



[Reference No]

Ms Ann Gardner

[REDACTED]

By email to: [REDACTED]

Dear Ms Gardner,

Thank you for your email to the Chair of the Clean Energy Regulator, dated 18 November 2014, making a formal complaint about noise and vibration from the Macarthur Wind Farm.

The matters raised by you are more appropriately addressed to the Victorian Department of Transport, Planning and Local Infrastructure (formerly known as the Victorian Department of Planning and Community Development). They are not matters that fall within the powers of the Clean Energy Regulator (the Regulator) under the various Commonwealth legislation administered by the Regulator.

The Clean Energy Regulator is an economic regulator. With respect to the Renewable Energy Target, the Regulator regulates both the supply of certificates (by ensuring the integrity of their creation by renewable power stations) and the demand and surrender of those certificates (by ensuring liable electricity retailers surrender the correct number of certificates).

The Clean Energy Regulator is only empowered to administer relevant Commonwealth laws (eg to ensure that a wind farm operator complies with its responsibilities under relevant Commonwealth legislation that the Regulator administers). It cannot interfere in state-based activities. If a wind farm is not complying with State/Territory laws (eg as to planning requirements and noise control etc), it is a matter for the relevant State/Territory authority to address.

The Macarthur Wind Farm is an accredited power station under the *Renewable Energy (Electricity) Act 2000* (the Act) and the *Renewable Energy (Electricity) Regulations 2001* (the Regulations). Once an eligible power station has been accredited, it remains accredited unless the Regulator decides to suspend the accreditation under Division 11 of Part 2 of the Act (being sections 30D and 30E and the circumstances prescribed for the purposes of subsection 30E(5) in regulation 20D of the Regulations). One of the grounds for suspension is "if the Regulator believes on reasonable grounds that the power station is being operated in contravention of a law of the Commonwealth, a State or a Territory" (subsection 30E(3)).

To date, we have not had reasonable grounds to believe the Macarthur Wind Farm is being operated in contravention of Commonwealth, State or Territory laws. At the time of writing this letter, there has been no finding or judgment from any court or tribunal to the effect that the Macarthur Wind Farm is being operated in contravention of a law of the Commonwealth, a State or a Territory.

The Victorian Department of Transport, Planning and Local Infrastructure is the relevant authority for investigating allegations of non-compliance with that State's planning permits and laws. Neither that Department, nor the Victorian Minister for Planning, has to date determined that the Macarthur Wind Farm is being operated in contravention of Victorian law. I also note that the Moyne Shire Council at its meeting on 28 October 2014 determined that the Macarthur Wind Farm "is not currently causing a nuisance of the type governed by Part 6 Division 1 of the *Public Health and Wellbeing Act 2008* (Vic)".

It is not the role of the Clean Energy Regulator to stand in the shoes of the relevant state body and decide that a wind farm is being operated in contravention of a state law. Rather, we rely on the advice of the relevant state regulator. On 3 December 2014, the Victorian Department advised us that the Macarthur Wind Farm is compliant with Victorian law. However, should you have evidence that the wind farm is not being operated in compliance with Victorian law, you should provide that evidence to the Department, whose role it is to monitor and investigate allegations of non-compliance with Victorian law. Alternatively, you could provide the evidence to the Moyne Shire Council, which is responsible for noise control in Macarthur.

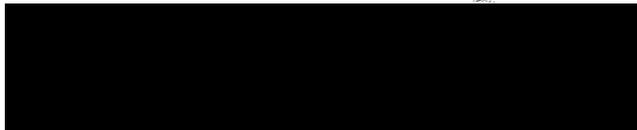
Should the Regulator receive credible evidence that the Macarthur Wind Farm is being operated in contravention of Commonwealth or Victorian law, particularly where that evidence were to be supplied to the Regulator by the relevant state authority, the Regulator would consider suspending the accreditation of the wind farm under subsection 30E(3) of the Act. The Regulator would afford procedural fairness to the operator of the wind farm, by putting that evidence to the operator and allowing a reasonable opportunity for the operator to make a submission as to why the accreditation should not be suspended, before making a decision to suspend. The Regulator would also advise the operator of the internal review and external appeal rights available to it, should the Regulator make a decision to suspend the accreditation of the wind farm.

You may wish to note that, should the Regulator exercise its discretion to suspend the accreditation of a power station, the suspension does not prevent the power station from operating. It simply stops the power station from receiving a benefit, ie from creating Large-scale Generation Certificates (LGCs) during the period of suspension. The Regulator does not have the power to stop the power station from operating.

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We have closed our file on your complaint, but thank you for raising your concerns with us.

Yours sincerely,



Mark Williamson
Executive General Manager
Renewables and Carbon Farming Division
Clean Energy Regulator
15th December 2014

SIGN HERE



Australian Government
National Health and Medical Research Council

NHMRC

GPO Box 1421 | Canberra ACT 2601
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F. +61 2 6217 9100
E. nhmrc@nhmrc.gov.au
ABN 88 601 010 284
www.nhmrc.gov.au

Ms Ann Gardner
[REDACTED]

Dear Ms Gardner

I refer to your correspondence of 11 November 2013 to Professor Warwick Anderson, Chief Executive Officer of NHMRC, and myself, regarding your concerns about the health effects of wind farms. Please accept my apologies for the delay in responding to you. I have discussed your concerns with the CEO and he has asked me to respond on his behalf.

Update on NHMRC's review

As outlined in NHMRC's previous correspondence to you of 1 August 2013, we have commissioned an independent review of the scientific literature examining the possible impacts of wind farms on human health. NHMRC's Wind Farms and Human Health Reference Group (the Reference Group) has provided technical expertise on the conduct of the review and interpretation of the evidence. Following the completion of the review, the Reference Group has spent some time drafting a comprehensive Information Paper which provides a plain language summary of the review processes and findings. A draft NHMRC Position Statement has also been prepared which, when finalised, will replace the 2010 Public Statement on Wind Turbines and Health. The Reference Group has also been advising NHMRC on any priority areas for future research on this important issue.

All the work of the Reference Group must be considered by the Council and CEO of NHMRC, prior to the material being approved for release. As you may be aware, the Australian Government has made a commitment to investigating the potential health effects of wind farms, as part the Government's Policy for Energy and Resources which was released in September 2013. I anticipate that the draft NHMRC Position Statement and Information Paper will be released by the CEO for public consultation in early 2014, once briefing of the relevant Ministers and departments with a role in implementing the Government's policy has been finalised. The final evidence review report will be released as a background document at the same time.

Progress of NHMRC's work will continue to be updated on our website at: <http://www.nhmrc.gov.au/your-health/wind-farms-and-human-health>. You can also be kept up to date on our progress by subscribing to NHMRC's Tracker newsletter at: <https://www.nhmrc.gov.au/media/subscription-service>.

Quality assurance processes

Please be assured that many quality assurance processes have been implemented at all stages of the review process, to ensure that the advice to be issued by the NHMRC is evidence-based, robust and meets international standards.

To ensure that the review processes have been objective and unbiased, the systematic review has been carried out by independent reviewers (external to NHMRC) and has followed well-established processes for identifying, assessing and collating all the available scientific evidence on the health effects of wind farms. The systematic review report has also undergone methodological review before being finalised, to ensure that the review process has been carried out correctly and that the results are presented in a robust and transparent manner.

Further, the new draft Position Statement and Information Paper will be subject to expert review, where Australian and international researchers with relevant expertise will be asked to assess whether the evidence has been appropriately interpreted by NHMRC. The outcomes of the methodological review and expert review processes will be made publically available, along with the professional affiliations and declared interests of the reviewers. In regards to your question about whether Professor Simon Chapman is involved in NHMRC's current review, I can advise you that he has no involvement.

Finally, the public consultation process will provide an opportunity for interested individuals and organisations to comment on NHMRC's interpretation of the evidence in the draft documents and to submit any additional evidence for the Reference Group's consideration.

Additional evidence for consideration

I note the links you have provided to the Waubra Foundation website, containing statements from Victorian Civil Administrative Tribunal Hearing on the proposed Cherry Tree wind farm, for our consideration. As NHMRC's evidence review is close to finalisation, we are unable to consider additional evidence at this time. It would be greatly appreciated if you could please refrain from sending further submissions of additional evidence until the public consultation period commences. This will ensure that your submissions are documented and provided to the Reference Group for consideration at the appropriate time.

I note that you have also referred to the results of a Preliminary Health Survey that was conducted in your area. You are welcome to submit such material during the public consultation period, along with any other emerging evidence that you consider may be relevant. However, NHMRC is unable to consider raw data, medical records, personal testimonies or opinions when conducting evidence reviews and drafting evidence-based health advice.

Concerns about the operation of the Macarthur wind farm

Please be aware that NHMRC's role in investigating the effects of wind farms is limited to the development of evidence-based health advice and the administration of research funding on behalf of the Government. We do not have regulatory authority for the planning, development or operation of wind farms in Australia, as this responsibility lies with the respective state, territory and local governments within each jurisdiction. I suggest that you refer any complaints about operation of the Macarthur wind farm onto the Victorian Department of Planning and Community Development or the relevant local government, if you have not already done so.

I note the concerns you have raised about the health effects that you and your family may be suffering as a result of the Macarthur wind farm. I recommend that you consult your Doctor to discuss the health concerns you have raised. As mentioned in our previous correspondence, I ask you to please refrain from sending us personal details of the health affects you have been suffering, as NHMRC is unable to use this information.

Finally, I note the other recent correspondence from Mr Andrew Gardner and yourself addressed to AGL, making complaints about the operation of their wind farm at Macarthur, which was also sent to Professor Anderson and myself. Given the limited resources of our agency, please be aware that we are unable to respond to emails that do not make an enquiry or comment specifically directed to the NHMRC.

I hope this information is of assistance to you.

Yours sincerely



Professor John McCallum
Head Research Translation Group
December 2013

A 3



DENIS NAPHTHINE MP

Member for South West Coast



Electorate Office
94 Liebig St, Warrambool
Tel: (03) 5562 8230, Fax: (03) 5562 6145
Email: denis.napthine@parliament.vic.gov.au
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All correspondence to:
PO Box 5075, Warrambool, Victoria, 3280

5 June 2014

Mrs Ann Gardner
[REDACTED]

Dear Mrs Gardner,

RE: WINDFARMS

Thank you for your recent email regarding your concern with the construction and operation of windfarms.

The Coalition Government has listened to community concerns about the potential impact of wind farms and in 2011 acted to prohibit wind turbines within 2km of an existing dwelling, unless the owners provide written consent for the turbine to go ahead.

Unlike Labor, who has committed to increasing Victoria's share of renewable energy at any cost and accused the Coalition Government for stalling investment in wind power, we recognise that any development of this nature must have community confidence. Our approach guarantees residents of rural and regional Victoria certainty and fairness in wind farm planning decisions and ensures that communities are given a say in major planning applications.

Without commenting on the situation you have described in Spain, the fact remains that Victoria's wind energy industry is generating around 1,650 jobs. A 2012 study by Sinclair Knight Merz on the economic benefits of wind farms in Australia found that for every 50 megawatts in capacity, wind farms generated up to 48 jobs during construction and five jobs once operating.

You have raised the issue of health and I am aware that in recent years wind farms have faced opposition relating to noise and claims that they have an adverse effect on human health.

In May 2013, the Victorian Department of Health released two reports into the health effects of wind farms, *Wind farms, sound and health: Technical Information* and *Wind farms, sound and health: Community information*. I am also advised that in February 2014, a National Health and Medical Research Council study into the health effects of wind farms found 'there is no reliable or consistent evidence that wind farms directly cause adverse health effects in humans'.

Again, thank you for your feedback on this matter.

Yours sincerely,
[REDACTED]

Denis Napthine MP
PREMIER
MEMBER FOR SOUTH WEST COAST

Caring Active Local



A 3

Marramok

From: [REDACTED] on behalf of [REDACTED]
Sent: Tuesday, 3 March 2015 4:53 PM
To: [REDACTED]
Subject: Macarthur Wind Farm

Dear Ann and Andrew

Thank you for your email regarding your concerns about the potential health impact of Macarthur Wind Farm.

The Victorian Department of Health have produced a fact sheet on wind farms, the associated sounds and how they relate to the health of those living near turbines. Please find this factsheet enclosed in my letter.

The Australian Medical Association (AMA) alongside the National Health and Medical Research Council (NHMRC) have concluded that there is no reliable or consistent evidence linking wind farms to negative health impacts on humans.

The recent Cape Bridgewater report, commissioned by Pacific Hydro and referred to in your letter, has determined that there is no direct correlation between wind farm noise and negative health impacts for humans.

The National Health and Medical Research Council (NHMRC) has recently commissioned a new report to continue investigating any environmental impacts of wind farms on residents, including noise levels. This report is expected to be handed down by the federal agency this year.

We will take the findings of this study under advisement in future policy decision-making on wind farms.

The Andrews Labor Government believes that wind farm planning and investing in renewable energy is an essential part of our state plan to reduce carbon emissions, create new jobs and investment opportunities in regional and rural Victoria.

Thank you for raising your concerns with me.

Factsheet -

[http://docs.health.vic.gov.au/docs/doc/03C56A16FC34F658CA257B5E00164599/\\$FILE/1212016_wind_turbine_community_WEB.pdf](http://docs.health.vic.gov.au/docs/doc/03C56A16FC34F658CA257B5E00164599/$FILE/1212016_wind_turbine_community_WEB.pdf)

Jaala Pulford
Labor Member for Western Victoria

Minister for Agriculture; and Regional Development.
Deputy Leader of the Legislative Council.

15 Main Road, Ballarat, Victoria, 3350



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facebook.com/JaalaPulfordMP

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Department of Economic Development,
Jobs, Transport & Resources

GPO Box 4509
Melbourne Victoria 3001 Australia
Telephone: 03 9208 3333
www.economicdevelopment.vic.gov.au
DX210292

Ref: LD338802

Mr Andrew Gardner and Mrs Ann Gardner
[REDACTED]

Dear Mr and Mrs Gardner

MACARTHUR WIND FARM

Thank you for your correspondence of 10 January 2015 to the Hon Lily D'Ambrosio MP, Minister for Energy and Resources regarding Macarthur Wind Farm. The Minister has asked that I respond on her behalf. I apologise for the delay in responding.

