

Minister for Planning and Public Spaces  
NSW Department Planning and Environment  
Locked Bag  
Parramatta NSW 2124

10 November 2023

Our ref DAL 237167  
Your ref SSD-29064077

By Online Submission

Dear Minister,

### **Objection to Paling Yards Wind Farm | SSD-29064077**

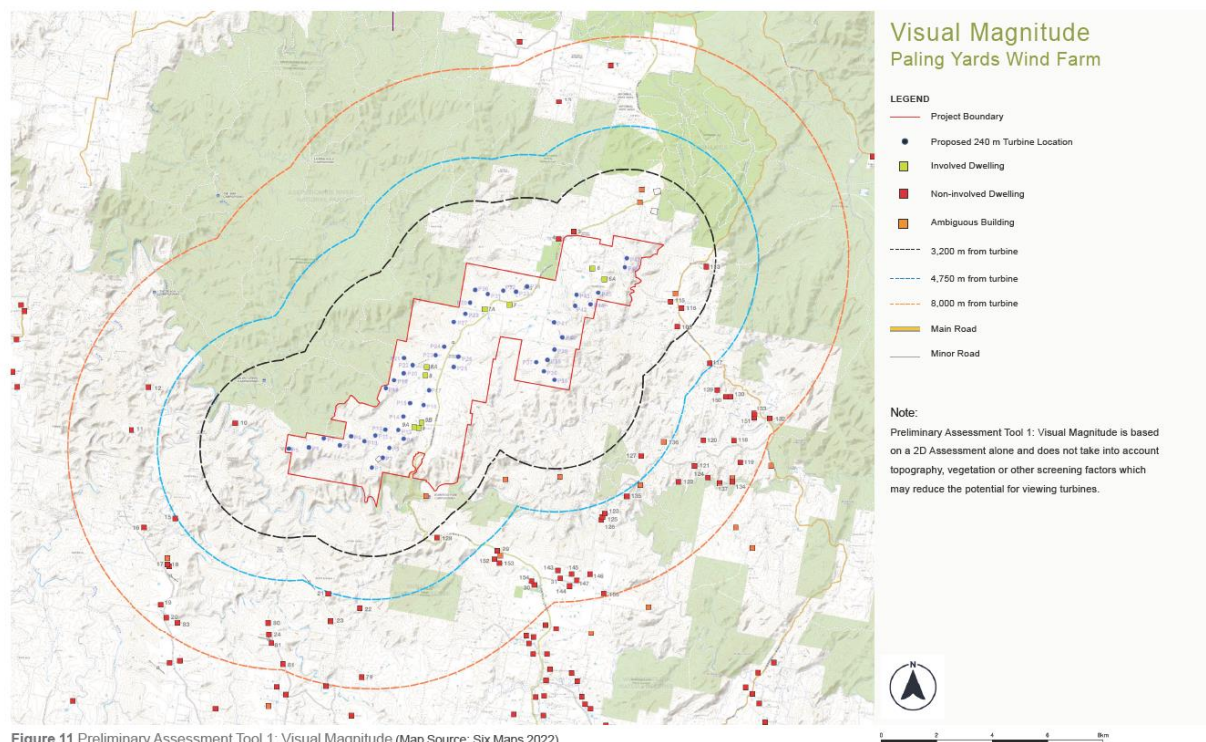
1. We act for Dr Peter Marantos and Mrs Irene Marantos (Melhilt Pty Limited), registered proprietors of Lots 1 & 2 in Deposited Plan 570349, and Lot 8 in Deposited Plan 753044, known as 'Highland Views', 832-834 The Levels Road, Golspie NSW (**Highland Views**).
2. We are instructed to submit the following submission in relation to State significant development application number SSD-29064077 lodged by Global Power Generation Australia Pty Ltd (**the Proponent**) for the development of a wind farm with up to 47 wind turbines and associated infrastructure at several lots which form separate land holdings known as 'Mingary Park', 'Paling Yards', 'Middle Station' and 'Hilltop' in the Oberon Local Government Area (**the Project**).
3. Principally, our clients object to the Project on the following grounds:
  - a. Failure to consult with our clients who are neighbouring landholders affected by the Project;
  - b. Failure to assess and consider impacts, including with respect to;
    - Visual impacts;
    - Noise impacts;
    - Traffic impacts; and
    - Cumulative impacts of the Project.

