the NSW Renewable Energy Action Plan. We welcome the recommendation for approval of part of the project by the NSW Department of Planning and Environment.

Department of Planning Recommendation

The NSW Department of Planning and Environment recommendation represents a significant reduction in scale of the project, from 124 turbines down to 79 turbines.

Epuron has carried out detailed planning assessments of this project over many years. Independent experts have assessed the project and found the impacts acceptable. The project was received well by the local community on the two occasions that the environmental assessment was exhibited. No government agency holds any outstanding concerns in relation to the project. All concerns raised during the consultation process have been addressed through modification or conditions.

On this basis we do not believe the reduction in project scope proposed by the Department is justified. However, we acknowledge that approval of the project as recommended will provide greater certainty for the Coppabella Precinct, and allow its construction to proceed as soon as practical. This provides certainty for the proponent, the involved landowners and local community.

We therefore do not intend to challenge the removal of turbines or the 330kV powerline from the project. However, should an appeal be made against the final determination of the project, we reserve our rights to make our case for the approval of all 124 wind turbines and the 330kV powerline connection.

Department of Planning Assessment Report

We have reviewed the Assessment Report prepared by DPE and, in responding to this report, we make the following comments. Please note that we are not requesting revision of the report by DPE, but rather, are making these comments for completeness and for PACs information.

- 1) Process. We note in section 1.1 that DPE refers to Epuron's "*failure to adequately address*" a number of issues. We take exception to this primarily because a number of the issues referred to were never raised with Epuron by DPE or, where raised, DPE subsequently failed to engage or properly communicate with Epuron to resolve issues. We have outlined this previously to PAC and it is disappointing that DPE continues to defend their past performance.
- 2) Visual Impact Assessment. DPE has taken a view that the visual impacts to a small number of residences are classified as "high residual impact", and used this as the basis for recommending refusal of 45 wind turbines. In this respect we note:
 - (a) Two expert studies were undertaken of the visual impact assessment, one by DPE (RLA Report) and one by an independent consultant to the Proponent. Despite the independent consultant to the Proponent having vastly more experience in assessing visual impacts of wind farms, DPE has sided with the views expressed in the RLA Report.
 - (b) Epuron considers the RLA Report is materially flawed and have expressed this opinion to DPE. For example:
 - (i) The RLA report arbitrarily recommends all turbines within 2km of a residence be removed, without adequately considering whether the turbines can be seen from that residence.
 - (ii) As a result, the RLA report labels residential impacts as "high" for a residence located more than 2km away from the site, and where that residence is surrounded by tall trees which prevent views of the wind farm from the residence.
 - (iii) In a further case the RLA report labels residential impacts as "high" for a residence hidden from the majority of the relevant turbines because of terrain.
 - (iv) The RLA Report also suggests that all wind turbines for the site should be painted blue, a unique recommendation which is not substantiated.
 - (c) The DPE report refers to up to 7 "non-associated residences" being within 2km of a wind turbine (with an additional 3 residences expected to be associated once the DA is approved and commercial negotiations can be completed). The removal of 4 turbines rather than 45 (being turbines 100, 111, 142, 143) would reduce this number to 2 "non-associated residences". The removal of an additional 4 turbines for each of these two residences would mean **no wind turbines being located within 2km** of a non-associated residence. In the context of a major regional development, this is a very low impact.
 - (d) In scenarios such as this it is common for DPE to consider conditional approvals (e.g. approval of wind turbines subject to the proponent entering into agreements with impacted neighbours which result in their support). Epuron has recently demonstrated to DPE and PAC its willingness and ability to enter into such agreements with neighbours.
 - (e) While only some wind turbines in the eastern part of the project are problematic to DPE from a visual impact perspective (despite its heavy handedness, the RLA Report raised concerns with only 26 of the 45 turbines), it has decided to remove all 45 wind turbines from the eastern precincts. Epuron does not consider this is justified.

- 3) 330kV Transmission. DPE recommends that “the associated high voltage powerline (known as the 330kV Connection Precinct) should not be approved, as the remaining Coppabella precinct can connect to the network via an existing 132kV transmission line”.