Regarding the concerns you have raised, the National Health and Medical Research Council (NHMRC) has been reviewing the scientific evidence on the potential impacts of wind farms on human health for a number of years. In February 2015, the NHMRC released its information paper: Evidence on Wind Farms and Human Health. The NHMRC found there is currently no consistent evidence that wind farms cause adverse health effects in humans.

You may wish to access a copy of the NHMRC paper at
https://www.nhmrc.gov.au/files/nhmrc/publications/attachments/eh57a_information_paper.pdf

You may also be interested to note that the Department of Health has published two information sheets which provide information on wind farms, sound and the potential impact on health (Wind farms, sound and health: Technical Information and Wind farms, sound and health: Community Information). The information sheets are available at
www.health.vic.gov.au/environment/windfarms.htm

The Department of Environment, Land, Water and Planning is the relevant department responsible for regulating wind farm noise. Complaints are best directed to that department or to the Moyne Shire Council.

I trust this information is of assistance.

Yours sincerely

[REDACTED]

Mark Feather

Executive Director

Energy Sector Development Branch

Department of Economic Development, Jobs, Transport & Resources

Date: 3 / 3 / 2015





Department of Planning
and Community Development

Cnr Little Malop & Fenwick Streets
PO Box 103
Geelong Victoria 3220
Telephone: 03 5226 4001
Facsimile: 03 5226 4011

Ref: CMIN024038
CMIN024039

27 September 2010

Ms Ann Gardner
[REDACTED]

Dear Ms Gardner

MACARTHUR WIND FARM PROJECT - PLANNING PERMIT NO. PL-SP/05/0283

Thank you for your recent emails regarding clarification of details for the Macarthur wind farm project.

On 16 October 2009, the time limit within Planning Permit No. PL-SP/05/0283 (the permit) for the Macarthur wind farm project was extended. Development of the project must commence by 26 October 2012, and be completed by 26 October 2016.

On 8 July 2010, the Minister for Planning, in accordance with Section 97J of the *Planning and Environment Act 1987* (the Act), agreed to a request from AGL Energy Limited to amend conditions within the permit to accommodate a different wind generator model. The permit now provides for:

- one terminal station, instead of two
- above ground transmission lines
- scope for the use of Vestas V112 wind generators, including:
 - height to blade tip of 140 metres (increased from 135)
 - blade length of 56 metres (increased from 50.5)
 - reduction in wind generator numbers from 183 to 140
- minor updates to the description of a small number of conditions.

The permit when originally issued allowed for a maximum capacity of up to 450 megawatts (MW). This requirement was not altered in the recent amendment to the permit. A copy of the amended permit is attached for your reference.

The Department of Planning and Community Development (DPCD) recognised that the proposed amendments to the specifications and layout of the proposal had the potential to vary the visual, flora and fauna, noise and shadow flicker impacts associated with the initially permitted proposal. DPCD undertook an assessment of the requested amendments and consultant reports. The assessment found that the proposed changes will not materially affect land within Moyne Shire or any person, and that public notification under Section 52 of the Act was therefore not considered necessary.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the *Information Privacy Act 2000*. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Planning and Community Development, PO Box 500, East Melbourne, 3002.

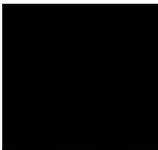


Economic investment in the local economy will stem from the 400 direct construction jobs, 800 indirect jobs and 30 full time staff predicted over the 25 year operational life of the project. \$245 million is expected to be injected into local communities during construction. I also note that AGL Energy Limited and Meridan Energy Limited have announced a \$100,000 community fund to allow the broader community to participate in the benefits of this project.

The vehicle movements required for construction are to be determined by the site contractor, with input from the Moyne Shire Council and VicRoads, to the satisfaction of the Minister for Planning.

I trust that this advice satisfies your query. If you require further advice or a point of contact during construction, please contact Matt Berry, Regional Planner, at the Barwon South West Region office in Warrnambool office on 5562 3564.

Yours sincerely



KIM MCGOUGH
Manager, Planning and Development
Barwon South West Region

Enc.

provided it benefits the local community. Some of it could go to native vegetation or wetlands conservation (external from the Macarthur wind farm site), some could go to brolga research or habitat protection, or some could go to the local football club. The Proponent will be guided by the community as to how the money is spent.

Buffer

- 4.28 Moyne Council has indicated a desire to implement a 150m setback of turbines from adjoining property and road boundaries. As indicated in the Proponent's general submission, such a setback requirement is not based on any proper assessment of the opportunities or constraints of the Macarthur site, and would result in the removal or relocation of several turbines with little benefit to adjoining landowners in return. No turbines are sited right on the boundary, and most of the turbines within this 150m area are not controversial and are adjacent to supporters or non-objectors who have implicitly accepted this outcome. The imposition of an arbitrary setback would necessitate a redesign of the wind farm layout which would lead to the relocation of more turbines within the 150m to 400m setback of objector properties, and thus potentially *increase* the overall visual impact for several of the objectors. Is this what the Council really wants to achieve?
- 4.29 The Wind Energy Guidelines clearly do not require arbitrary setbacks, but rather require a wind farm layout to be carefully designed to address particular criteria such as the potential impacts on existing dwellings. The Council approach is inconsistent with the approach adopted for other wind farms in Australia and overseas. The Moyne Council indicated that Gamesa was potentially implementing an arbitrary 150m setback for their proposed wind farm at Ryans Corner. However, discussion with the Gamesa representatives present at the hearing indicates that such a buffer would be in lieu of, rather than in addition to, some other siting constraints. You can't have both.
- 4.30 The layout of the Macarthur wind farm has been achieved after extensive consultation and studies, and based upon residential amenity design principles to ensure that the residential amenity at adjoining dwellings is protected. As result of this consultation, particularly the initial consultation with the Gardners requesting a 1.6km separation distance, the minimum separation distance was extended from 1km to 1.25km from dwellings as a compromise outcome – *far greater* already than is common for other wind farms.
- 4.31 It is therefore not necessary, and indeed is quite inappropriate, to try to place an arbitrary figure on the setback of the Proposal from property boundaries. The setbacks from most objector properties already exceed 150m. The Learmonths conceded that their boundary setback was increased to approx. 400m following consultation (due in part to their northern orientation). ~~The Gardners have only one turbine within 150m of their southern boundary – it scales from the plans at approx. 130m.~~ Although the Proponent has indicated a willingness to try to micro-site this turbine beyond 150m from the boundary, it queries whether an additional 20m setback will materially affect the visual impact. A similar situation prevails for the Rees property where an arbitrary extension of the setback would have dubious benefit.

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Department of Planning and Community Development

2 February 2011

Ms Ann Gardner
[Redacted]

FOI: 2010/119

Dear Ms Gardner

NOTICE OF DECISION Freedom of Information (FOI) Request

I refer to your request under the *Freedom of Information Act 1982* (FOI Act), received by the Department of Planning and Community Development (the Department) on 12 November 2010, for copies of the following:

"On 9 July 2010, Minister for Planning agreed to a request from AGL Energy Ltd to amend permit conditions.

1. one terminal station not two
2. above ground transmission lines
3. scope for use of Vestas V112 wind generators including:
 - height to blade tip 140 metres (from 135)
 - blade length of 56 metres (from 50.5)
 - reduction in wind generator numbers from 183 to 140
 - other minor updates.

objectors were
not advised of
application
amendments
original
permit

DPCD 'recognised that the proposed amendments to the specifications and layout of the proposal had the potential to vary the visual, flora and fauna, noise and shadow flicker impacts associated with the initially permitted proposal. DPCD undertook an assessment of the requested amendments and consultant reports. The assessment found that the proposed change will NOT materially affect land within the Moyne Shire or any person and that public notification under section 52 of the Act was, therefore, NOT considered necessary'

I would like under F.O.I

what about Section 75
if there are objectors

1. a copy of this assessment to find out
 - (a) on what basis was it decided people will not be affected by such radical change;
 - (b) on what basis was it decided that neighbouring landholders weren't to be notified.
2. If there is no such written assessment report I would like copies of the notes made by the person/persons carrying out this assessment."

had honest and accurate figures
been given about Rotor Swept Area,
his conclusion could not have been claimed.

The FOI Act

The FOI Act establishes a general right of access to documents held by State Government agencies, including the Department of Planning and Community Development. In order to protect the public interest this right of access does not apply to documents identified by the FOI Act as exempt documents. For example, a document is exempt from release if it contains information about the personal affairs of another person, and its release would be unreasonable. The FOI Act also provides for documents containing exempt material to be released in part, after the exempt material has been deleted and where it is practicable to do so.

Decision

In response to your request a thorough and diligent search of the hardcopy and electronic records held by the department was conducted.

Nine pages of documents were identified as relevant to your request. These pages comprise the planning assessment report for permit PL-SP/05/0283 dated July 2010. The purpose of the report is to assess the impact any proposed amendments to the permit conditions would have on the subject land. The report concludes that public notification is not required and provides reasons for this view.

Freedom of Information

The documents were assessed in accordance with the FOI Act, to determine whether they could be released to you in full, released to you in part, or whether they were exempt from release. The following table below provides a summary of my decision regarding access to the documents:

Released in Full (Full Access)	Exempted in Part (Part Access)	Exempted in Full (Access Denied)
7 pages	2 pages	0 pages

Please find enclosed the documents or parts thereof to which access has been granted under the FOI Act. Material not released to you is irrelevant to your request, or exempt on the basis of s33(1) of the FOI Act for the reasons outlined below.

In accordance with s25 of the FOI Act, where it has been possible to delete exempt personal affairs or draft material from the documents and preserve the substance of the document for release, partial access has been provided.

Personal Privacy

Section 33(1) of the FOI Act states that a document is exempt if its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of any person. Under section 33(9), information relating to the personal affairs of any person includes information that identifies any person or discloses their address or location; or from which any person's identity, address or location can reasonably be determined.

Material exempt from release under this section includes identifying information recorded in the documents such as the names and signatures of junior departmental officers. It is not apparent that those individuals (including officers performing routine administrative functions) would

consider the disclosure of their details reasonable. Accordingly, the Department's concern to preserve personal privacy renders the information exempt.

Internal Review

Section 51 of the FOI Act provides you with the right to request an internal review within 28 days of receiving this letter if you are not satisfied with the decision upon your request with regard to the exemptions applied. Any application for review should be addressed to the Secretary, Department of Planning and Community Development, GPO Box 2392V Melbourne Victoria 3001.

Access Charges

We apologise for the delay in processing your request. Any applicable access or search charges in relation to your request have been waived.

Please telephone Natalie Cutajar on (03) 9665 9538 if you have any questions in relation to this decision.

Yours sincerely

A black rectangular redaction box covering the signature of Andrew Weston.

Andrew Weston
Manager – Freedom of Information

ATTACHMENT 4:

Amended Planning Permit Assessment Officer Report

Application Details:

Application is for:	To amend planning permit for the development and use of land for the purpose of a wind energy facility with a maximum capacity of 450MW, comprising a maximum of 183 wind generators and associated buildings and works, including; an operations and maintenance building, a 33kV/132kV switchyard, a 132kV/500kV switchyard, car parking, up to six permanent meteorological monitoring masts, a public viewing platform, aviation night lighting, underground cabling and access tracks.
Applicant's/Owner's Name:	<input type="text"/> - AGL Energy Limited
Date Received:	15 June 2010
Planning Scheme	Moyne
Application Number:	PL-SP/05/0283
Planner:	<input type="text"/>
Land/Address:	Macarthur (refer to Attachment 1)
Zoning:	Farming Zone
Overlays:	N/A
Under what clause(s) is a permit required?	Clause 35.07-1, Clause 52.32
Restrictive covenants on the title?	None Applicable
Current use and development:	Agriculture

Proposal

The proposal is to amend Planning Permit PL-SP/05/0283 as follows:

- Amend the permit description from "183 wind generators" to "140 wind generators"
- Amend condition 1 (b)(i) (overall maximum height to blade tip when vertical)
- Amend condition 1 (b)(iv) (rotor-blade length)
- Amend condition 1 (c) (iii) (underground and overhead cabling)
- Amend condition 16 (a) (noise and sleep protection).

The remainder of permit conditions are not affected by this amendment.

The proposed amendments to the permit description and condition 1 (b) will allow a different turbine model to be utilised on site. The extension of overall maximum height and the length of the rotor blades will allow the *Vespa V112* turbine model to be used for power generation. The total number of turbines is proposed to be reduced from 183 (as originally approved) to 140 turbines.

The reason to amend condition 1 (c) is to allow for changes to the electrical substation within the wind energy facility. AGL intend to consolidate two electrical substations for the wind energy facility into

one. The proposed northern electrical substation, covering 2,800 square metres, is to be removed whilst the proposed southern substation is to be expanded by 1,250 square metres. Overhead wires from the north of the facility will feed electricity into the substation. The amendment request is so that the trunk collection system to the southern electrical substation will not be required to be placed underground.

The deletion of condition 16(a) is to remove a section of the condition related to noise emission and sleep protection. The words "for sleep protection purposes, a breach of this standard, for 10% of the night, amounts to a breach of the condition" are to be removed.

Subject site & locality

The land of the Macarthur Wind Farm project is located generally to the north and south of Moyne Falls – Hawkesdale Road, between Dycers Road and Jelbarts Road.

The land is used for almost exclusively agricultural activity and associated dwellings. The Macarthur Wind Farm project is to be constructed on 5,500 hectares of land owned by three land holders.

