

SUBMISSION IN RESPONSE TO MODIFICATION APPLICATION
07_0118 MOD1 GULLEN RANGE WIND FARM

Preamble

I resent the need to write this submission due to the fact that it would not have been necessary if the NSW Department of Planning and Infrastructure had promptly reacted to the information I gave it in June 2013 indicating that turbines were being constructed in non approved sitings.

At the time of writing I am ill prepared to address certain parts of this modification application as some of the information available to me comes from the developer including the exact positions of turbines. This information may therefore be unreliable as there is no independent assessment available to me.

Repeatedly I have asked officers of the NSW Department of Planning and Infrastructure (DoPI) for an extension of submission time in order to have more precise, important information – the turbine location survey recently undertaken by the DoPI . This request has been denied. One can only assume that this will benefit the developer. The denial of such information is to the disadvantage of property owners whose rural amenity has been so greatly and adversely affected. I request the right to lodge additional information to this submission at a later date.

There has been no reasonable or informed assessment of this development's original DA/EIS. Submissions regarding this development, no matter how well researched and presented, have been ignored. My wife and I have spent many thousands of hours in research and writing such submissions to the detriment of our financial position and our amenity.

Based on my experience in dealing with the DoPI, I have no faith in the agency or PAC being able to make an impartial, objective assessment of this modification application. It is my opinion, and the opinion of others, that DoPI has an overwhelmingly strong bias in favour of the the wind industry. The reason for this needs to be explained and investigated.

Background

Outline of situation re non compliance of Gullen Range wind turbines

1. August 2007 developer submits Major Project Application for Gullen Range turbine development to NSW DoPI including application to be able to move any or all turbines up to 250m in any direction from the location indicated in the Project Application maps.
2. Gullen Range project approved by NSW Planning Minister Keneally in June 2009 with the condition that no turbines could be moved the 250m in any direction. 118 residences within 3kms of turbines, over 60 homes within 2kms of turbines.
3. Local residents' community group takes the developer and NSW DoPI to Land and Environment Court - ruling given 7th May 2010. The developer wants the inability to move turbines removed from the approval - ruling DOES NOT grant this

The ruling states in section 1.5 :

“ Pursuant to section 75J(4) of the *Environmental Planning and Assessment Act 1979* the project is modified to remove the ability of the Proponent to relocate turbines from the locations indicated in the document referred to under condition 1. 1b) by up to 250

metres without further assessment and approval in accordance with the requirements of the *Environmental Planning and Assessment Act*.”

Condition 1.1b) is the original Environmental Assessment document where the original positions of the turbines is indicated.

Mr Erwin Budde

The ruling also states that an independent Environmental Representative should be appointed to oversee that the development complies with the conditions of consent. This process is essentially flawed as the developer suggests a suitable person for this position and the Director General of the DoPI then appoints this person.

The developer pays the independent Environmental representative.

The condition on which this person is to be chosen is that he/she is independent of the design, construction or operational personnel of the development. The person appointed is the Director of the consultancy company *ngh environmental* (*Erwin Budde*) which produced the original Project Approval Application document for this development. Not INDEPENDENT!

I informed the DoPI of Mr Budde’s conflict of interest due to his Directorship of *ngh environmental*, the company which had been in the employ of the proponent since 2008, yet he INCORRECTLY gave compliance consent to the developer regarding the relocation of the 69 turbines.

This man was approved by the DoPI.

The developer’s *Gullen Range Wind Farm project Update (April 2014)* states that :
“GRWFPL sought the ER’s advice prior to every turbine adjustment and followed the ER’s direction during implementation.”

The developer is stating that the relocation of turbines was the result of the direction of a **DoPI APPOINTED REPRESENTATIVE.**

I have repeatedly asked the agency to inform me as to who had approved the appointment of Erwin Budde as the independent Environmental Representative and when this occurred - without success. I eventually I requested this information from the developer and was told the DoPI officer responsible was Daniel Keany who approved the appointment on the 31/3/2011. Daniel Keany neglected to ascertain Budde’s ongoing association with the developer - this kind of sloppiness is deplorable.

Due to his lack of independence, Erwin Budde has since been dismissed by the developer at the insistence of the DoPI.

- My wife and I emailed NSW DoPI in July 2013 requesting that the siting of turbines was checked as we and others believed that they were being constructed in positions other than indicated in the Project Approval. The DoPI stated that it was unaware of this until we indicated it.
- We repeatedly emailed and telephoned the DoPI regarding this issue July – Nov 2013, asking that the DoPI investigate the locations of turbines.