No other reason for its exclusion has been given. In fact, DPE indicates that “...the Department is satisfied that the 330 kV overhead power line is unlikely to result in significant visual impacts”.

DPE notes that despite the removal of wind turbines and the 330kV transmission corridor “...the project would still provide an installed capacity of up to 285 MW”. The existing 132kV transmission line does not have the capacity to export this level of power. Accordingly, should an appeal be made against the final determination of the project, we reserve our rights to make our case for the approval of the 330kV powerline connection.

- 4) Involved Landowners. The Assessment Report refers in a number of places to involved landowners who had not yet entered into commercial agreements with Epuron. This has clearly influenced DPE’s recommendations. Epuron has worked with all of the landowners in question over many years, and has indicated to DPE on a number of occasions that development approval is required prior to finalizing agreements with some landowners. The status of commercial negotiations with involved landowners is not a valid planning consideration and in Epuron’s view should not form part of the assessment.
- 5) Mapping in Assessment Report. We note that DPE has included a number of maps produced by Epuron in its assessment report. However, DPE has modified a number of these maps without noting that these modifications were undertaken by DPE, resulting in misleading representation of the facts. Of most concern is Figure 8 where DPE has overlaid references to residences having “high residual visual impact” in a manner which appears to be a statement by Epuron, where this is not the opinion of Epuron or its independent expert. We make this statement as a matter for public record and do not require any correction to be made by DPE.

Recommended Conditions of Consent

We have reviewed the recommended Conditions of Consent prepared by DPE, and request that PAC considers the comments provided in Annexure 1 in relation to those conditions. To minimize any delays in the process, these comments have been limited to those that are essential in our view for a constructible and feasible project which is consistent with the DPE recommendation for approval.

Next steps

We would appreciate the opportunity to meet (either in person or via teleconference) to briefly outline our position and answer any questions as PAC finalises the process.

We appreciate PACs commitment to a timely determination of this project. Please contact either myself or Martin Poole (0411 159 114) to discuss any matter of interest.

Sincerely,



ANDREW DURRAN

Executive Director

ph 0407 206 199

Annexure 1: Response to draft Consent Conditions

Reference	Concern	Suggested drafting
Sched 2 para 16 Obligation to secure VPA with Councils	The wording of this clause prevents construction from commencing if a <u>voluntary</u> planning agreement (VPA) has not been agreed by Council, despite the proponent's best efforts. This is clearly outside of the proponents control, and nothing limits the Council from requesting additional terms in a VPA or delaying delivery of a VPA.	Insert at the end of this paragraph: <u>"Note, this paragraph does not apply where a VPA in accordance with the terms of the applicable offer in Appendix 4 is unreasonably withheld or delayed by Council."</u>
Sched 3 para 2 Visual screening	Propose that there is a time limit on the obligation to provide visual screening. It seems unreasonable to be required to offer screening for many years after the project is built.	"If, <u>up to 36 months</u> following the commencement of construction, the applicant..."
Sched 3 para 19 Hollow-bearing trees	Despite Epuron's efforts to reduce the impacts to hollow bearing trees (HBTs), a number of turbine locations have HBTs within 50m. Para 19 as drafted would prevent micro-siting of any approved turbine which is already located within 50m of an HBT and is inconsistent with the micro-siting provisions provided under Sched 2 para 9 which allows turbines to be located anywhere within the Development Corridor. Some micro-siting may in fact reduce impacts but would be prevented. Some micro-siting may be required for structural, constructability or safety reasons based on final design. In our view these should override concerns about individual hollow bearing trees given the offset commitments and obligation to minimize impacts. The EA has assessed the impacts to these HBTs and taken this into consideration in establishing offset areas. Sched 3 para 21 also requires the Biodiversity Management Plan to <i>"include a description of the measures that would be implemented for:...minimising impacts on tree hollows as far as practicable"</i>.	"(c) if micro-siting wind turbines, ensure that the revised location of the turbine is at least 50 meters from existing hollow-bearing trees unless: <u>the micro-siting does not materially increase the impacts to hollow bearing trees; it is unreasonable to do so due to constructability or safety concerns; or</u> the Secretary agrees otherwise."