We expand on each of these issues below.

4. As you would be aware, the Proponent is required to undertake a detailed assessment of the Project, and in doing so, have regard to all matters required to be addressed pursuant to s 4.15 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and the Planning Secretary's Environmental Assessment Requirements issued under s 4.12(8) of the EP&A Act.
5. It is our submission that this has not occurred and the Proponent has failed to consider and adequately address matters that are required to be addressed.
6. In preparing this submission we have reviewed and considered the following documents:
  - Secretary's Environmental Assessment Requirements, issued 9 March 2022 (**SEARs**);
  - Environmental Impact Assessment, prepared by Tract Consultants, issue 8, dated 31 August 2023 (**EIS**);
  - Community and Stakeholder Engagement Plan, prepared by ERM, version 5.0, dated 12 August 2022 (**CSE Plan**);
  - Landscape and Visual Impact Assessment, prepared by Moir Landscape Architecture, issue 13, dated 4 September 2023 (**LVIA**);
  - Noise Impact Assessment, prepared by SLR Consulting Australia, version 1.3, dated 4 August 2023 (**NIA**);
  - Traffic Impact Assessment, prepared by SLR Consulting Australia, version 3.1, dated 29 May 2023 (**TIA**);
  - Cumulative Impact Assessment, prepared by Tract Consultants, issue 01, dated 23 November 2022 (**CIA**);

## Background

7. Our clients purchased Highland Views in 2003. Highland Views is a small, recreational rural property, comprising 128 hectares, that benefits from views of the Great Dividing Range and Rolling Hills.
8. Unlike most nearby large rural grazing properties, Highland Views is one of the smaller parcels of land in the locality. Notwithstanding, Highland Views features one of the more substantial dwellings of the properties along The Levels Road. Our clients intend to soon retire and permanently reside at Highland Views.
9. Our clients' property is identified as non-involved Dwellings 17 and 18 in the LVIA Figure 11, an extract of which is below:



(LVIA, Figure 11, Preliminary Assessment Tool 1, page 38).

### Failure to Consult Neighbouring Landowners

10. Pursuant to the SEARs, the Proponent must consult with affected landowners and detail how engagement undertaken is consistent with the *Undertaking Engagement Guide: Guidance for State Significant Projects (Engagement Guide)*.
11. We are instructed that there was no engagement with our clients during the Project's preliminary environmental assessment period. Our clients were first notified of the Project from the Exhibition of State Significant Development Application (**the Exhibition Notice**).
12. Section 2 of the CSE Plan provides that the Proponent has classified 'immediate neighbours' of this Project as neighbouring dwellings within 5km of the proposed site and along the transmission corridor. Section 3.1 of the CSE Plan provides the consultation measures taken by the Proponent which typically involve engagement with neighbouring landowners within a 5km radius of the Project Site.
13. We submit that the Proponent's classification of 'immediate neighbours' as landowners within 5km of the Project Site is an insufficient range to categorise landowners affected by the Project.
14. Clause 3.4 of the Engagement Guide provides that the Proponent is to ensure that engagement is proportionate to the scale and impact of the Project.
15. We refer to nearby wind farm projects including the Taralga Wind Farm which proposed 62 turbines with a maximum height of 110m and maximum generating capacity of 2MW, and similarly Crookwell 2 Wind Farm which proposed 55 turbines with a maximum height of 107m and maximum generating capacity of 2MW. The

Proponent proposes to develop 47 turbines with a maximum height of 240m and a maximum generating capacity of 6.1MW.