- 9th Dec 2013 DoPI (Azmeena Kelly – Manager Compliance) requested that the developer Goldwind provide the department with additional info about the siting of turbines. Reference : letter from Azmeena Kelly (Manager Compliance DoPI to Ben Bateman, project manger for Gullen Range Wind Farm.
- Dec 2013 Goldwind (a subsidiary of a Chinese company which makes the turbines) responds with the document “ Micrositing Consistency Review” which indicates **that 69 of the 73 turbines (about 95%)** in the development have been constructed, or prepared for construction, in positions other than those indicated in the Environmental Assessment, on which the approval was granted. Of course this number may be larger as the figures were supplied by the developer itself rather than an independent source.
- This was done **without further assessment and approval** therefore breaking the Land and Environment Court ruling.
- By this stage the majority of the turbines have been constructed. Some of these turbines have been constructed CLOSER to homes than was approved. Indeed the Consistency review IGNORES some turbines which have been moved closer to some houses simply stating that these turbines have been moved further away from other houses. (In one case it appears that a turbine has been moved further away from an associated property house only to be closer to a non associated property home)
- It was only on Monday 3rd March 2014 were we became aware (via local newspaper) that the NSW DoPI was stating that the developer halt further construction on those 16 turbines yet to be fully constructed which are now to be closer to homes and to indicate how the developer intends to proceed- the developer has stated that 16 turbines fall into this category, we imagine that there are more and the NSW DoPI has not sought independent evidence to find out the REAL number. **All other turbines are permitted to continue and to create profit for the developer via power into the grid.**
- The developer Goldwind has prepared a modification document to try to prove that these movements of turbines will still satisfy the conditions of consent. **WE FEAR THAT THIS WILL BE AN ATTEMPT BY THE NSW DOPI TO COVER THEMSELVES** - by that , we mean that if the developer provides some information , no matter how spurious, to indicate that moving turbines has not affected the neighbours or the environment negatively, the NSW DoPI will pass the modification and the developer and the DoPI will have erased their incompetence and lack of compliance – therefore the DoPI will feel that it can no longer be criticised for not ensuring compliance and not protecting those who will be more greatly effected by this development.
- What is truly galling about this is that unless we had been living right next to this development (some turbine blades will almost sweep OVER our fence line) the DoPI would never have checked the compliance of this development.
- Over the last 7 years the response we have received from officers of the DoPI when we suggest that

(a) statements made by the developer both in the EA and to residents are patently incorrect
(b) figures stated in the Environmental Assessment document are incorrect,
(c) some mitigation measures stated in the EA are obviously unrealistic or impossible to deliver
is that :the statements must be correct because the developer said so, and that they believe that the developer would provide unbiased information.

An example : when we complained to the DoPI that the developer was not complying with conditions of consent by using excessively loud reversing beepers in very close proximity to homes and that we wanted the DoPI to do something about ensuring compliance, we were told that the DoPI officer had asked the representative of the developer if this was indeed the case and he said that he could not ask his sub contractors to comply as they were from interstate - the officer accepted this as a valid excuse.

This development has been dogged by examples of non compliance -

1. Using roads which were not approved by the Project Approval
2. Heavy vehicles travelling dangerously fast on country roads which are not designed for such use - 4,000 heavy vehicle movements per month. One local was involved in a collision when a construction heavy vehicle travelling in the middle of the road collided with his car; many, many others have been driven off the road (One of these roads is the main road from the Kialla/Bannister area to Goulburn – our closest big centre)
3. Restructuring roads and leaving them in a more perilous condition than before the “reconstruction”
4. Working outside of prescribed construction hours
5. Using loud reversing beepers
6. The developer’s conditions of consent includes allowing the use of Range Rd but requiring the developer to return the road to a condition the same or better than it was before turbine construction started. This road was in good condition and adequate for local traffic. It was totally UNSUITABLE for the oversized heavy traffic generated by the development.
The Upper Lachlan Shire Council has provided Goldwind with an estimate of the cost of repairs in December 2013.
Goldwind have rejected Council’s proposal out of hand at each of the 2 meetings where the matter has been discussed but have failed to make any offer to resolve the problem. Range Rd presently is a traffic hazard.

We don’t understand why, when the Land and Environment Court ruling has been ignored by the developer constructing 95% of the turbines in the wrong places without approval, the developer is simply permitted to submit a Modification Application .

Why aren’t all 69 turbines in incorrect positions to be stopped ? Why is this developer allowed to arrogantly ignore the rulings of our courts and continue to make profits which will go off shore?

An inquiry into this industry should be undertaken immediately.