Reference	Concern	Suggested drafting
Sched 3 para 23 Aboriginal Heritage	Appendix 6 refers to areas within the development corridor which exhibit broad areas of low to moderate artifact density of low local scientific significance. It is not practicable to avoid these areas entirely. The heritage assessment and OEH acknowledged that these sites would be affected and recommended that disturbance is avoided to the extent practicable and otherwise minimised. This paragraph should not prevent disturbance which would otherwise be permissible under the NP&W Act. The Heritage Management Plan required under Sched 3 para 25 requires measures to manage impacts to heritage items within the project disturbance area.	“The Applicant shall ensure that the development does not cause <u>avoids (where practicable) and minimizes</u> any direct or indirect impact on Aboriginal heritage items <u>unless otherwise authorized or permissible under the NP&W Act</u>: (a) identified in the table and figure in Appendix 6 <u>to the extent practicable</u>; or (b) located outside the approved disturbance area.”
Sched 3 para 27 Whitefields Rd	We note that Whitefields Rd used to be located in Yass Valley Shire but as a result of a recent boundary change is now located in Harden Shire.	“Prior to the construction of the proposed upgrade to Whitefields Road, the Applicant shall prepare detailed plans for the upgrade in consultation with Yass Valley <u>relevant</u> Council.”
Sched 4 para 4 Referencing	Correct paragraph reference	“(a) the submission of an incident report under condition 5 <u>6</u> below;”



Ms Lynelle Briggs AO
Chair – Planning Assessment Commission
GPO Box 3415
Sydney NSW 2001

Dear Ms Briggs

Wind Farm Conditions

Thank you for your letter of 8 March 2016 seeking further advice on a number of matters relating to the Department's recommended conditions for the Yass and Crudine Wind Farms.

I can advise you that the Department had similar concerns to those raised in your letter, and gave serious consideration to how best to address these issues in the recommended conditions.

In responding to your letter, I thought it would be helpful to spell out some of the reasons that the Department settled on the current drafting.

As always, the Department would also be happy to discuss any of these matters in more detail at a time that is convenient to you and other members of the Commission.

Time Limit on Operations

The Department notes that it has not been standard practice to impose operational time limits on wind farms or other infrastructure projects in NSW.

As you point out, mining projects are the exception. However, there are a number of factors that distinguish mines from other kinds of development.

Firstly, a clear timeframe is able to be imposed for the extraction of the identified mineral reserves within the applicable mining tenement.

Secondly, mining leases are granted by the NSW Government for a set time period under the *Mining Act 1992* (generally 21 years).

Thirdly, mines are dynamic developments that expand over time, and it is appropriate that expansion beyond a certain point be subject to further environmental assessment and planning approvals.

In the Department's view, none of these considerations apply to wind farms and other infrastructure developments.

The Department also considers that the existing regulatory framework is sufficiently flexible to address changes to the project and/or environmental standards over time.

In particular, the Department notes that:

- any upgrades or replacement of turbines would not change the obligation to comply with the environment limits in the consent;
- the various management plans required under the consent must be revised and updated to ensure an appropriate level of environmental performance is maintained at all times;
- any material increase in the size (or associated impacts) of the turbines would require a modification to the consent (and imposition of stricter conditions if necessary); and
- wind farms are licensed under the *Protection of the Environment Operations Act 1997* (POEO Act), and the NSW Environment Protection Authority (EPA) is able to vary the licence over time, including the imposition of stricter environmental performance criteria.

So for example, if there are changes in acceptable noise limits as a result of further research and changes to government policy, the EPA would be able to amend the Environment Protection Licence to reflect these new limits. Or if the turbines are replaced with significantly larger turbines, the impacts of this change (including noise, visual, traffic, etc) would be subject to further detailed merit assessment and conditioning, in accordance with guidelines and policy settings applying at that time. There would also be a requirement for further consultation with the affected community.