Permit/Site History

The history of the permit includes:

- The permit was issued on 26 October 2006, for the development and use of a 450 megawatt wind energy facility (WEF) accommodating up to 183 wind turbines and associated works.
- On 16 October 2009, a three year extension of time was granted to commence construction. Construction must commence by 26 October 2012.
- On 8 January 2010, the permit was amended to allow an alternative type of wind turbine be utilised. Condition 1 (b) (iv) was amended to allow rotor blades up to 50.5 metres. Condition 31 relating to noise was deleted, and conditions 35-38 were deleted and replaced with two new conditions. These are based on model shadow flicker conditions as contained within *Model planning permit conditions for wind energy facilities – February 2009*.

Public Notification

Under Section 52 of the *Planning and Environment Act 1987*, public notification is not considered necessary as the requested amendments to the permit will not materially affect land within Moyne Shire or any person. Refer to **Attachment 2**.

Consultation

No formal consultation was undertaken. The previous amendments to the permit were undertaken in consultation with the Commonwealth Government Department of the Environment, Water, Heritage and the Arts (DEWHA) regarding matters of the *Environment Protection and Biodiversity Conservation (EPBC) Act*. In context of the previous DEWHA advice which stated no further referral is required under the EPBC Act it is considered that no additional consultation is required.

Informal consultation was undertaken with the Department and Sustainability and Environment (DSE) on the 15 July 2010. DSE is satisfied that cumulative impacts of the proposed amendments would be negligible.

Referrals

Not applicable - there are no section 55 referral authorities prescribed in the Moyne Planning Scheme for a wind farm proposal. As noted above, DSE is considered to be the key authority that may be affected by the requested amendments to the permit conditions.

Assessment

Zoning:

The Farming Zone has the following purpose:

- To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for the use of land for agriculture.
- To encourage the retention of productive agricultural land.
- To ensure that non-agricultural uses, particularly dwellings, do not adversely affect the use of land for agriculture.
- To encourage use and development of land based on comprehensive and sustainable land management practices and infrastructure provision.
- To protect and enhance natural resources and the biodiversity of the area.

Under Clause 35.07-1 the use of a wind energy facility (WEF) is section 2 use requiring planning approval. Thus the changes to permit conditions require planning permit approval.

The clause directs assessment of WEF to Clause 52.32 of the particular provisions.

Overall the proposed amendment to the WEF does not affect the purpose of the Farming Zone from the original approval. In particular the proposed changes will have no adverse impact on the agricultural production of the land or the natural resources of biodiversity of the area.

Overlays: N/A.

The State Planning Policy Framework (SPPF)

Clause 15.14 Renewable Energy.

The State Planning Policy Framework promotes the provision of renewable energy in a manner that ensures appropriate siting and design considerations. The proposed amendments to the permit comply with this objective by allowing an alternative wind turbine model to be used at the Macarthur Wind Farm project for more efficient production of renewable energy. The details of siting and appropriate design considerations are assessed below in this report.

Municipal Strategic Statement:

N/A

Local Policies:

N/A.

V90 = 9852 sq m per turbine
V112

Relevant Particular Provisions

Clause 52.32 Wind Energy Facilities

The purpose of this clause is to facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with minimal impact on the amenity of the area. As such it is critical to ascertain the impact on the proposed permit amendments on this purpose.

The following table compares keys aspects of the original and amended permits:

	Original Permit issued 26 October 2006.	Amendments to Permit 8 January 2010	Proposed Amendments to Permit
Number of turbines	183	183	140
Turbines height	135 metres	135 metres	140 metres
Turbines blade length	45 metres	50.5 metres	56 metres
Rotor swept-area (approximate) <i>should be</i>	51,700 square metres <i>6362 sq m * x 183 *</i>	58,000 square metres <i>should be</i>	49,200 square metres <i>*** 9852 x 140</i>
Distance to non-stakeholder dwelling	At least 1.25 kilometres	At least 1.25 kilometres	At least 1.25 kilometres
Compliance with NZ 6808:1998 Noise Standard	Achieved	Achieved	Achieved
Compliance with Shadow Flicker	Achieved	Achieved	Achieved
Number of electrical substations	Two (total area of 5,600 square metres)	Two (total area of 5,600 square metres)	One (total area of 4,000 square metres)

Should be 10111 sqm square metres given that RSA of V112 is 5500 greater than V90 originally proposed.

The impacts are assessed (see below) in detail against the decision guidelines of this clause and under the Policy and Planning Guidelines for Development of Wind Energy Facilities In Victoria, 2009.

The following permit condition amendments have potential to increase the impact of the Macarthur Wind Farm project:

- Condition 1 (b) (i) to allow 5 metre increase in overall maximum height to blade tip when vertical.
- Condition 1 (b) (iv) to allow an increase of rotor blade from 50.5 metres (in amended permit) to 56 metres

The diameter of (turbine) of this model will be up to 11 metres wider and 5 metres higher thus posing potential visual impact, fauna, noise and shadow flicker changes.

RSA 183 x 6362 = 1,164,246

* RSA 140 x 9852 = 1,379,280

NOT 49,200 sq. metres

VISUAL AMENITY

There will be a total of up to 140 turbines allowed by this amendment, 43 turbines less than the current permit. The permit description is proposed to be amended to ensure that there will be 43 less turbines thus reducing the overall visual impact. By comparison, the overall square metre rotor swept of the proposed amendment is less than the original permit. The original permit allows for approximately 51,700 square metres whilst this amendment allows for 49,200 square metres of rotor swept area. This is a decrease of up to 2,500 square metres.

The landscape and visual assessment prepared for AGL demonstrates that the revised Macarthur Wind Farm project will reduce the overall visual impact of the development when viewed from certain locations.

The amendment to allow increased blade length (and turbine height) will not adversely impact on visual amenity.

FLORA AND FAUNA

The increase in blade length will not have any impact on flora and ground fauna. This is because the change in turbines does not affect the location. In terms of aerial fauna (such as birds and bats) the increased blade length could pose greater risk due to the increased diameter. However, overall there will be 43 less turbines thus compensating for the increased blade length. In addition, conditions 11 and 12 relating to aerial fauna must still achieve compliance.

The amendment to allow increased blade length is will not to adversely impact on flora and fauna. The Department of Sustainability and Environment have informally advised they are satisfied that there is no increase in cumulative impact.

NOISE

In regards to noise, the applicant has advised that they will be able to comply with existing conditions on the permit regarding noise. Information sought from Vestas, the turbine manufacturer, has shown that noise output will be within conditions of existing permit.

It is considered that the proposed change to turbine and blade specifications will not adversely impact on noise emissions from the site.

The amendment proposes the removal of a section of condition 16(a) which relates to noise and sleep protection. The condition states for sleep protection purposes, a breach of this standard, for 10% of the night, amounts to a breach of the condition. The proponent states that the condition is not in keeping with the intent of the NZS 6808:1998 Noise Standards. AGL argues that the noise standard is to ensure a reasonable amount of amenity for nearby residences. The intent of the standard is not to use the top 10% of measurements to assess residents' amenity. As the condition currently stands, due to natural variations in background noise, a breach is possible without there being any turbines at all.

Any new studies carried out for risk of turbines colliding with overhead power lines?
previous permit for underground power cables

The proposed amendment to condition 16(a) is appropriate and does not impact the outcome of the requirement on the applicant to comply with NZS 6808:1998 Noise Standards.

There are 13 conditions that relate to noise compliance to minimise adverse noise impacts which are not changed by this amendment. The alternative turbine allowed by the amendment must still comply with these conditions.

SHADOW FLICKER

The model permit conditions and current guidelines however stipulate that no more 30 hours of shadow flicker be experienced by nearby dwellings. This is assessed by arithmetic modelling of the turbines and their blades. The applicant has provided data showing that there is no significant impact beyond 1.12 kilometres of the turbines. The closest dwellings to the wind energy facility are 1.25 kilometres. The proposed amendments to the permit are considered acceptable in terms of shadow flicker.

ELECTROMAGNETIC INTERFERENCE

The larger blades may impact on electromagnetic interference such as TV reception. However the existing conditions require mitigation should this be evidenced by nearby residents. As such should there be any impact, the existing conditions (conditions 39 and 40) will mitigate this aspect.

OVERHEAD ELECTRICITY CABLING

The remaining change for consideration is the proposed addition to condition 1 (c) (iii). This condition requires that *"all new electricity cabling associated with the collector network within the wind energy facility generator clusters are placed under the ground, with exception of the connector to the state-wide electricity grid."* The applicant also wishes to include in the exception *'and the trunk collection system from the northern wind energy generators to the 33kv/132kv substation'*.

AGL intend to consolidate two electrical substations for the wind energy facility into one by this request. The northern electrical substation, covering 2,800 square metres, is to be removed. The southern substation will be enlarged by an additional 1,250 square metres as a result. Overhead cabling from the north of the facility will feed electricity into the substation. The proposed overhead cabling requires the change in permit condition above.

The presence of overhead cabling onsite is not expected to cause any material detriment. Electricity cabling is usually exempted from requiring planning permit consideration under a planning scheme. The increased visual presence of overhead cabling to some extent is offset by a net reduction in electrical substation infrastructure and site coverage. In addition these works are to be located on leased stakeholder properties and are familiar infrastructure in a rural landscape.

The proposed amendments to the permit satisfy the relevant decision guidelines of Clause 52.32.

Incorporated documents:

The *Policy and Planning Guidelines for Development of Wind Energy Facilities in Victoria, 2009* is an incorporated document in the Moyne Planning Scheme that must be considered as part of this amendment.

This policy provides specific details in addition to clause 52.32 in relation to assessment of WEFs. These details however have been considered in the assessment above, thus no further duplication of assessment is necessary.

General Provisions:

Clause 65 Decision Guidelines. The applicable decision guidelines have been considered in the assessment of this application, and the proposal is considered appropriate and meets the relevant guidelines. The amendments to the permit are considered to be in keeping with the orderly and proper planning of the area, and providing appropriate flexibility to allow use of an efficient turbine model in the delivery of this major renewable energy project. The amendments to the permit enable a reduction in 43 turbines for the same power output and will not have an adverse impact on amenity conditions.

Recommendation

That the Minister for Planning approves the requested changes to conditions and issues an amended planning permit under Section 97J of the *Planning and Environment Act 1987*.

Planner
Responsible:

Regional Planner

Reviewed:

Planning
and Development

Signature:

Signature:

Date:

16 July 2010

Date:

19 July 2010

ATTACHMENT 1 - Title details

Vol 9344 Fol 311, Crown Allotment 5, Section 1, Parish of Clonleigh
Vol 9388 Fol 101, Crown Allotment 4, Section 1, Parish of Clonleigh
Vol 5950 Fol 962, Lots 9, 9A, 9B, 9C and 9D on Plan of Subdivision 13615 and being Subdivisions A and B of Crown Allotments 1, 1A, 2 and 3 Section 1 and Subdivisions A and B of Crown Allotment 1 Section 6, Parish of Clonleigh
Vol 9715 Fol 216, Lots 1 and 2 on Title Plan 134966T
Vol 8141 Fol 676, Crown Allotment 3C, Section 6 Parish of Clonleigh
Vol 8657 Fol 556, Lots 2A and 3 on Plan of Subdivision 013615
Vol 8067 Fol 619, Crown Allotment 1C, Section 6, Parish of Clonleigh
Vol 8657 Fol 557, Lots 1, 2 and 3 on Title Plan 427420J
Vol 5313 Fol 585, Lots 1, 2, 3, 4, 5, 6, 7 and 8 on Title Plan 675682P
Vol 8407 Fol 097, Lots 1, 2, 3, 4, 5, 6 and 7 on Title Plan 333539E
Vol 8187 Fol 385, Lot 1 on Title Plan 242443A
Vol 8076 Fol 341, Lots 1, 2, 3 and 4 on Title Plan 235147U
Vol 5820 Fol 903, Subdivisions A and B of Crown Allotments 1, 2, 3 and 4, Section 14 and subdivision A and B of Crown Allotments 1 and 3, Section 15 parish of Clonleigh
Vol 8406 Fol 476 Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 on Title Plan 340333L
Vol 8124 Fol 653, Lots 1, 2, 3, 4, 5 and 6 on Title Plan 323077Y
Vol 8036 Fol 741, Crown Allotment 4C, Section 4, Parish of Clonleigh
Vol 8036 Fol 740, Crown Allotment 4C, Section 14, Parish of Clonleigh
Vol 7664 Fol 185, Lots 1, 2, 3 and 4 on Title Plan 127244A
Vol 9252 Fol 946, Lots 1, 2, 3 and 4 on Title Plan 159434P
Vol 8689 Fol 213, Lot 2 on Plan of Subdivision 077938
Vol 9604 Fol 841, Lot 1 on Title Plan 108880C
Vol 8941 Fol 283, Crown Allotment 6, Section 8, Parish of Tallangoork
Vol 9933 Fol 939, Lots 2 on Plan of Subdivision 218923A

ATTACHMENT 2 - Public Notification

The following reasons have been identified to demonstrate how, within the context of an already permitted wind farm development, the proposed amendments to the permit do not cause material detriment to any person or materially affect land in Moynes Shire:

- The impact on visual amenity will not be affected by this change. This is due to the overall reduction in wind turbine towers allowed on the permit description from 183 to 140. The overall rotor swept area is reduced from approximately 51,700 square metres, from the original permit, to 49,200. The cumulative visual impact is less.
- In addition, condition 13 of the permit requires vegetation screening to all properties (that desire it) within 3 km of the wind energy facility. As such dwellings will still have the benefit of screening from wind turbines.
- The impact on noise amenity will not pose additional material detriment as the turbines must still comply with noise requirements. Conditions 16 to 33 inclusive detail noise compliance regulations. Any increase in blade length and height must still comply with these requirements.
- The removal of part of condition 16 does not impact on the efficacy of this condition. The existing wording of the condition is flawed as it utilises the top 10% of noise measurements to determine if noise standards are in compliance. This section of condition on noise can be breached without any development onsite. As such the condition poses no value to complying with noise conditions and warrants amendment.
- The remaining conditions on noise compliance require that it still comply with NZ 6808:1998 Noise Standards. The applicant has provided advice that the new model of turbine can comply with this.
- Allowing blades to increase in length may extend the range of shadow flicker. These however must still comply with shadow flicker requirements of conditions so that there is no more than 30 hours shadow flicker per year. The applicant has provided data and calculated the impact that shadow flicker poses by the alternative turbines proposed. In non-contracted properties/dwellings they have no annual shadow flicker, thus representing no increase in material detriment to these persons.
- The impact on television reception must not be adversely affected by the changes in turbine models. Again, the condition must be adhered to regardless of blade length, thus ensuring there is no additional material detriment posed by the amendments to the permit.