16. We submit that the Proponent's community consultation was not proportionate to the significantly large size, scale and impact of the Project and has failed to satisfy clause 3.4 of the Engagement Guide.

## Visual Impacts

### *Impact Assessment Inadequacy*

17. Pursuant to the SEARs and the *NSW Wind Energy: Visual Assessment Bulletin (Visual Bulletin)* the EIS must include a detailed assessment of the visual impacts of the Project including a detailed consideration of the potential visual impacts on local residences.
18. Our clients object to the Project on the basis that the Proponent has failed to adequately consider the visual impact of the Project on local dwellings.
19. The LVIA has only considered the visual impact on, and visual impact mitigation strategies for, local dwellings that are within 4750m from the Project Site.
20. The LVIA concludes that the visual impacts of the Project lessen as the distance from the Project Site furthers.
21. This conclusion directly conflicts with the LVIA zone of visual influence Figures 14 and 15, which identify that our clients' dwellings are classified in a 'high' zone of visual influence whereby our clients' dwellings will be able to see the tip of the blades, and the hub of the turbines, for 45 – 47 of the wind turbines, being the entirety of the development. Further, the LVIA report acknowledges that the Project has potential to be viewed from elevated land to the south of the Project Site.
22. Despite these conclusions, the Proponent has not conducted an on-site visual impact assessment of our clients' property, has not included our clients' property in the LVIA assessments, and has not included our clients' property in consultation for any mitigation measures.
23. The Proponent has failed to meet the requirements of the SEARs as the Proponent has not provided a detailed assessment and consideration of the visual impacts on local residences including our clients' dwellings.
24. In addition to what we submit is an inadequate assessment, it is our client's position that the Project will result in unacceptable visual impacts to their property and the locality generally. The scale of the wind turbines is, as noted above, beyond other similar projects. The resulting visual dominance of the proposed wind turbines is both completely out of character, but so intrusive that it could not be considered acceptable.

### *Mitigation Measures*

25. Pursuant to the SEARs the Project EIS must include:

*‘A description of the measures that would be implemented to avoid, mitigate and/or offset the impacts of the development, including details of consultation with any affected non-associated landowners in relation to the development of mitigation measures, and any negotiated agreements with these landowners.’*

26. The EIS asserts that the primary measure to mitigate landscape visual impacts is through layout and design. The LVIA refers to the 2009 URBIS report which provides that ‘controlling the location of different turbine types, densities and layout geometry’ and ‘employing fewer and more widely spaced turbines’ minimises the visual impacts of wind farms.

27. The Proponent proposes to develop 47 wind turbines with a maximum height of 240m and a maximum generating capacity of 6.1MW. The Project does not propose to develop a variety of different turbine types and sizes. The Proponent has failed to detail how the layout of the Project has adequately considered the significant size and scale of the proposed turbines to be developed.

28. We submit that the Proponent has failed to demonstrate how this mitigation strategy has been implemented to minimise the visual impacts of the Project.

29. The Proponent proposes that screen planting, undertaken with consultation of landowners of residences that are subject to visual impacts, will be implemented to mitigate the visual impacts of the Project.

30. It is our submission that landscape screening is an insufficient and inadequate mitigation measure given:

- There is no assurance that the consent of affected landowners will be provided for the carrying out of such works;
- The measure does not mitigate impacts for other properties and affected landowners; and
- In any event, there has been no detail provided of such screen planting to assess if this mitigation measure would be sufficient.

31. We submit that the Proponent has failed to satisfy the SEARs by failing to provide a description of, and detailed assessment of, the proposed visual impact mitigation measures, such that the Consent Authority cannot be satisfied that visual impacts of the Project will be adequately mitigated.

### **Noise Impacts**

32. Pursuant to the SEARs the Proponent is to assess:

- Wind turbine noise in accordance with the *NSW Wind Energy: Noise Assessment Bulletin (Noise Bulletin)*;
- Vibration under the *Assessing Vibration: A Technical Guideline*;

- Noise generated by ancillary infrastructure;
- Construction noise; and
- Traffic noise.