In relation to the H & J Price-Jones residence

The H & J Price-Jones residence is referred to as B12. According to the modification application there are 5 turbines within 2kms of this residence, the same number as in the original design and BUT the developer's Micrositing Consistency Review Final (December 2013) shows that there are 10 turbines within 2kms of this residence. One of these turbines has been relocated by 187m and 166m closer to this residence as far as can be ascertained.

Turbines BAN 5,6,7,8,11,13,14 and 15 are all exceptionally close to the Glan Aber property boundaries – with Ban 15 having been moved 166m closer to the boundary and residence. Due to unavailable independent survey information, the precise distance from these turbines to the boundary and the residence cannot be precisely ascertained and therefore neither can the full extent of the negative impacts created.

The placement of these turbines has had a profoundly detrimental effect on working conditions on the Glan Aber property, both agricultural work and work as a painter of landscape and wildlife. The excessive noise and shadow flicker created by these turbines also pose an occupational health and safety issue which is totally unacceptable.

If allowed to continue to operate these turbines will have a significant land drying effect on parts of this property and BAN 5 will have this effect upon the biodiversity constraint area.

These turbines have also deprived the Price-Jones family and its company, Glan Aber Pty Ltd, of the potential of rural residential subdivision. These turbines have greatly reduced the value of the property and had impinged upon the family's ability to enjoy its home and its environs - note : the garden and surroundings are this artist's workplace.

Noise effects

At considerable private expense, my wife and I have commissioned an acoustician to conduct a noise monitoring and assessment study. This has indicated **major flaws** in the developer's modelling and assessment of the full audible and infrasound noise impacts which will be suffered at our house and in our garden.

Full details of this will be lodged with the DoPI in the next few days, but I make the following pertinent comments regarding the noise assessment in the developer's application.

We have reviewed the recent report from Marshall Day Acoustics, that was contained in the approved OEMP, and a report by NGH Environmental titled "Micrositing Consistency Review Final V1.pdf" both of which relate to the Gullen Range Wind Farm.

Section 4.3.1 Noise discusses a revised noise model that was prepared by Marshall Day with revised turbine siting although the results of the revised analysis are not presented, except to report only that "The comparison demonstrates that the revised predicted noise levels are below the revised noise limits at all relevant integer wind speeds." The margin of the reported noise reduction is not stated, however, we believe that the amount of the marginal change should have been reported. The reason that the noise model predictions are so important are explained as follows:.

Appendix B of the NGH Environmental report describes the Approved Layout and AS Built Layout turbine locations, together with the distance the turbines have moved and the reason for the movements.

By far the main reason for the changed locations was to increase wind yield (generate more power per available hub height wind speed) and to minimise wake loss (caused by inflow turbulence from neighbouring turbines).

Our property is described as B12 in the Marshall Day reports and predicted sound levels in the OEMP at B12 are shown in a chart for monitoring location B26 where it is shown that the predicted sound level at B12 touches the noise limit at 9m/s hub height wind speed. Our concern is that the predicted sound levels for our property show no room for error in the prediction process, yet, the NGH Environmental report clearly states that there are wake effects at turbines near to us.

The Marshall Day noise modelling assumes as input to the noise model data for the respective wind turbines obtained using IEC61400-11. This standard warns that measurements should be completed to minimise wake effects (inflow turbulence) during the tests because, as stated in Appendix C "Studies suggest that at high power levels or wind speeds, noise due to inflow turbulence can become the dominant source of aerodynamic noise emission from a wind turbine." One such study by Cooper and Evans from 2012 measured sound emission changes due to wake effects. We have reviewed this reference and the conclusion states that between 1dB and 1.5dB increase in sound levels were measured in the wind speed range 3m/s to 5m/s. The paper then attempts to offset this result with an assumption that a lower power output caused by the inflow turbulence can reduce sound emissions commensurately. However, no evidence to support this is provided and the authors recommend further research in this regard. In summary, there is an increase in sound emission in the wind speed range where the predicted noise levels often approach the knee of noise target curves (where the 35 dB(A) base level starts to increase due to background influences). Given that Marshall Day predict compliance at our property with only a 0dB(A) margin without consideration of inflow (wake) effects it is apparent that compliance is unlikely.

The attached presentation by staff from Vestas and Delta Acoustics in 2004 clearly warn that IEC61400-11 should only be used in noise models for a full wind farm if there is a significant safety margin built in, otherwise it is not advised due to site effects. These site effects are what the NGH Environmental report allude to (wake effects) and Marshall Day have not provided ANY safety margin.

The reasons given for the relocation of turbines are invalid in many cases and indicate incompetence and deception or that the original DA/EIS were inadequate/ inaccurate. Any modification application should have been lodged BEFORE construction had begun.