Overall the changes are not considered to cause material detriment. The applicant has provided information demonstrating how noise and shadow flicker do not adversely impact on surrounding non-contracted dwellings. The increased size of turbines is balanced by the reduction in number of turbines. As such it is considered the proposed changes will not require notice under section 52 of the *Planning & Environment Act 1987*.

WRONG*
wrong figures
particularly
RSA page 4

no additional noise
modelling

What
evidence

17 8

[REDACTED]
13th February, 2012

Mr. Matthew Guy, Minister for Planning,
No. 1 Spring Street,
MELBOURNE, Vic. 3000

Dear Mr. Guy,

I am writing to formally request that you as Minister for Planning for the State of Victoria, take the necessary steps to have the permit for the Macarthur wind farm cancelled, evoking the Victorian Planning and Environment Act, 1987.

In July 2010, the then Minister for Planning Mr. Justin Madden approved without public consultation, multiple amendments to the permit for the Macarthur wind farm. I have been concerned for quite some time that the Minister should have requested a new panel hearing, as the amendments are so significant that the wind farm which has begun construction, bears little resemblance to that for which AGL Energy Ltd. was granted a permit in 2006.

I am making my request for cancellation of the permit for the Macarthur wind farm, principally due to violation of the Planning and Environment Act 1987, under -
Section 64 Granting of Permit if there are Objectors (1), (2), (3a and b),
Section 75 (a),
Division 3 Cancellation and Amendment of Permits.
Section 87 (1a), (1e).

I am also requesting you, as Minister for Planning, instigate an Inquiry into the granting of the amended permit for the Macarthur wind farm in 2010, investigating the behaviour of AGL in deliberately misleading both the Minister and the public by providing fraudulent figures for the purposes of gaining approval for their requested amendments.

This is an extremely serious matter Mr. Guy and you have responsibility to the people of south-west Victoria to thoroughly investigate it. Failure to act will be a dereliction of the duty of your office. I am enclosing separate details of each section of the Planning and Environment Act 1987 not complied with. I also enclose several other documents to further support my requests.

I would appreciate receiving your acknowledgement you will act promptly on this matter, which involves serious erosion of democratic rights, and I am of the opinion, could even be referred to your government's newly established Commission against Corruption for investigation.

Yours sincerely,

ANN C. GARDNER (Mrs)

A 9

[REDACTED]
13th February, 2012

Mr. Matthew Guy,
Minister for Planning,
1 Spring Street,
MELBOURNE, Vic. 3000

Dear Mr. Guy,

To begin with the pivotal reason for my request for cancellation of the permit for the Macarthur wind farm, is outlined as follows. I am of the belief AGL Energy Ltd. intentionally provided grossly understated and inaccurate figures, in order to support their obvious claim that the numerous amendments to the permit for the Macarthur wind farm, would not overall cause material detriment to people or to the Moyne Shire. See page 4 document Amended Planning Permit Assessment Officer Report.

As a result of AGL's fraudulent behaviour, "The assessment found that the proposed changes will NOT materially affect land within Moyne Shire or any person, and that public notification under section 52 of the Act was therefore NOT considered necessary." I refute this claim, as had AGL provided the correct figures, which I'm confident they possessed, it would have been quite obvious that land within Moyne Shire and the people living within a 10km radius of the wind farm **WOULD BE MATERIALLY AFFECTED** by such substantial changes.

I have had in my possession since 2006, a brochure with the specifications of the V90 turbine for which AGL were initially given a permit. If I, as an ordinary citizen had that information for four years prior to their amendment request, AGL as the company purchasing such equipment would have possessed that information also, but chose to distort these figures on purpose in order that their amendments would easily be approved, without having to go to another panel.

I find it quite amazing that obviously no person employed by Department Planning and Community Development saw fit to investigate these figures, relating to such an enormous project which will end up costing around \$1.5 billion, a great deal of which is subsidised by the taxpayer. I wonder was it individual failure, but the sceptic in me wonders if perhaps there was a conspiracy here.

You will notice on page 4 of the Officer's Report the figures for the Rotor Swept area (approximate) for the original permit issued 26 October, 2006 are given as 51,700 square metres. Given that the RSA for the V90 turbine is 6362 square metres, when this figure is multiplied by 183 turbines, my calculations give the Rotor Swept Area for the original permit as 1164246 square metres. (see specifications for V90 document enclosed, quoting RSA for V90 as 6362 square metres).

You will notice on the page enclosed of the Specifications for the V112 turbine, that the Rotor Swept Area is 55% greater than the V90. Also you will notice in this same document, Specifications of the V112 turbine now to be used for the Macarthur wind farm, the Rotor Swept Area is 9852 square metres. (This is also confirmed by the email, copy enclosed, which was sent to me by Mr. Jeffrey Trompf, Construction Manager for the Macarthur wind farm). Given that the RSA of the V112 turbine is 9852 square metres, when this figure is multiplied by 140, my calculations arrive at the

figure of 1379280 square metres, once again a far cry from the 49,200 square metres quoted by AGL. Of course, they supplied a lesser figure for the RSA of the 140 turbine layout, to make it look as if the impact was less and they described the figures as "approximate".

AGL could have easily supplied the CORRECT FIGURES as they would have been in possession of specifications of both turbines at that time. So anyone who can do simple mathematics, can calculate that, although the number of turbines has been reduced by 43, the fact that the RSA of the new V112 is 55% greater at 9852 square metres, the impact IS FAR GREATER AND NOT REDUCED, AS AGL HAVE CLAIMED IN THEIR PERMIT AMENDMENT APPLICATION.

Toward the end of 2011, I began to enquire of AGL, the Rotor Swept Area of the new V112 turbines. I had just been made aware that there was to be constructed a turbine only 90 metres from our property boundary, which absolutely devastated me. I wanted to know the Rotor Swept Area of the V112 turbine in order that I could determine whether the Rotor of that turbine, 90 metres from our fence, would in fact sweep into any area of our property. A reply to my request was not forthcoming prior to the end of 2011, so after AGL's Christmas several week recess I emailed the Construction Manager, once more. I was then informed by email from Mr. Jeffrey Trompf that the RSA of the V112 is 9852 square metres. It was only upon receipt of this email did I recognise THE EXTENT OF AGL's DECEPTION OF HONEST PEOPLE, AND THE VERY SERIOUS EROSION OF OUR DEMOCRATIC RIGHTS. As a result of this shocking realisation I then attempted with great difficulty to procure a copy of the Specifications of the V112 turbines, in order that these figures could be verified. I enclose copies of several pages for your perusal.

So in this case Mr. Guy, you are not able to dismiss my claim for the reasons that the development is already under construction, and I have left my request too late. I have only last week received the information required, that is a copy of the Specifications to substantiate my claim. Sections 88 (a) and Section 89 (3) of the Act must be exercised in this case, as having only just received this information, my request therefore has been made "as soon as practicable after the person making it had notice of the facts relied upon in support of the request".

Whether there was collusion in this process, I am unaware. However, given the lies that this company has made to people in this district and the appalling manner in which they lied to the panel (particularly relating to fraudulent community support claims, and the effects on farming practices of neighbours) and bullied objectors during the five week panel in 2006, nothing would surprise me.

Reading the Amended Planning Permit Assessment Officer Report it appears that no further flora and fauna studies were undertaken for the purposes of approving the amendments. See page 5 where it states "The Department of Sustainability and Environment have INFORMALLY ADVISED they are satisfied that there is no increase in cumulative impact." This is an absolute disgrace as it is very common knowledge that BROLGAS collide with overhead transmission lines. AGL were given a permit in 2006 for a wind farm with underground cables, not overhead transmission lines.

The DSE were extremely concerned that BROLGAS would be seriously impacted upon and would collide with the blades with the original permit proposal with underground cables, but the increased impact on the BROLGA population due to a myriad of aboveground power lines will be SIGNIFICANT. The DSE showed a serious dereliction of duty by not insisting on further studies to be carried out to determine the very real increased impact on the local BROLGA population, and only "informally" notifying there would not be any increase in cumulative impact. If it wasn't so

serious one would think this situation, whereby a species which has recently been recognised as **CRITICALLY ENDANGERED**, and could possibly be wiped out by the proliferation of turbines in this district, is a joke !!!

Had AGL acted **HONESTLY** and given the **CORRECT** figures and information about the increased impact of the V112 turbines on people and the land in the Shire of Moyne, under Section 52 all objectors should have been notified, and given the chance to object. We were denied that opportunity.

NO OBJECTORS WERE NOTIFIED OF ANY APPLICATION FOR AN AMENDED PERMIT, LET ALONE ANY OF THE DETAILS. I only found out when I heard a rumour of reduction of turbine numbers, and wrote to the DSE requesting further details. Upon hearing that rumour, I wrote to DPCD to enquire and find out why neighbours, and objectors had **NOT BEEN NOTIFIED**. I was told "it was determined there would be no material increase on impact" therefore no notification under Section 52 of the Act. I then proceeded to apply under Freedom of Information for a copy of the Assessment in order that I may better understand -

- a) on what basis it was decided people will not be affected by such radical changes to the Macarthur wind farm,
- b) on what basis it was decided that neighbouring landholders weren't to be notified.

This FOI request took several months to eventuate and I discovered we had had our democratic right to object, let alone be informed, taken away from us by the Minister, who was acting upon AGL's deliberate misleading information. I would presume also that both houses of the Parliament of Victoria would **NOT** have been notified of any of these massive changes, **NOR** would they have been advertised in local newspapers or the Government Gazette.

AGL's application for an amended permit should have been taken to another panel, but obviously AGL and Minister Madden didn't want that, so it was all very secretly rushed through and approved without adhering to many, many sections of the Planning and Environment Act of Victoria 1987.

This is an absolute disgrace Mr. Guy, which is the reason I am demanding you **CANCEL THE PERMIT FOR THE MACARTHUR WIND FARM AND ALSO INSTIGATE AN INQUIRY** into what I consider evidence of corruption involved, on the part of AGL and the then Minister for Planning. Corruption in my Webster's New World Dictionary is described as "evil or wicked behaviour, depravity and immoral behaviour". **HUNDREDS OF PEOPLE HAVE BEEN DENIED THEIR DEMOCRATIC RIGHTS** by this immoral behaviour.

As Minister for Planning, responsible for implementation of the Planning and Environment Act 1987 for the State of Victoria, it is your duty **NOT TO ALLOW** this totally unacceptable outcome from an extremely flawed process, to be swept under the carpet.

Overseas, people affected by wind farms are beginning to sue councils and governments for the inappropriate location of wind turbines, and it won't be long before this litigation begins in this country. You are in possession of all of these facts now, and it would be delinquent of you as the responsible Minister, to not act upon receipt of these facts by cancelling the permit. You must also demand an inquiry into the totally unacceptable, undemocratic process by which this monster wind farm has been allowed to go ahead. In fact, you would be doing the population of south-western Victoria and indeed the taxpayers of Victoria, an enormous favour if you prevent AGL from

proceeding any further. The cost, should AGL sue the Victorian government for breach of contract, would be far less than the economic liability this appalling project will leave this State, with most people leaving the entire rural districts, as they won't be able to live next or anywhere within up to 10 kilometres from any of the numerous massive wind farms which were approved prior to this government being elected to office.

I would appreciate an immediate reply from you. I would also like to convene a meeting with you as soon as possible. I have, for several weeks now attempted to organise a meeting with Simon Ramsay, in order that he would arrange a meeting with you. However, unfortunately he hasn't replied to both of my emails. I hope you will give me the courtesy of a reply.

Yours Sincerely,

ANN C. GARDNER (Mrs)

SECTIONS OF THE PLANNING AND ENVIRONMENT ACT 1987 NOT COMPLIED WITH IN 2010 DURING THE ASSESSMENT FOR AMENDMENTS TO THE PERMIT GRANTED TO AGL ENERGY LTD. FOR THE PURPOSES OF CONSTRUCTION OF THE MACARTHUR WIND FARM IN SOUTH-WEST VICTORIA.

PLANNING AND ENVIRONMENT ACT 1987 - VICTORIA

SECTION 14 DUTIES OF A RESPONSIBLE AUTHORITY

- 14 (c) to comply with (conditions) of this Act.
- 14 (d) to provide information as required by the regulations.

The Responsible Authority DID NOT COMPLY with all the requirements under these two sections.

SECTION 19

19 (1) (b) must give notice to the owners and occupiers of land that it believes may be materially affected by the Amendment.

AGL Energy Ltd. gave FALSE (and seriously understated) figures of Rotor Swept Area as part of the application for Amendments to the permit for the Macarthur wind farm. Therefore, the assessment undertaken by DPCD found that "the proposed changes would NOT materially affect land within the Moyne Shire or any person and that public notification under section 52 of the Act was, therefore, NOT considered necessary".

This travesty therefore resulted in a DENIAL of JUSTICE for those people to be detrimentally affected, and a DENIAL of their DEMOCRATIC RIGHTS.

19 (1B) a Planning Authority which does not give notice under subsection (1) (b) for the reasons set out in subsection (1A) must take reasonable steps to ensure that -

(a) public notice of the proposed amendment is given in the area affected by the amendment.

As I, along with all the other objectors and those to be materially affected by these Amendments, WAS NOT ADVISED of AGL's application for Amendments to the permit, I am unaware of whether the Responsible Authority (the Minister) complied with Section 19 (1B) (a) by giving public notice in this area to be affected by the amendment.

(b) notice states that owners and occupiers of land referred to in sub-section (1) (b) are entitled to make submissions in accordance with sections 21 and 21A.