33. The Proponent must also provide a description of measures to be implemented to avoid, mitigate and/or offset the impacts of the development, and provide:

*‘A description of the measures that would be implemented to monitor and report on the environmental performance of the development, including adaptive management strategies and contingency measures to address residual impact.’*

34. We submit that the Proponent has failed to provide a detailed assessment of the noise impacts of the Project.

35. The NIA concludes that a more nuanced mitigated operations plan will be developed during detailed design to consider specific conditions, and a further assessment of construction noise and more detailed construction management plan should be developed.

36. Our clients submit that the Consent Authority cannot be satisfied that the Proponent has satisfied the requirement to assess noise impacts on the basis that the Proponent relies on further Project operation and assessment details that are not assessed in the NIA.

37. Further, the Noise Bulletin specifies that ‘there are alternate special noise criteria which need to be considered as part of the noise assessment process of any wind energy project’. This includes ‘tonality’ which refers to unusually high levels of energy in sounds which ‘can cause the noise to be more annoying or noticeable’. The *South Australian EPA Wind farms – environmental noise guidelines – 2009 (SA 2009)* specifies that tonal or annoying characteristics of turbine noise should be penalised. SA 2009 therefore requires development applications to report on tonality:

*‘To help determine whether there is tonality, the method and results of testing (such as in accordance with IEC 61400–11) carried out on the proposed WTG model to determine the presence of tonality should also be specified in the development application.’*

38. Our clients submit that the Proponent has failed to demonstrate consideration of the presence and impacts of tonality of the Project.

39. Section 2.3 of the NIA states that detailed noise tests for the representative turbine model are currently not available, subsequently, the NIA has ‘assumed that the turbine will have no penalizable tonal characteristics’.

40. Our clients submit that this is a gross omission by the Proponent, which demonstrates the Proponent’s failure to provide a sufficiently detailed assessment of the Project’s noise impacts. It is simply not sufficient to make assumptions absent crucial data relevant to the turbines as proposed to be constructed pursuant to the Project.

41. The Proponent has also failed to provide any description of measures aimed at avoiding or mitigating noise impacts of the Project. The Proponent has only proposed to enter into agreements with involved landowners to manage noise implications.
42. We submit that this is insufficient as such agreements with involved landowners are not assured, and in any event no detail has been provided to demonstrate how the mitigation measures will reduce the noise impacts of the Project.
43. It is our submission that the lack of noise impact mitigation measures is determinative.
44. It is imperative that any noise assessment:
  - a. Is undertaken based on established noise criteria relevant to the proposed development; and
  - b. Any assumptions are relevant to the specific development the subject of that proposal.
45. The noise criteria relied on in the NIA is not appropriate for the proposed turbines.

### **Traffic Impact**

46. Pursuant to the SEARs the Proponent is required to:

*'Provide details of measures to mitigate and/or manage potential traffic impacts including a schedule of all required road upgrades (including resulting from over mass/over dimensional traffic haulage routes), road maintenance contributions, and any other traffic control measures.'*

47. Our clients object to the Project on the basis that the Proponent has not demonstrated how the cumulative traffic impacts of the Project with other wind farms will be avoided, mitigated or reduced.
48. The TIA concludes that the construction phase of the Project will generate 40,600 trips, averaging 86 movements per day.
49. The Proponent has not provided any detailed assessment of the impact of the traffic generated during the construction phase of the Project with respect to the weight of the vehicles transporting concrete, wind turbine components, and transmission line and substation components, making up these 40,600 trips.
50. The Proponent does not provide any traffic mitigation measures, instead relies on the TIA recommendation to provide a Construction Traffic Management Plan after development approval, detailing mitigation strategies such as roads works.
51. Further, the Proponent has not provided a schedule of required road upgrades resulting from over mass/over dimensional traffic haulage, or an assessment of road maintenance contributions, that will be required as a result of the traffic generated by the Project.
52. It is our submission that the TIA is severely deficient in failing to adequately assess the weight impact of the traffic generated during the construction phase of the Project,

and the subsequent failure to assess what road upgrades and maintenance contributions will be required as adequate traffic mitigation measures.