The previous Minister and the DoPI officers have consistently rejected public requests for a review of aspects of this development on the grounds that the NSW government will not take any action whatsoever that might be considered “retrospective”. It appears that the DoPI is now preparing to assess inappropriate (possibly illegal) modifications to the project in order to grant “retrospective” legitimacy to these modifications.

In order to be consistent, no application for modification should occur **retrospectively**.

Almost one year ago the DoPI was informed by me that incorrect siting of turbines and associated infrastructure was occurring. The DoPI steadfastly refused to take any action regarding the relocating of turbines. Even after a Departmental officer, Azmeena Kelly, admitted in a December 2013 telephone conversation with me that 69 of these turbines were being constructed in the wrong places, construction was allowed to continue unabated. **WHY WAS THIS ALLOWED TO HAPPEN ?** Once again, the DoPI appears to be doing everything it can to facilitate the goals of the developer to the detriment of local residents and their businesses.

I informed the DoPI that some of the turbines were generating electricity and was told that this was NOT the case. On pointing out that the developer had advertised this in the local press, I was told that this should NOT be the case. These turbines and a significant number of others (33 in total) continue to generate electricity and therefore PROFITS / RECs for the developer. Despite a number of requests I have been unable to find out who has signed off on the commissioning of these turbines. Is this person just as “independent” as Mr Erwin Budde proved to be?

It is now stated by Karen Jones (DoPI Director) and the developer that this modification application will be finally assessed by a PAC. This development was originally approved under Part 3A legislation prior to the introduction of PAC determinations.

Local residents do not feel any sense of independent assessment of this application by a PAC as the history of PAC suggests that there is little chance of the application being rejected by it if the DoPI has recommended that this development be approved. Of the 234 proposals before PAC between April 18, 2011 and February 11, 2014 222 were approved.

The previous Minister, Brad Hazzard, stated that by the time proposals reached the PAC, they had undergone assessment by several government agencies and so “ have a reasonable chance of getting through the process”.

I organised and attended 3 meetings with DoPI officers – the first being October 18, 2011. I was told that I would be given copies of the minutes taken at these meetings. Despite repeated requests, this HAS NOT HAPPENED. At each of these meetings it was apparent that the DoPI officers involved knew very little about industrial wind turbines but were enthusiastic supporters of their construction – phrases such as :

“ we have to build as many (wind turbines) as possible then we won’t have to dig up coal” ;

“They (wind turbines) are another form of agriculture ”;

“If we have enough turbines, we won’t have to have any coal-fired power stations”.

These comments were used frequently during these meetings. These officers appeared to be acting as agents for the wind industry. I believe that this culture continues to be the case as this morning I received a telephone call regarding similar behaviour of an officer involved in the Crudine Ridge Wind Farm. This behaviour on the part of assessment officers is reprehensible, their independence is questionable.

Recommendations

1. The recommendations of the DoPI now state that NO turbine should be constructed within 2kms of a non host residence unless agreements have been reached with the effected landowners.

If the post 2011 provisions are being employed in regard to PAC determination, then post 2011 provisions regarding this turbine/residence distance should also be employed.

2. No turbine which has been relocated by 10m or more should be commissioned and therefore provide profits to a developer which has flaunted the regulations to the detriment of the public.

3.If the DoPI determines that property acquisition is one of the means of overcoming the increased negative impacts of this modified development, then it MUST offer the affected property owners the right to determine whether:

they accept acquisition from the developer

OR have the developer decommission the most offensive turbines

OR choose other mitigation measures.

This modification has caused property owners to face greater negative impacts through no fault of their own.

The choice of mitigation measure MUST be left to the landowner NOT the developer.

4. Before this modification application is considered, a public inquiry should be held into the approval/construction/operation of this development and the role of a number of people and agencies investigated.

The parties to be subject of this inquiry should include:

Gullen Range Wind Farm Pty Ltd - the proponent of this development

Goldwind Australia Pty Ltd - the owner of Gullen Range Wind Farm

Xinjiang Goldwind Science and Technology Co. Ltd - the owner of Goldwind Australia Pty Ltd

ng environmental - environmental consultancy

Erwin Budde - Director of ng environmental

Sam Haddad - Director-General of NSW Department of Planning and Infrastructure

The NSW Department of Planning and Infrastructure

Kristina Keneally - Minister for Planning during 2008 / 2009

Brad Hazzard MP - Minister for Planning and Infrastructure 2011 – April 2014

Humphrey Price-Jones
17 Glan Aber Rd
Crookwell 2583

President NSW Landscape Guardians Inc.
Spokesman Crookwell District Landscape Guardians Inc.