All such owners and occupiers of land referred to, were DENIED THEIR RIGHT TO MAKE SUBMISSIONS, due to the Responsible Authority (the Minister) not giving public notification under section 52 of the Act, AS A RESULT OF AGL PROVIDING FALSE INFORMATION in order that Amendments to their permit would appear NOT TO CAUSE MATERIAL DETRIMENT.

19 (2) A Planning Authority must publish a notice of any Amendment it prepares in a newspaper generally circulating in the area to which the Amendment applies.

As I, along with all other objectors and those to be detrimentally affected by these Amendments, WAS NOT ADVISED of AGL's application for Amendments to the Permit, I am unaware if notice of Amendments was published in our local newspapers.

Could the Minister for Planning Mr. Matthew Guy advise if 19 (2) was complied with?

19 (3) On the same day it gave the last of public notices under section 19, the Planning Authority must publish a notice of the preparation of the Amendment in the Government Gazette.

Could the Minister for Planning Mr. Matthew Guy advise if 19 (3) was complied with?

DIVISION 2 PUBLIC SUBMISSIONS ABOUT AN AMENDMENT

21 Who may make a Submission

(1) any person may make a submission who has been given notice under Section 19

As I, along with all other objectors and those to be detrimentally affected by these amendments, WAS NOT ADVISED of AGL's application for Amendments to the Permit, we were DENIED OUR DEMOCRATIC RIGHT under Section 19, to make a submission.

(2) The Planning Authority must make a copy of every submission available at its office for any person to inspect during office hours, free of charge until end of two months after the Amendment comes into operation or lapses.

As I, along with all other objectors and those to be detrimentally affected by these amendments, WAS NOT ADVISED OF AGL's application for Amendments to the Permit, I doubt if any submissions were made, therefore the requirement to make copies of all submissions publicly available for inspection would not have arisen.

SECTION 22 PLANNING AUTHORITY TO CONSIDER SUBMISSIONS

(1) Planning Authority must consider all submissions made on or before the date set out in the notice.

As I along with all other objectors and those to be detrimentally affected by these Amendments, WAS NOT ADVISED OF AGL's application for Amendments to the Permit, we were DENIED OUR DEMOCRATIC RIGHT TO MAKE A SUBMISSION, therefore I doubt any submissions were made for the Planning Authority to consider.

SECTION 23 DECISIONS ABOUT SUBMISSIONS

(1) After considering a submission which requests a change to the Amendment, the Planning Authority must

(a) change the Amendment in the manner requested

or

(b) refer the submission to a Panel appointed under Part 8

or

(c) abandon the Amendment or part of the Amendment.

Due to such significant and substantial changes to the original wind farm proposal for which AGL were given a permit, the Minister should have ordered a new panel be held. However, this avenue was not in the best interests of the then government nor AGL, as the extent of the detrimental effect to neighbours and others would have been exposed, and the project may have been prevented from proceeding in its current form.

SECTION 23 is MOST SIGNIFICANT.

Not being given notice of AGL's application for Amendments to the permit, we were DENIED OUR DEMOCRATIC RIGHTS to object or make a submission and therefore Sections 23 (1) (a) (b) and (c) and could not be acted upon.

SECTION 38

(1) The Minister must cause a notice in the prescribed form, of the approval of every Amendment to be laid before each House of Parliament within ten days after it is approved.

No doubt this was NOT DONE, due to the above sections NOT BEING COMPLIED WITH by the Responsible Authority.

SECTION 38 PARLIAMENT MAY REVOKE AN AMENDMENT

(1A) A notice under subsection (1) must state whether the Minister exempted himself from any of the requirements of section 17/18 or 19 of the regulations.

Could the Minister for Planning Mr. Matthew Guy, advise if either Section 38 (1) or 38 (1A) was complied with by the Responsible Authority, being the Minister for Planning in 2010 ?

(2) An Amendment may be revoked wholly or in part by a resolution passed by either House of Parliament within 10 sitting days after notice of approval of the Amendment is laid before that House.

Could the Minister for Planning Mr. Matthew Guy, advise if notice of approval was given to Parliament ?

Could the Minister for Planning Mr. Matthew Guy, advise if Parliament was afforded the right to revoke the Amendments ?

If the previous Minister for Planning DID NOT COMPLY with Section 38 (1) or (1A), or Section 38 (1B), then Section 38 (2) COULD NOT HAVE BEEN ACTED UPON BY PARLIAMENT. Therefore the Parliament of Victoria WAS DENIED THE OPPORTUNITY TO REVOKE WHOLE OR PART OF THE AMENDMENTS.

As I along with all other objectors and those to be detrimentally affected by these Amendments, was materially affected by the failure of the previous Minister (refer 39 (1)), we were unable to refer the matter to the Tribunal for its determination up to one month after becoming aware of the failure.

ONCE AGAIN, WE WERE DENIED OUR DEMOCRATIC RIGHT UNDER SECTION 39 (3), 39 (4).

WE WERE ALSO DENIED OUR DEMOCRATIC RIGHT UNDER SECTION 41 TO FREE OF CHARGE, INSPECT A COPY OF THE APPROVED AMENDMENT FOR TWO MONTHS.

SECTION 50 AMENDMENT TO APPLICATION AT REQUEST OF APPLICANT
BEFORE NOTICE GIVEN

(5) The Responsible Authority may refuse to amend the application if it considers that the Amendment is so substantial that a new application for permit should be made.

The Amendments proposed by AGL to the original permit were SO SUBSTANTIAL that the Minister SHOULD HAVE COMPLIED WITH SECTION 50 (5) and INSISTED UPON AGL MAKING A NEW APPLICATION FOR A PLANNING PERMIT.

SECTION 51 The Responsible Authority must make a copy of every application and the prescribed information supplied in respect of it available at its office for any person to inspect during hours, free of charge.

Could the Minister for Planning Mr. Matthew Guy, advise if the Responsible Authority, in 2010, COMPLIED WITH SECTION 51 by making this information available at its office ?

SECTION 52 NOTICE OF APPLICATION

(a) must give notice unless Responsible Authority is satisfied that granting approval would not cause material detriment to any person.

The assessment undertaken by DPCD found that the proposed change will NOT materially affect land within the Moyne Shire or any person and that public notification under section 52 of the Act was, therefore, NOT considered necessary.

This DPCD assessment was based on FALSE and considerably UNDERSTATED and INACCURATE FIGURES provided by AGL, in order that it appeared the proposed Amendments would NOT materially affect any person or the Moyne Shire.

This mischievous behavior resulted in Section 52 NOT BEING COMPLIED WITH and as a result those to be affected were DENIED THEIR DEMOCRATIC right for notification of AGL's application for Amendments to their permit.

SECTION 76 REVIEW OF DECISION ON AMENDMENT

I, along with all other objectors and those to be materially affected by these Amendments, was DENIED THE RIGHT to review the decision to approve the significant Amendments.

SECTION 82

Appeals where objectors

(1) an objector may apply to the Tribunal for review of a decision of the Responsible Authority to grant a permit.

I, along with all other objectors and those to be materially affected by these Amendments, WAS DENIED A DEMOCRATIC RIGHT to apply for a review of the decision of the Responsible Authority as WE WERE NOT NOTIFIED UNDER DIVISION 2.

SECTION 87 WHAT ARE THE GROUNDS FOR CANCELLATION OR AMENDMENT OF PERMITS ?

- (1) The Tribunal may cancel or amend any permit if it considers there has been
- (a) a material mis-statement or concealment of fact in relation to the application for a permit.
 - (e) any failure to give notice in accordance with this Act.
- (3) (b) any person under section 89

SECTION 88 The power to cancel or amend a permit under section 87 may be exercised

(a) if the permit relates to the construction of buildings or the carrying out of other works, AT ANY TIME BEFORE THOSE OPERATIONS HAVE BEEN COMPLETED.

The Macarthur wind farm construction is certainly well under way, BUT IS BY NO MEANS NEAR COMPLETION, therefore this Section, in addition to Section 87 is certainly applicable.

SECTION 89 REQUEST FOR CANCELLATION OR AMENDMENT

- (1) any person who objected or would have been entitled to object to the issue of a permit may ask the Tribunal to cancel or amend the permit if -
- (a) the person believes that the person should have been given notice of the application for the permit and was not given that notice or
 - (b) the person believes that the person has been adversely affected by -

(i) a material mis-statement or concealment of fact in relation to the application for permit.

(3) the Tribunal may refuse to consider a request under this Section or Section 87 unless it is satisfied that the request has been made as soon as practicable after the person making it had notice of the facts relied upon in support of the request.

Sections 89 (1) (a) and (b) apply to myself and other objectors as well as those others who will be materially affected by the Amendments. We believe wholeheartedly that we should have been given notice of the application for Amendments to the permit and we were NOT GIVEN SUCH NOTICE. We also believe that we have been adversely affected by (i) a material mis-statement or concealment of fact in relation to the application for Amendments to the permit.

This Request for Cancellation of the permit for the Macarthur wind farm in relation to Section 89 (3) has been made as soon as practicable after I had received notice of the facts relied upon in support of such request.

Ann C. Gardner
[REDACTED]
[REDACTED]

9 March, 2012

Mr. Andrew Tongue,
Secretary
Department of Planning & Community Development
P.O. Box 2392
MELBOURNE, Vic. 3001

Dear Mr. Tongue,

FORMAL COMPLAINT

On February 13th, 2012, I wrote to your Department detailing a series of complaints which are listed briefly below. With my correspondence, I also enclosed multiple documents supporting my complaints.

1. **Provision of False Information in Support of AGL Energy's Application for Amendments to the Planning Permit for the Macarthur Wind Project**
 - AGL provided incorrect information when seeking to amend the planning permit by altering the Vestas V90 turbines approved in the permit to the significantly larger V112 model. The information for Rotor Swept Area ("RSA") provided was somehow corrupted in being taken from a Vestas V112 data sheet and inserted into AGL's application for the amendment, and this error, extraordinary as it was, was not noticed, questioned or changed by the officer of your department who had to then transfer the information provided by AGL to the Relevant Particular Provisions on page 4 of his Amended Planning Permit Assessment Officer Report.
 - There are a number of possibilities about how this might have happened. They would seem to be covered by the following major possibilities: first the AGL technician making an honest but unbelievable error and the DPCD officer unbelievably not noticing - highly unlikely one would think; secondly the AGL technician dishonestly corrupting the input data, and the DPCD officer colluding with the data corruption or not noticing, both options still (but possibly less) unlikely; and the most likely being the technician and the officer working together to achieve a positive outcome for AGL, in this case capital saving and an increase in efficiency or power generated by the use of the larger turbines. This would be made, so they thought, acceptable and unnecessary to disclose by shrinking the number of turbines so that total RSA remained approximately unchanged by the amendment. In their excitement at finding a politically acceptable solution they just bungled the arithmetic.

- In any scenario the DPCD officer and his superior were hopelessly careless and incompetent; in two of the situations described above they acted in collusion with staff of AGL to provide AGL with a clear and valuable outcome. Did your responsible officers do a proper job to satisfy themselves that by so doing there was no further harm to those already forced into a stakeholder position? If so what enquiries did they make?

2. The result of the presentation of false RSA data by AGL, and the negligence or collusion of the DPCD, was the presumption by the DPCD that it was able to find that the proposed amendment to turbine size would not materially affect land or any person and that public notification under Section 52 of the Act was therefore not considered necessary. This conclusion was technically unsound.

- The larger the RSA and the longer the rotor blade length the greater the noise emitted at various frequencies. This change is measurable and calculable. This information was presented by Dr Bob Thorne in one or more expert witness statements at Planning Panel hearings, probably Berrybank or Waubra, and is referred to in Van den Bergs book "The Sounds of High Winds" published in 2005. It is absolutely certain that the change in turbine size and number would change the levels, distribution and frequencies of noise emitted by the project. It is inconceivable that AGL would not be aware of this correlation. Did AGL discuss this with your officers? If so what action did the DPCD take to check the effect on the project neighbours? If AGL did not raise the matter perhaps they were not disclosing very important information?
- Even if your officers were not informed they should have had the wit to seek independent advice; did they do so?
- It seems clear that the DPCD would do whatever was necessary to grant amendments and avoid disclosure to interested parties. This was a massive amendment and the officers involved must have known that. They were part of doing whatever was necessary regardless of the Act, their personal responsibilities and the likely damage to project neighbours. Unacceptable behaviour. It may involve illegal actions.
- Consequently objectors, neighbours and those to be affected, WERE NOT NOTIFIED of any proposed amendments.
- Objectors, neighbours and those to be affected WERE DENIED THEIR RIGHT to object.
- The Victorian Parliament was therefore NOT NOTIFIED of the proposed amendments and as a result was DENIED THE RIGHT TO OBJECT to the changes.
- Due to such significant amendments to AGL's original Planning Permit, another Panel should have been called. This DID NOT TAKE PLACE.

- In my correspondence dated 13th February 2012, I requested the cancellation of the Planning Permit for the Macarthur wind farm, in addition to the calling for an Inquiry into the manner in which the Amended Permit for the Macarthur wind farm was approved in 2010.

3. Other Significant Amendments Granted with No Consultation and Inadequate and Negligent Rationalisation.

These include:

- **Visual Amenity:** it is absolute nonsense to claim visual amenity is improved by reduction of turbines from 183 to 140 larger turbines. Once more than 20 turbines are inserted into the landscape the visual amenity is gone. Did the officers seek advice? There is much advice of expert quality available. It is considered that this a lazy, ignorant and irresponsible rationalization.
- **Overhead Cabling:** the amendment allowing overhead cabling to replace underground cabling is nothing more than handing AGL a reduction in capital expenditure with resultant damage to the environment, the amenity and avifauna and increasing the fire risk in a fire prone area. What advice was sought by or given to your officers on these matters. This amendment is in direct contravention of the permit conditions and no rationalization is offered. Nor is anyone informed. Outrageous!
- **Noise:** the amendment proposed and granted is a major concession to the developer at the direct expense of the health and well being of the neighbours. There was much information available on the health effects of wind turbines and a simple search would have shown that this matter needed to be treated with real caution. The responsible officer merely notes: "it is considered that the proposed change to turbine and blade specification will not adversely impact on noise emissions from the site." Who considered? What advice was taken; was any of it expert and independent? This again was a casual and insensitive judgement on a most important matter apparently with no support on a highly technical matter. Not to disclose the proposed substantial lessening of noise restrictions was wrong and irresponsible and particularly so when combined with turbine size change.