53. It is our submission that the Consent Authority cannot be satisfied that the Proponent has satisfied the SEARs as no detail of traffic mitigations strategies, and no contributions or road upgrade schedules, have been provided as part of the EIS.

### **Cumulative Impact**

54. Our clients object to the Project on the basis that the Proponent has not demonstrated how the cumulative impacts of the Project with other wind farms will be avoided, mitigated or reduced.

55. Pursuant to the *NSW Cumulative Impact Assessment Guidelines (Cumulative Guidelines)* the CIA is to be:

*‘Proportionate to the impacts of the project and any material cumulative impacts that may result in the wider area from the project operating in conjunction with other future relevant projects.’*

56. The CIA also states the Proponent is to consider:

- *‘The impact of this development in the context of the potential for development of wind energy developments in the local, regional and national context; and*
- *The potential for future development of wind farms in the region.’*

57. The CIA states that the Central Tablelands region is known for its strong wind resources and there are several other wind farms in various stages of planning, development and operation, in the region, within a 40-50km radius of the Project Site. The LVIA acknowledges that the regions’ current landscape character ‘allows for optimal conditions for wind farms’ and it is ‘inevitable that the area will be utilised for renewable energy sources.’

58. The EIS concludes that it is likely that cumulative impacts of ‘medium significance’ might occur due to additional renewable energy projects in the region. The CIA also states that:

*‘A possibility exists that some of the impacts resulting from each of these developments could combine with the potential impacts of the Project, generating more significant cumulative impacts.’*

59. The LVIA identifies other wind farms relative to the Project Site and assesses cumulative zones of influence which identifies our clients’ property will be able to see the Paling Yards, Crookwell 1, 2 & 3, and the Taralga wind farms simultaneously.

60. Despite these assessments, the Proponent concludes that there are ‘limited opportunities’ to view other wind farms simultaneously and the cumulative impacts of the Project will be ‘negligible’.

61. Our clients submit that this conclusion is contradictory to the assessments and does not adequately reflect the cumulative visual impact the Project will have.



62. Further, we submit that the Proponent has not demonstrated that the cumulative impact assessment has been undertaken with consideration of the significant size, scale and impact of the Project, combined with the impacts of other operating and potential future projects in the locality.
63. As referred to at paragraph [16] the Proponent proposes to develop 47 wind turbines that are of a significantly greater size and generative capacity than other operative wind farms in the locality.
64. The Proponent has failed to adequately assess the cumulative impact of the Project by failing to consider the significantly greater size and scale of the Project in relation to other wind farms in the locality. Additionally, the Proponent has failed to provide any cumulative impact mitigation measures that specifically address the significant size and scale of the Project.
65. On these grounds, our clients submit that the Consent Authority cannot be satisfied that the Proponent has adequately assessed cumulative impacts of the Project as the CIA is insufficient, inadequate and fails to address the SEARs.

### Summary of submission

66. In summary, it is our submission that the Consent Authority cannot be satisfied of the likely impacts of the Project under s 4.15 of the EP&A Act as the Proponent has failed to sufficiently address all matters in the SEARs.
67. The Proponent has consistently failed to provide detailed description and assessment of mitigation measures to address the impacts of the Project.
68. Our clients have engaged an acoustic expert to supplement this submission with a detailed response to the Noise Impact Assessment at Appendix K of the EIS.
69. Pursuant to Part 1 Division 2 Section 9 of the EP&A Act the:
- 'Minimum public exhibition period for an application for development consent for State significant development – 28 days.'*
70. With regard to 28 days being the minimum exhibition period, we seek confirmation that our clients' supplementary acoustic submission will be accepted and considered if received by the Minister after 10 November 2023.
71. Should you have any questions, please do not hesitate to contact us.

Yours faithfully  
**Bartier Perry**



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