It is also worth mentioning that the recommended conditions incorporate decommissioning provisions to ensure that once particular turbines or the wind farm as a whole has reached the end of its economic life, it must be decommissioned. In particular, the conditions require the Applicant to decommission any turbines that have not been operational for more than 12 months, and decommission all turbines within 18 months of ceasing operations.

Furthermore, the Department is concerned that imposing a time limit could result in an Applicant having to go through another (potentially protracted) assessment process for what would be essentially the same development on the same land.

In summary, the Department does not consider it is necessary or appropriate for the NSW Government to pre-determine the economic life of an energy asset that has the potential to continue to generate renewable electricity for many decades, particularly where there are a range of safeguards in place to ensure an appropriate standard of environmental performance and regulatory oversight can be maintained over time.

Staging of Development

As noted by the Commission, the conditions anticipate that the project may be staged. In particular, the conditions require the Applicant to:

- provide final layout plans to the Department, including if the development is to be staged;
- notify the Department about any proposed staging; and
- ensure that all development being carried out on site is covered by suitable strategies, plans or programs at all times.

However, the Department agrees that the local community should be informed about the nature and extent of any proposed staging. To this end, the Department has amended the Notification of Department condition to include an obligation for the Applicant to make suitable arrangements to inform the local community and the Community Consultative Committee about any proposed staging plans.

The Department has also amended the Access to Information condition to require staging plans to be made publicly available on the Applicant's website.

In regard to roads and traffic, the Department considers that the definitions of construction and decommissioning are sufficiently flexible to ensure the obligations in regard to road maintenance and traffic management would apply if these activities are staged over time.

Notwithstanding, the Department has amended the Road Maintenance and Traffic Management conditions to clarify that these obligations would apply to each stage of construction and decommissioning.

Reporting on Environmental Performance

The Department considers that once wind farms are operational there is limited benefit in requiring detailed annual reviews to be prepared.

Annual reviews have been imposed on other projects (such as mines) to fulfil two key purposes – firstly, to provide a summary of relevant monitoring data, and secondly, to provide an analysis/review of this data to demonstrate compliance with the conditions of consent. This information can then be used by government regulators and by the community to be informed about the environmental performance of the project.

In the case of wind farms, the Department considers that once the wind farm is operational there is limited new data to report, and even less information that needs to be analysed or reviewed.

Accordingly, the Department considers that it is sufficient to require proponents to make the data publicly available – where it can be accessed by both regulators and the community as required.

Notwithstanding, the Department agrees that from time to time detailed scrutiny is warranted, and hence it has retained the Independent Environmental Audit condition.

Importantly, the Department also notes that the EPA is the primary environmental regulator for wind farms under the POEO Act, and removing the Annual Review condition avoids regulatory duplication with the annual return that licensed premises (such as wind farms) must submit to the EPA.

Annual returns include a range of reporting requirements against various criteria and environmental management obligations that mirror those that would typically be included in an Annual Review.

Statements of Compliance with EPLs are made publicly available on the EPA's website, and the Department has amended the Access to Information condition to require the Statement of Compliance to be made available on the Applicant's website.

Finally, the Department notes that it would continue to fulfil its compliance role using the relevant powers under Part 6 of the EP&A Act – both proactively and in response to complaints from the local community. To this end, the Department has substantially increased its compliance resources over the last 12 months, and had already completed a campaign audit of the visual mitigation measures implemented for a number of wind farms.

Other Matters

Definitions – the Department has included a definition of “*shadow flicker*” and amended the definition of “*residence*” in accordance with the Commission’s recommendation. Note that “*reasonable*” and “*feasible*” are already defined in the conditions.