My complaints about the amendments were unilaterally dismissed by the DPCD because they were too late. They were too late because of the Department's incompetence in reviewing the proposed amendment and not finding the major error therein. You cannot then blame me, a farming wife with no training in these matters, taking time to find the anomalous figures and making the necessary investigations and coming to the conclusion the Department never reached. The Department is to blame for my lateness in putting all this together so I request the following:

- AGL be ordered to halt construction;

- AGL to fund independent experts chosen by me and with a project scope agreed with my advisors to assess the amendments granted;
- the DPCD to reconvene a Planning Panel to consider the amendments;
- AGL to fund attendance at the Panel by my experts and a barrister of my choosing.

Mr Tongue, these events took place before you became Head of the Department, but you would have been aware of the then “culture” in the Department of doing everything to encourage, rather than properly control, the deployment of wind turbines. The culture was more than that word covers, it was an imperative that no one cared to debate, a political religion, and like all religions was careless of human sacrifices, human rights and reaching equity between the stake appropriators and the stakeloses which in this case were project neighbours. If this culture still exists, along with the far too close embrace with wind energy developers, then it is time that chapter be firmly closed and a new and democratic balance returned.

Along with my particular concerns itemised above, I request you to undertake a full enquiry by your Department into the handling of the significant amendments granted by the then Minister, without consultation with the affected public.

In addition I wish to obtain a specific and carefully thought through response to the following matter.

- There are a largish number of approved and yet to be constructed wind projects in Victoria that were approved under the guidelines established by the turbine embracing previous government.
- These guidelines did not and do not protect peoples’ health and wellbeing; they fail miserably in this regard.
- The recent change from noise guidelines being based on the 1998 NZ standard to the 2010 NZ standard only changes noise impacts at the margin, and will, I am advised by independent acousticians and the Waubra Foundation, make no difference to the destruction of the health and wellbeing of project neighbours.
- The new guideline of ensuring no turbine is placed within 2km of a residence will not materially reduce health and well being disasters (emphatic and clear advice from the same experts).
- The fundamental conclusion (and the startups at Glenthompson and Hepburn make this point very clearly) is that allowing approved projects to proceed on the old guidelines casts the DPCD acting in full knowledge of what you are doing which is creating another health disaster. It will be with the same certain knowledge when in future you approve projects under the new (2km) guidelines.

How can you allow projects to proceed when you are, in full knowledge, causing grievous bodily and mental harm? Denial of the problem will no longer suffice; nor will the excuse of a project being approved.

I am requesting you to provide me with a full response within 21 days of the date of this letter.

Yours sincerely,

ANN C. GARDNER

A 12



Department of Planning and Community Development

Ref: BMIND14346

Mrs Ann Gardner
[REDACTED]

1 Spring Street
Melbourne
Victoria 3000
Australia
GPO Box 2392
Telephone: (03) 9208 3333
Facsimile: (03) 9208 3680
ABN: 30485673497
www.dpcd.vic.gov.au

28 JUN 2012

Dear Mrs Gardner

MACARTHUR WIND FARM PROJECT - AMENDMENTS TO PLANNING PERMIT

Thank you for your letter regarding amendments to the planning permit for the Macarthur wind farm project. I note that you have also written to the Hon Ted Baillieu MLA, Premier, and the Hon Matthew Guy MLC, Minister for Planning, regarding this matter. I am also responding on behalf of the Premier and the Minister.

I am aware that in January 2010, the former Minister for Planning amended the planning permit for the Macarthur wind farm project to allow rotor blades of up to 50.5 metres in length (an increase of 5.5 metres) in response to a request from the proponent, AGL Energy Limited.

In June 2010, AGL Energy Limited requested the former Minister for Planning to make further amendments to the planning permit.

These further amendments included a reduction in the number of wind turbines from 183 to 140, an increase in overall maximum height from 135 metres to 140 metres, an increase of rotor blade length of up to 56 metres, and to allow overhead powerlines (rather than below ground) between the wind farm site and the 500 kV electrical substation. On 29 July 2010, the former Minister for Planning amended the planning permit as requested.

I note that you are concerned about not being consulted about the amended proposal and the way in which officers of the Department of Planning and Community Development assessed this request to amend the permit, and have requested this matter be investigated.

In support of the amended proposal, AGL Energy Limited provided an assessment of the alternative wind farm layout against the previously approved layout. Based upon this report, and the Department's own assessment of the modified project, public notification of the application to amend the permit was deemed unnecessary in this case as it was considered that the proposed amendments would not materially affect adjoining landowners/properties.

The amendment to the planning permit did result in a decrease in combined rotor swept area from what was previously approved in January 2010 (from 1,466,166 square metres to 1,379,283 square metres). I acknowledge the rotor swept area calculations contained within the Department's assessment report were incorrect - this was the Department's error, not the proponent's. The combined rotor swept area, however, was not the only consideration addressed in the Department's assessment report which also analysed potential impacts on visual amenity, flora and fauna, noise, shadow flicker and electromagnetic interference.

Privacy Statement

Any personal information about you or a third party in your correspondence will be protected under the provisions of the Information Privacy Act 2000. It will only be used or disclosed to appropriate Ministerial, Statutory Authority, or departmental staff in regard to the purpose for which it was provided, unless required or authorised by law. Enquiries about access to information about you held by the Department should be directed to the Manager Privacy, Department of Planning and Community Development, GPO Box 2392, Melbourne, 3001.



With respect to your query about the new Victorian wind farm guidelines, I can advise that in early 2011, the Minister for Planning approved Amendments VC78 and VC82 which introduced the new guidelines into all planning schemes in Victoria. The new guidelines promote greater consideration of local amenity impact, including noise impacts on nearby residents specifically within 2 kilometres of wind turbines.

These new guidelines are not retrospective. In relation to approved wind farm projects, development must accord with the conditions on the respective planning permits and endorsed development plans.

The planning permits for approved wind farm projects also require wind farms to operate in accordance with New Zealand Noise Standard 6808:1998 '*Acoustics - The assessment and measurement of sound from wind turbine generators*'.

As is the case with the Macarthur wind farm project, turbines have not been permitted to be constructed where comfortable margins of compliance with the Noise Standard cannot be achieved.

In conclusion, I have carefully reviewed your complaint and how Departmental officers administered the amended wind farm permit matter. I am satisfied that Departmental officers acted appropriately in assessing the amended proposal, and that the documentation provided by the proponent to the Department was satisfactory. I am also satisfied with the conduct of the Departmental officers concerned and their integrity in their interactions with the proponent. You have sought to have the permit cancelled or the proponent directed to cease works, and to have the matter referred to the Chief Commissioner Victoria Police. There are insufficient grounds to support such action being taken.

Should you have any further questions, please contact Mr Kim McGough, Manager Planning and Development at the regional office of the Department of Planning and Community Development, on telephone 03 5226 4012.

Yours sincerely



Andrew Tongue
SECRETARY

*The change in turbines will
affect output - change
noise output - approval
upon which assessment provided
was granted - is incorrect -*

A13



3rd July, 2012

Mr. Andrew Weston,
Manager Freedom of Information,
Department Planning and Community Development,
GPO P.O. Box 2392,
MELBOURNE, Vic. 3001

Dear Mr. Weston,

I am writing to request under the Freedom of Information Act 1982 documents relating to the amendments to the Macarthur wind farm permit, requested by Agl Energy Ltd. in January 2010 and June 2010.

I would like copies of all documents relating to NOISE MODELLING and adjusted NOISE DATA. These documents should have been submitted with requests for change of turbine size from V90 (1.8 MW) to V 112 (3.0 MW), and also increase of blade length from 45 metres in original 2006 permit to 50.5 metres January 2010 then 56 metre blades requested in June 2010.

I would also like documents relating to shadow flicker and electromagnetic interference due to altered turbine generating capacity.

The officer in your department to whom I spoke this morning informed me I could request to waiver the fee of \$25.10 due to hardship. We do not have a pension card at all, only a seniors card. However we have just been forced to close our shedded sheep wool-growing enterprise due to the impact of construction of the Macarthur wind farm, this business forming 80% of our farming enterprise. As a result of this our income from this year on, will be severely reduced.

I look forward to your prompt response.

Yours sincerely,

ANN C. GARDNER (Mrs)



Department of Planning and Community Development

9 July 2012

Mrs Ann C. Gardner
[REDACTED]
[REDACTED]

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne Victoria 3001
Telephone: (03) 9208 3333
Facsimile: (03) 9208 3680
DX 210292
FOI
2012/070

Dear Mrs Gardner

Freedom of Information

I refer to your request under the **Freedom of Information Act 1982** (FOI Act), received with the application fee by the Department of Planning and Community Development on 9 July 2012. The request states that you seek the following:

"...documents relating to the amendments to the Macarthur wind farm permit, requested by Agl Energy Ltd. in January 2010 and June 2010.

I would like copies of all documents relating to NOISE MODELLING and adjusted NOISE DATA. These documents should have been submitted with requests for change of turbine size from V90 (1.8 MW) to V 112 (3.0 MW), and also increase of blade length from 45 metres in original 2006 permit to 50.5 metres January 2010 then 56 metre blades requested in June 2010.

I would also like documents relating to shadow flicker and electromagnetic interference due to altered turbine generating capacity."

In responding to your application, it is our policy to make preliminary inquiries to determine:

- If the department is in possession of the documents you are requesting.
- How many documents are involved.
- The effort required retrieving and assessing the documents.

These inquiries may have several different outcomes:

- Your application can proceed towards resolution in its original form.
- Your application may require some form of clarification to proceed, for example, it may become apparent that an application does not comply with section 17(2) of the Act, which requires that the request should provide sufficient information for an officer to identify the subject documents. Please note that should your application be unclear in terms of section 17(2) of the Act, the statutory time period of 45 days does not commence until we have received an effective clarification from you.
- You may be required to vary your application in order to avoid refusal under section 25A of the Act. In particular, Section 25A(1) of the Act states that the request may be refused if the work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations.



Should any of these situations seem likely, we will contact you to discuss how refusal may be avoided.

In this instance the department has accepted your reason for hardship and will waive the application fee of \$25.10.

When the documents you have requested have been identified you may be required to pay charges for access to the documents. The Act provides that if we are of the opinion that these access charges are likely to exceed \$50.00, you are to be notified of the calculated charge and required to pay a deposit if you choose to proceed with the request. Please note that if a deposit is required and you decide to proceed with your request, the statutory time period of 45 days does not commence until we have received your deposit. I will contact you if access charges are applicable to this request.

We will endeavour to undertake these initial inquiries as quickly as possible.

Please feel free to contact me on 9208 3112 or at foi@dpcd.vic.gov.au if you wish to discuss this matter further.

Yours sincerely



Andrew Weston

Manager - Freedom of Information

Enclosed: Applicant Cheque \$25.10

A14

[REDACTED]
10th July 2012

Mr. Matthew Guy, Minister for Planning,
1 Spring Street,
MELBOURNE, Vic. 3000

Dear Mr. Guy,

Since 13th February, 2012 I have written to you eight letters, to the Ombudsman two letters and to Mr. Andrew Tongue, Secretary of Department of Planning and Community Development one letter. These letters have all claimed that the objectors/neighbouring landowners to the Macarthur wind farm, should have been afforded their DEMOCRATIC RIGHT under Section 52 of the Planning and Environment Act of Victoria, and been advised of the multiple significant amendments to this wind farm being constructed on our boundaries. I also requested that you as Minister for Planning, responsible for this development proceeding and affecting neighbours so badly merely during construction, cancel the permit and request an inquiry into the manner in which approval was granted for the amendments to the permit.

I am once again, writing my ninth letter, requesting you overturn the permit for this wind farm and inquire into the manner in which these significant amendments were approved WITHOUT SUFFICIENT SUPPORTING DATA to justify the DPCD's conclusion that the impact of these many amendments would not be any greater to neighbouring landowners and the Shire of Moyne.

In 2010 when AGL first requested amendments to the permit for the Macarthur wind farm, it appears DPCD failed in its obligations by not requiring comprehensive NEW noise data for the V112 turbines as compared to the much smaller and 55% less generating power of the original V90 turbines planned for this development. However it appears that since 2010 nothing has changed within DPCD. Still DPCD has failed to investigate concerns about noise at wind farms. It would appear that DPCD has also failed to ensure that predictive noise modelling for wind farms was appropriate despite my numerous letters to you. Your government has failed to meet its responsibilities to protect the people of Victoria, being adversely affected by wind farms or construction of wind farms.

Since my first letter of 13th February, Mr. Guy our ultra-fine shedded sheep enterprise has been DESTROYED BY THE SEVERE IMPACT OF CONSTRUCTION of the Macarthur wind farm right next to our property boundary. We have been forced to close a most successful enterprise which for the last eleven years has provided 80% of our income, and cannot be re-opened for at least 10 years due to lack of appropriate finely bred sheep. As we are one of only two ultra-fine sheep breeders in Victoria and cannot source our sheep externally it will take at least ten years before we can resume this enterprise. This means we have been forced to forego between \$1 million and \$2 million in income over the next ten years. We are now left with a farm which is "less than a living area" which means the income from our very small farm is LESS than our costs !!! We have for the last three years also had to endure severe stock losses in our paddock farming enterprise (the one which is less than a living area), due to the construction activities of AGL Energy Ltd. on our farm boundary.

Who is going to compensate us for this Mr. Guy ?

We now find we have an enormous 146 metre turbine located 90 metres from our farm boundary, when during the panel in 2006 we were informed that the closest turbine would be 130 metres from our property. WE HAVE NOT BEEN NOTIFIED OF ANY CHANGES TO THE POSITION OF THE CLOSEST TURBINE TO OUR PROPERTY BOUNDARY SINCE 2006, MR. GUY.

I am enclosing a copy of the letter I have sent in response to the letter I received recently from Mr. Andrew Tongue, Secretary of DPCD which was supposedly sent on behalf of you as Minister, Ted Baillieu as Premier. What an absolute insult it has been to have not been given the courtesy of a reply to ANY OF MY CORRESPONDENCE TO YOU for NINETEEN WEEKS. You and your Department should be ashamed of yourselves for this total lack of consideration and respect for the people you have been elected to serve. It appears to me that the only reason I have actually been given the courtesy of a response to all of my correspondence is that the Ombudsman's office intervened and ordered a reply to me.

We do not accept Mr. Tongue's explanation and flippant explanation regarding the SUBSTANTIAL ERROR made by an officer of your Department calculating the RSA figures of the turbines for the Macarthur wind farm. This has obviously just been dismissed by your Department but WILL GREATLY IMPACT the life and livelihoods of the many neighbouring landholders to the Macarthur wind farm. An officer within your Department made A VERY SERIOUS MISTAKE IN CALCULATING THE RSA. This mistake resulted in the Rotor Swept Area being reduced from the initial 51,700 square metres for the 183 turbines of 1.8 megawatts (wrong) to 49,200 square metres for the 140 3.0 megawatt turbines (wrong). On these figures on page 4 of the document Amended Planning Permit Assessment Officer Report this resulted in a decrease of RSA by 4.83%.

BUT MR. GUY this officer was VERY WRONG. So our life and livelihood have been ruined just because an officer in your Department MADE A VERY SERIOUS MISTAKE. This mistake has been alerted to you eight times and YOU HAVE DONE NOTHING ABOUT IT. Mr. Tongue has literally disregarded this impact. Since you were alerted to this VERY SERIOUS ERROR has anyone within your Department actually made the effort to investigate the impact taking into account the correct figures ? OBVIOUSLY NOT.

Do you actually know what the correct RSA figures are?

The CORRECT RSA figure for the 183 turbines of 1.8 megawatts is 1,164,246 square metres.

Your officer gave this figure as 51,700 square metres. So your officer made a mistake to the extent that he underestimated this RSA of the initial 183 turbines by 22.519 times !!!!!

The CORRECT RSA figure for the 140 turbines of 3.0 megawatts is 1,379,280 square metres.

Your officer gave this figure as 49,200 square metres. So your officer made a mistake to the extent that he underestimated this RSA of 140 turbines by 28.034 times !!!!!

So instead of a decrease of RSA by 4.83% as the Officer's Report claims, in fact there is an INCREASE in RSA of 18.46% for 140 turbines of 3.0 megawatts compared to 183 turbines of 1.8 megawatts !!!

Since I have alerted you and your department to this serious mistake, has anyone within your department bothered to reassess the impact on visual amenity, flora and fauna, noise, shadow flicker and electromagnetic interference ?

I would think NOT.

Page 4 of this document under Clause 52.32 Wind Energy Facilities quotes "The purpose of this clause is to facilitate the establishment and expansion of wind energy facilities, in appropriate locations, with MINIMAL impact on the amenity of the area. As such it is critical to ascertain the impact on the proposed permit amendments on this purpose."

The last line of this page quotes "The diameter of turbine of this model will be up to 11 metres wider and 5 metres higher thus posing potential visual impact, fauna, noise and shadow flicker changes".

Now, if the officer had done his maths properly it would have been found that there WILL BE INCREASED IMPACT ON PERSONS AND LAND WITHIN THE SHIRE OF MOYNE. Maybe in your department you should insist on peer review for those whose maths is so poor - this is not rocket science !!!!

My reading of Mr. Tongue's explanation tells me he really doesn't understand that since the panel for the Macarthur wind farm held in February/March 2006 and the subsequent approval in October 2006 of the 183 turbine wind farm using 1.8 megawatt turbines, the neighbours and objectors to the Macarthur wind farm HAVE NOT BEEN ADVISED of ANY of the multiple amendments whatsoever.

I am referring not to the amendments from January 2010 to July 2010, but to the numerous SIGNIFICANT AMENDMENTS from granting of the permit in October 2006 to approval of the final amendments in July 2010.

So we are back to square one, and the neighbours to the Macarthur wind farm will NOT lie down until you act Mr. Guy. If you choose to ignore our requests to cancel the permit for the Macarthur wind farm (which SHOULD NEVER HAVE BEEN APPROVED) and literally cast our concerns aside you will ultimately find a litigation case against your government for inappropriate location of wind turbines. Your government knows only too well that the Macarthur wind farm WILL NOT COMPLY with the noise guidelines, in a similar manner to the Waubra wind farm, the Cape Bridgewater wind farm, and possibly the Glenhompson wind farm. At the Waterloo wind farm in South Australia where 3 megawatt turbines are in operation families up to 5 kilometres have been forced to leave their homes. The Waterloo wind farm is a far smaller wind farm than the 140 turbines of the Macarthur wind farm and the cumulative impact of this huge number of turbines in grid fashion, will be huge.

There are many avenues whereby litigation may arise regarding the Macarthur wind farm and these include common law nuisance, negligence, and breach of statutory duty. The Responsible Authority which in the case of the Macarthur wind farm is the Minister for Planning, may be liable for negligence arising where members of the planning body are aware of the facts necessary to show that the wind farm in question will not satisfy the conditions attached to the planning permit, in that the turbine noise generated would exceed the EPA's criteria.

The fact that you have not bothered to investigate my concerns and the officers within your department have not bothered to re-visit the approval of the amendments to the permit for the Macarthur wind farm only further supports the legal advice we, as neighbours to this project (which should have gone to a new panel), have been given that the Responsible Authority can be liable.

As I have requested of Mr. Andrew Tongue, I am requesting you grant me the following :

1. Copies of ALL reports provided by AGL Energy Ltd. in support of their requests for amendments to the permit for the Macarthur wind farm granted in October 2006, both in January 2010, and July 2010.

2. Copies of ALL new noise modelling and data for the V112 3.0 megawatt turbines now being used.
3. A WRITTEN GUARANTEE that the turbines for the Macarthur wind farm project WILL PROVIDE COMFORTABLE MARGINS OF COMPLIANCE with the Noise Standard. This is necessary to support Andrew Tongue's written claim in his letter of 28 June 2012 which reads "As is the case with the Macarthur wind farm project, turbines have not been permitted to be constructed where comfortable margins of compliance with the Noise Standard cannot be achieved".
4. The neighbours/objectors to the Macarthur wind farm be given their DEMOCRATIC RIGHT under Section 52 of the Planning and Environment Act of Victoria, to be notified of and as a consequence, object to the amendments to the permit. This must be afforded in the form of a new panel which should have taken place in 2010 under the previous government.
5. In order for the above to be implemented, a MORATORIUM be placed on any further construction of the Macarthur wind farm, and the Minister CANCEL the permit and a NEW PANEL be ordered, no matter what stage of construction the Macarthur wind farm is at.

You are fully aware that the Macarthur wind farm is going to be an absolute disaster and WILL break the noise guidelines, so it's time you did something pro-active about this appalling situation for which you as the Minister for Planning are solely responsible. The previous Labour government is responsible for initially denying neighbours their democratic rights under Section 52 of the Planning and Environment Act of Victoria. However the current government is responsible for not acting upon this totally unacceptable situation, whereby you are well aware of violation of Section 52 and I have now nine times written to you requesting action on our behalf. We know very well that your government is truly petrified about litigation and the longer you show such lack of leadership and respect for citizens of country Victoria, in this case neighbours to the Macarthur wind farm, the worse this situation will become. Had you acted upon my requests in February 2012 this situation could have been avoided.

It appears to the neighbours of the Macarthur wind farm that DPCD staff have failed to ensure that accurate noise modelling for the Macarthur wind farm's new V112 turbines (with 55% greater generating capacity) was appropriate. The considerable change in turbine size from 1.8 mw to 3.0 mw will automatically change the noise output and this is most definitely NOT COUNTERACTED by reduction of turbine number from 183 to 140 turbines. The Noise Assessments provided upon which approval for the amended permit in 2010 was granted IS INCORRECT.

This failure on behalf of DPCD staff is obviously not particular to the Macarthur wind farm. I enclose a copy of a letter written to you Mr. Guy from Mr. Andrew Chapman in South Gippsland also complaining about governments failing to protect the environment and also allowing people to be harmed by wind farms. You might also take the time - around 25 minutes - to view the video of a lawyer addressing a public meeting in NSW outlining the failure of governments to look after the interest of people living around wind farms. It is certainly very enlightening.

I would appreciate a PROMPT RESPONSE to this correspondence, unlike previous total disregard shown by you for my multiple requests and correspondence. I would appreciate a reply from you and not anyone else further down the line please. I have given five requests in this letter and would appreciate your giving me a satisfactory response to each.

Yours sincerely,



Department of Planning
and Community Development

10 December 2012

Mrs Ann C. Gardner
[REDACTED]

1 Spring Street
Melbourne Victoria 3000
GPO Box 2392
Melbourne Victoria 3001
Telephone: (03) 9208 3333
Facsimile: (03) 9208 3680
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www.dpcd.vic.gov.au

2012/101

Dear Mrs Gardner

NOTICE OF DECISION

Freedom of Information (FOI) Request

I refer to your request under the *Freedom of Information Act 1982* (FOI Act), received by the Department of Planning and Community Development (the department) on 12 July 2012 and clarified on 31 August 2012, as follows:

"My request concerns documents relating to the amendments to the Macarthur wind farm permit requested by AGL Energy Limited in January 2010 and June 2010.

Under the Freedom of information Act, I am writing to request access to all parts of the report provided by AGL Energy Limited as an assessment of the alternative wind farm layout against the previously approved layout."

In response to your request, you were provided with a copy of the report prepared by SKM provided to AGL titled *Macarthur Wind Farm – Alternative Turbine and Layout Assessment* dated 9 June 2010. The report was provided to you under the decision letter dated 1 November 2012 reference number FOI 2012/070.

By email dated 8 November 2012 you wrote seeking further detail:

Whilst I have been sent one copy of a letter mentioning the request for amendment to 56 metre blades, there appears to be no new noise data or literally any reference to the new V112 turbines which have been constructed at the Macarthur wind farm right next to our property boundary.

Naturally it is all information pertaining to the most recent request for amendment in June 2010 which is of greatest significance to me.

There should have been new noise modelling and noise data supplied with this second amendment in July 2010 as all previous noise data would be totally irrelevant to the much larger blades of 56 metres and greater generating power of 3.0 megawatts from the initial 1.8 megawatts.

The original turbines proposed were Vestas – then it appears next was Suslon – but the latest request was for Vestas V112, with 55% greater generating capacity to which there appears to little or no reference.

I would appreciate if your department could forward to me ALL RELEVANT DATA obtained supporting their request for amendment to Vestas V 112 turbines – did SKM do another study and provide such vital information?

Your email was accepted as an FOI request. In response to the request a thorough and diligent search of the hardcopy and electronic records held by the Department's Planning, Building and Heritage area was conducted. The search did not locate any documents relevant to your request, beyond the report previously provided.

Right of Review

Under section 61A of the FOI Act you have the right to complain to the Freedom of Information Commissioner about a decision that a document does not exist or cannot be located. Any complaint should be made in writing within 28 days of receiving this decision, addressed to the Freedom of Information Commissioner – Complaints, Office of the Freedom of Information Commissioner, PO Box 24274, Melbourne Victoria 3001.

Access Charges

Access charges are applicable under s22 of the FOI Act and the *Freedom of Information (Access Charges) Regulations 2004*. In this instance any applicable access charges have been waived.

Please telephone me on (03) 9208 3112 if you have any questions in relation to this decision.

Yours sincerely



Andrew Weston
Manager – Freedom of Information

Appendix 1

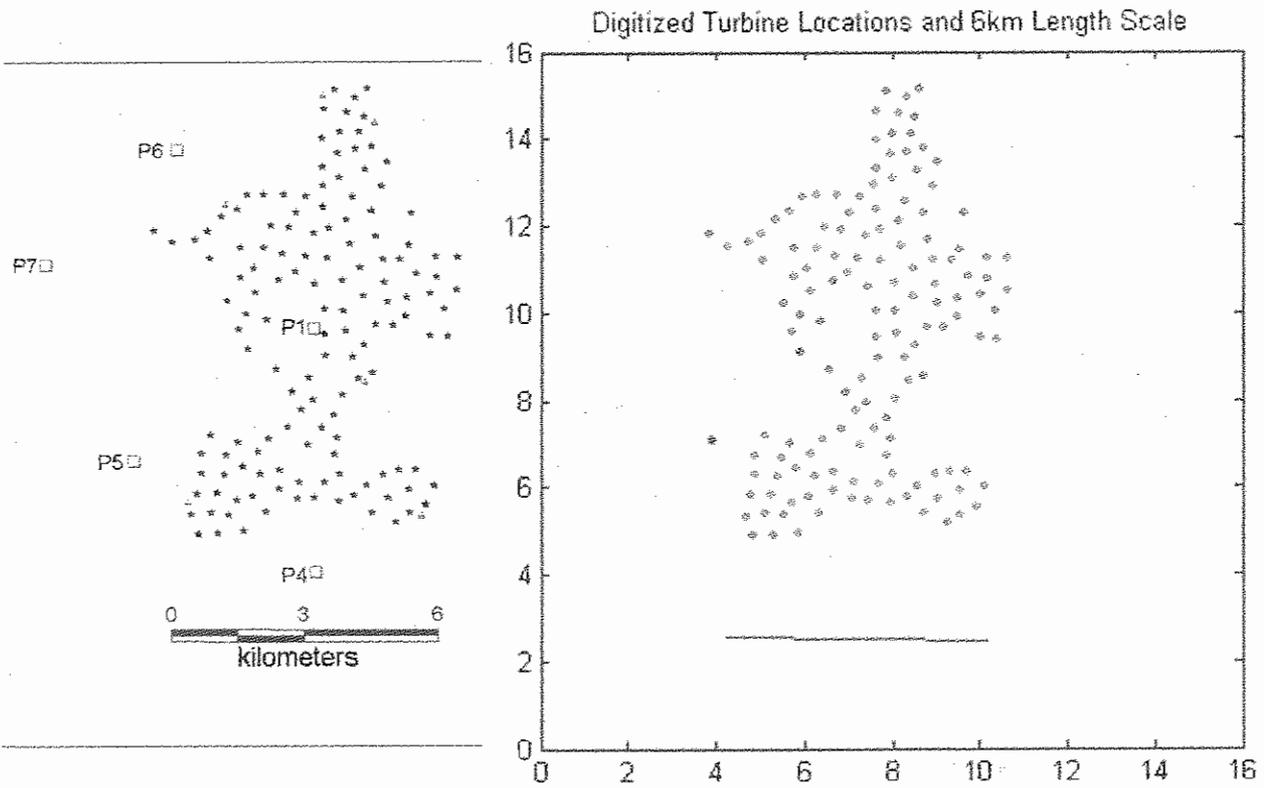
Correspondence relating to turbine separation distances in Australia, between UK acoustician Dr Malcolm Swinbanks, Mr Les Huson, and myself earlier in 2014. I had asked Dr Swinbanks and Mr Huson if the lack of adherence to the relevant International Standards might explain why there were so many complaints at specific wind developments which I had been advised did not meet the recommended turbine separation distances. There is subsequent documentation of turbine separation distances at Waterloo by Mary Morris, again which do not meet the recommended international standard.