Community Enhancement – there is a clear power under Section 93(3) of the EP&A Act that allows a consent authority to impose a condition requiring an Applicant to enter into a planning agreement in the terms of the offer made in respect of the development application:

- (3) *However, a consent authority can require a planning agreement to be entered into as a condition of a development consent, but only if it requires a planning agreement that is in the terms of an offer made by the developer in connection with:*
(a) the development application,

Terms of Consent – under Section 95 of the EP&A Act it is clear that the consent lapses if the Applicant has not physically commenced the development within 5 years. The Department acknowledges that previous consents for wind farms incorporated a specific lapsing condition. However, this was principally because these wind farms were approved under Part 3A where there was no clear statutory provision for the lapsing of project approvals.

In more recent development consents under Part 4, the Department has not been including the lapsing provision. Furthermore, the Department is concerned that this condition can easily be misinterpreted by the community, particularly in regard to what constitutes ‘physical commencement’ for the purposes of the EP&A Act and associated regulations. Accordingly, the Department’s preferred position is that the statute should be allowed to ‘speak for itself’ rather than trying to capture these nuances in the development consent.

Visual Impact Mitigation – the Department has amended this condition to include examples of landscaping treatments in accordance with the Commission’s recommendation.

Visual Appearance – the Department agrees that the text “*except where that is required for safety purposes*” should be deleted as the conditions refer to advertising signs and logos, and hence this does not preclude installation of signs that may be required for safety purposes.

Water Supply – the Department agrees that sufficient water supply should be available for “*all stages*” of the development, and has amended the conditions accordingly.

Operating Conditions (Water) – the Department would be happy for the Commission to include reference to relevant additional guidelines, but does not consider a reference to “*all standard guidelines*” is sufficiently specific or enforceable.

Telecommunications – the Department does not consider that a specific telecommunications management plan is warranted. Firstly, previous consents for wind farms did not require a specific management plan for telecommunications. Secondly, the Department is seeking to focus conditions on achieving outcomes, and thereby reducing the number of management plans. Thirdly, the condition (as drafted) places a clear obligation for the Applicant to “make good” any disruption as soon as practicable. Finally, if the resident is dissatisfied with the outcome, they may refer the matter to the Secretary for resolution.

Finally, I realise that there have been some significant changes to the Department's recommended conditions for wind farms, and as mentioned above, the Department would be happy to discuss any of the above with you and other members of the Commission in more detail.

Yours sincerely

DKitto 18/3/16

David Kitto
Executive Director
Resource Assessments & Business Systems

MEMORANDUM

YASS VALLEY WIND FARM (SSD-6698)

RESPONSE TO PLANNING ASSESSMENT COMMISSION

The following is the Department's response to Epuron's submission, dated 12 February 2016. As requested, the response focuses on the capacity of the 132kV transmission line and Epuron's suggested changes to the recommended conditions of consent.

The Department has made a number of amendments to the conditions to address Epuron's comments, and also the matters raised by the Commission in its letter to the Department, dated 8 March 2016 (see attached).

1. 330 kV Transmission Line

The final Preferred Project and Submissions Report for the project, dated 8 September 2014, states:

"These four stages [Coppabella precinct, Marilba precinct, Conroy's Gap Extension precinct and 330 kV Connection precinct] could potentially be constructed at different times and by different owners, with construction timed to suit the market requirements for additional renewable energy...

... Creating a separate stage for the 330 kV transmission line acknowledges that should any single stage move to construction ahead of the rest then electrical connection is most likely to be to the 132 kV transmission line to the north of the site. The 330 kV transmission line would then be required to export generation when a second stage proceeds which would otherwise potentially exceed the spare capacity of the 132 kV line."

Based on these statements, the Department understands that the Coppabella precinct can be built with connection to the 132 kV transmission line to the north of the site and the 330 kV transmission line would only be required if another precinct were to be constructed.

The Department is not aware of the current capacity of the 132 kV transmission line, but understands that a transmission line of this size would typically have sufficient capacity to cater for the output of the 79 turbines recommended for approval (i.e. around 200 MW). For example, the Department notes that the White Rock Wind Farm has a maximum capacity of 238 MW and proposes to connect to the network via a 132 kV transmission line.

If there is a capacity constraint at the time of construction, there is nothing to prevent Epuron lodging a modification to augment transmission capacity through changes to the existing transmission network and/or the construction of a new transmission line. There is also nothing to prevent an energy provider proposing changes to the network and having this infrastructure considered and assessed under Part 5 of the *Environmental Planning and Assessment Act 1979*.

Given the above, and assuming only the Coppabella precinct is approved, the Department does not consider that the retention of the 330 kV transmission line as part of the project has been sufficiently justified, and hence should not be approved.

2. Conditions

Schedule 2

Condition 18 – Voluntary Planning Agreement

Not accepted.

The concerns raised by Epuron assume Council will act unreasonably. This is not consistent with the Department's experience of local government in regard to finalising the administrative arrangements for VPAs.

In this case, the Department notes that the offer to the Councils is consistent with applicable Development Control Plans, and commensurate with the terms of VPAs for other wind farms in the region.

Furthermore, the Department understands that both Councils are satisfied with the offer, including the proposed split based on actual turbine numbers within the respective LGAs.

Notwithstanding, the condition allows the timing of the execution of the VPA to be adjusted with the agreement of the Secretary, and the Department would be unlikely to take any compliance action if Epuron has used all reasonable endeavours to comply.

Finally, under Section 93I, the Department can only require the VPA to be entered into in accordance with an offer made by the Applicant, which is how the conditions have been framed.

Schedule 3

Condition 2 – Visual Screening

Not accepted.

In a similar manner to other mitigation measures (such as noise), the Department does not consider that mitigation rights should be time-bound, unless there is a good reason to do so.

This is especially important where a development can be constructed in stages, and the impacts requiring mitigation are delayed and/or increase incrementally over time. For example, a landowner may not be concerned about visual impacts in the initial phases of construction, but after the construction of subsequent stages considers that additional visual mitigation would be effective in reducing impacts on their amenity.

A condition could conceivably be formulated to connect the mitigation rights with the construction of specific turbines. However, this increases the regulatory burden post-approval, and more importantly creates additional uncertainty for affected landowners.

Consequently, the Department does not recommend that this condition be amended.

Condition 19 – Hollow-Bearing Trees

The Department acknowledges that the proposed location of a number of turbines are within 50 metres of existing hollow-bearing trees, and that there are circumstances where it would be reasonable to micro-site turbines in proximity to hollow-bearing trees. The Department has amended the condition to address these matters as follows:

“(c) *if micro-siting wind turbines:*

- *ensure that the revised location of the turbine is at least 50 metres from existing hollow-bearing trees; or*
- *where the proposed turbine location is already within 50 metres of existing hollow-bearing trees, the revised location is no closer to existing hollow-bearing trees, unless the Secretary agrees otherwise.*

Note: In considering a request for micro-siting of turbines within 50 m of existing hollow-bearing trees, the Secretary would consider safety concerns, the constructability of the turbine, and/or whether the micro-siting would materially increase biodiversity impacts.”

Condition 23 – Aboriginal Heritage

In its 2009 report, New South Wales Archaeology Pty Ltd acknowledged there would be impacts on the sites listed in Appendix 6 of the consent, but recommended that disturbance of these sites be avoided where practicable or otherwise minimised.

These recommendations were supported by the NSW Office of Environment & Heritage (OEH) in its submission on the additional information, dated 6 May 2016.

The Department agrees that the heritage assessment in the EA considered that it would not be possible to completely avoid impacts on all the sites listed in Appendix 6, and notes that the sites comprise broad areas of low to moderate artefact density with relatively low heritage significance

Accordingly, the Department agrees that the existing condition is too restrictive and has amended the condition to focus on avoiding and minimising impacts on these sites as far as practicable.

23. *"The Applicant shall ensure that the development:*

- *avoids (as far as practicable) and otherwise minimises any direct or indirect impact on Aboriginal heritage items identified in the table and figure in Appendix 6; and*
- *does not cause any direct or indirect impacts on Aboriginal heritage items located outside the approved disturbance area."*

Condition 27 – Whitefields Road

Agreed.

Note that the condition needs "the" before "relevant Council".

Schedule 4

Condition 4 - Referencing

Agreed.