From: "MA.DR SWINBANKS" [redacted]
Date: March 3, 2014 10:27:12 AM GMT+10:30
To: [redacted] <[redacted]@[redacted]>
Cc: [redacted]
Subject: Re:MacArthur Windfarm

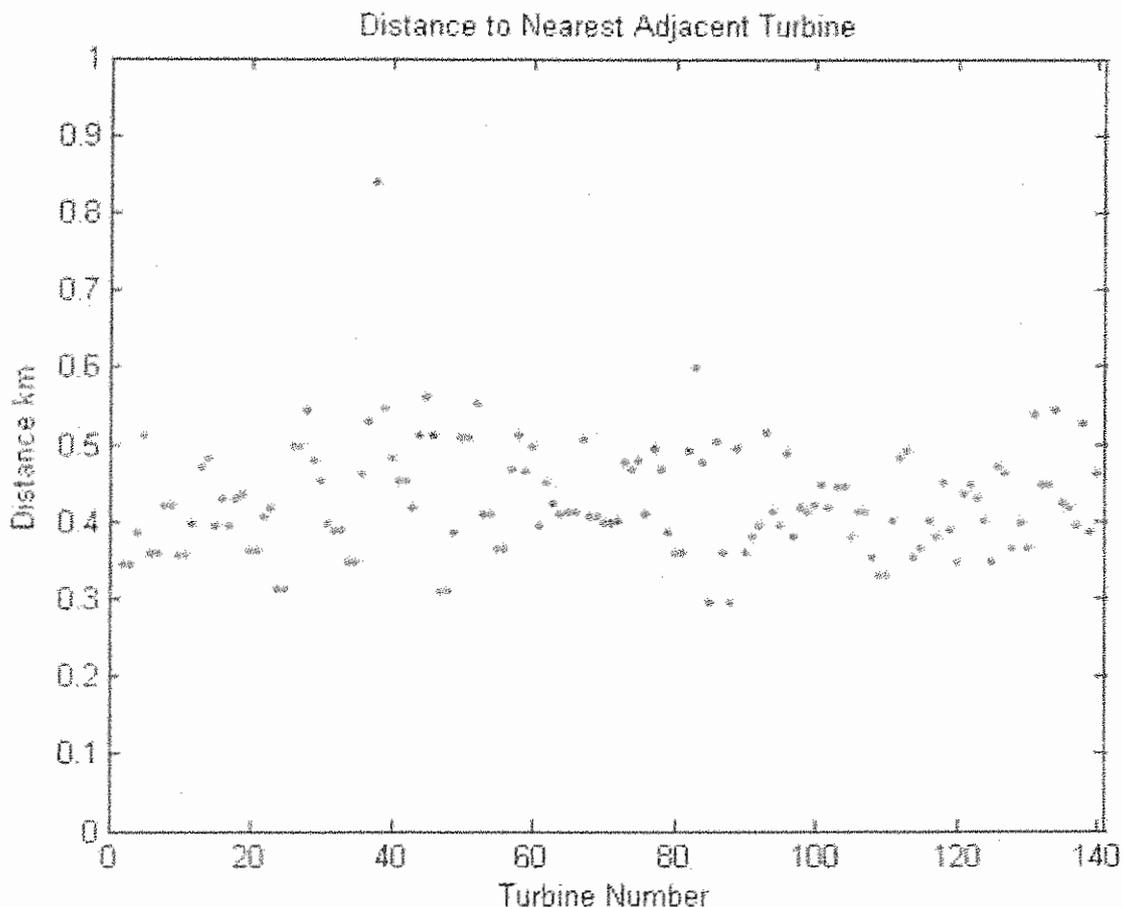
Les,

Thank you for your email last night. I am enclosing the results that I had intended to send last September relating to the MacArthur Windfarm and the JPEG map of the turbine locations.

There are two JPEG files attached. The first shows side-by-side a cropped version of the JPEG map you had provided, and the digitized equivalent that I used for the calculations. I have tried to size the two figures so that they can be seen to match up - I hope that I did not introduce any distortions, but my digitization was from the unmodified original JPEG.



The second file shows the calculated minimum separations of the 140 individual turbines - ie the distance from each turbine to its nearest neighbour. These separations were calculated from the digitized co-ordinates, scaled using the 6km distance bar.



I understand that the windfarm consists of 140 Vestas 112 3MW turbines. These have 112m diameter blades, and if they are generating 3MW maximum, they are fully loaded (ie not the more recent low-wind speed "backed-off" versions, where the capacity factor is "improved" by restricting and reducing the maximum power output). Since they are capable of running at full capacity for a 112m blade diameter, the corresponding turbine separations should be defined by the usual conventions. I.e. 7 blade diameters in the direction of the prevailing wind, and 4 blade diameters in the less common crosswind direction.

For 112m blade diameter, this yields 784m (0.78km) and 448m (0.45km) respectively.

The overall layout does not imply any prevailing wind direction, and it can be seen that many of the separations are under 0.4km, so do not meet the 4 blade diameter specification. The average is not even 0.45km.

So my reaction on seeing this map was that these turbines are far too close together, and inevitably there will be turbulent wake interaction and likely enhanced infrasound generation. Moreover, it is likely that the windfarm will be unable to generate at its maximum capacity, since turbines towards the center will be shielded and consistently operating under inferior wind conditions. Danish measurements in the North Sea for a windfarm with a square array of 7 diameters in each direction was found to lose significant power output from the interior rows that were shielded.

I hope these comments are accurate, and that I have not misinterpreted the original JPEG. But the stated area of the windfarm of 5500 hectares seems to be consistent.

Malcolm

From: W Les Huson <[REDACTED]>
Date: March 11, 2014 1:25:36 PM GMT+10:30
To: "MA.DR SWINBANKS" <[REDACTED]>, Sarah Laurie
[REDACTED]
Subject: Re: Wind Turbine Separations
Reply-To: [REDACTED]

Malcolm

The planning process in Australia for the approval of wind farms is seriously flawed.

Often, a developer has no intention to build a particular wind farm. It has often been the case that an approved wind farm is on-sold.

Of course, this is not always the case and some proponents secure both the planning approval and continue to build the wind farm. However, in almost all cases the wind farm layout is chosen at the planning application stage without knowledge of which turbine will eventually be used. Site layout issues such as minimum separation distances are just not considered with regard to noise emissions.

On approval, generally only micro-siting changes are allowed ($\pm 100\text{m}$) with only a stipulation that the final turbine choice must have a sound power rating equal to or less than the sample turbine used to gain planning approval.

The developer then goes out to tender for the cheapest turbines. Obviously, the likes of Vestas, Acciona or Gold Wind will offer their wares in accordance with the already approved layout to maximise their sales. I doubt if any would caution that a particular approved turbine spacing will alter the sound emissions calculated using IEC61400-11

Regards

Les Huson

On 11/03/2014 1:23 PM, MA.DR SWINBANKS wrote:

I was just contacted in another context in respect of wind turbine separations. I observed that in Australia they do not seem to follow the recommendations.

Two comments follow:

First, when I worked with a major aero-engine manufacturer, they were extremely concerned about ground testing of prototype engines, where inflow turbulence could compromise the results by as much as 15dB. They have to guarantee engines to very close noise tolerance, otherwise they cannot sell them. So they have to know how to account for these effects, and consequently have years of experience of taking these effects into consideration.

Wind Turbines must be separated by sensible distances, otherwise turbulent wake interaction leads to a reduced fatigue life and reduced operating power output. But the same unsteady forces on the blades lead to increased infrasound and low frequency output, just as the aero engine manufacturers, operating at smaller lengthscale and higher

frequencies, understand.

I believe that Vestas have previously argued that when there is no dominant prevailing wind, they recommend separations of 5 blade diameters. Yet the MacArthur windfarm does not meet this standard.

Entirely by way of example, if average separations are reduced from 5 diameters to 3.5 diameters, it is possible in theory to place 2 times as many turbines on the same area of land.

Twice the number of turbines equals twice the sales revenue and twice the initial payments just for planting a wind turbine.

It may not be quite as extreme as this in practice, but there is clearly a considerable incentive to cut corners in this respect.

In complete contrast to the aero-engine industry, who must work to vastly higher standards of professionalism and precision, or they will simply go out of business.

I am not in the least surprised that Australia has a disproportionate number of low frequency and infrasound complaints from wind turbines, at large distances. Anyone familiar with the basic principles of aero acoustics and turbulent interaction would expect this if turbine separations are compromised.

Yet Australia has a comparatively small population, in comparison to the available area of landmass.

How does a nation with more land per unit population than almost any other country on earth succeed in cramming wind-turbines into a greater density than is even recommended by the wind-turbine manufacturers ?

Malcolm

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REPORT on POST CONSTRUCTION COMPLIANCE NOISE TESTING for the Macarthur Wind Farm

- carried out by Aecom acoustic consultants on behalf of AGL at our property from 15th February to 22nd March 2013

FRIDAY 15th February 2013

Andrew and Justin of Aecom arrived at 9am to install noise logger to monitor background noise near our home, being one of the designated homes for noise testing for compliance with AGL's planning permit.

Present: Mr. Les Huson, our own independent acoustic expert to observe setting up of Aecom's gear.

Chris and Ron Jelbart, neighbours, to witness above.

Gus and Annie Gardner, property owners.

Chris Jelbart photographed the procedure, whilst Annie Gardner videoed the procedure also.

Les Huson questioned Andrew as to the reason they insisted on setting their equipment far outside the prescribed 10 metres from our home, as AGL's planning permit stipulates. He was told they were "comparing apples with apples" as this was the same position the noise logger was situated for pre-construction noise monitoring in December 2010.

Aecom placed their noise logger 35 metres from our home, outside our garden fence in the paddock, whilst they could have placed it within the garden, much closer to the house.

Andrew told us the battery charge to begin noise testing was 12.1 volts. Therefore this battery was NEARLY FLAT, so could easily have been faulty from the beginning.

We all observed and filmed the entire procedure.

FRIDAY 22nd February 2013

Andrew and Justin of Aecom returned to check and calibrate equipment and changed big and small batteries.

The reading of the old battery at the end of the first week was 11.9 volts ie. **THIS BATTERY WAS FLAT.**

We noted Andrew calibrating the equipment. We observed and videoed the entire procedure from beginning to end.

This particular week, from 22nd February to 1st March, was a particularly shocking week for us whereby we both experienced extreme impacts on our health and well being, and our ability to work on our property and live in our home. Evidence of such is proven by my comprehensive personal records.

Our personal records show that during the week from 22nd February to 1st March we both suffered severely from the turbines both inside and outside our home. The conditions during this week were so bad that we submitted formal written complaints (of which DPCD and Minister Guy have copies) on the 23rd/24th/25th/26th of February. By the Wednesday we could no longer stay at our property so we went away for 27th and 28th February, to arrive home on night of 28th which was also so unbearable that we submitted a formal complaint first thing early on the morning of the 1st March. We also rang through complaints to the complaint hotline during the nights of 22nd/24th and 28th of February.

I note in my file, the following email was received in writing from AGL in response to our complaints of this last week. It stated -

"As previously advised, all monitoring being carried out at the Macarthur Wind Farm is being carried out in accordance with the relevant standards set in the Planning Permit.

Independent regulators and authorities have relied up AECOM, Resonate and similar professional noise consultants to ensure developments like the Macarthur Wind Farm are operating in compliance with the permit. No concerns have been raised by these regulators about the monitoring work undertaken by these professional consultants. As such , AGL rejects your above assertion."

FRIDAY 1st March 2013

Andrew and Justin of Aecom came to change batteries and calibrate equipment at 9.00 am.

The reading of the old battery from the previous week was 11.6 volts. THIS BATTERY WAS FLAT.

The reading of the replacement battery was 12.5 volts.

We noted Andrew calibrating the equipment. We observed and videoed the entire procedure from beginning to end.

FRIDAY 8th March 2013

This week Andrew of Aecom visited alone as Justin was away on holidays.

The reading of the old battery from the previous week was 11.6 volts. THIS BATTERY WAS FLAT.

The reading of the replacement battery was 12.6 volts. We noted Andrew calibrating the equipment.

Then Andrew discovered something was wrong. He appeared dismayed and agitated. He showed us the Db 10 minute readings were surprisingly down to 13 Db and then up to 68 Db. He showed us on the screen where there were lines of data missing and the readings were incomplete.

He then told us the equipment had been playing up for the last two days, since 6th of March. He did not know whether he had accidentally switched off the recorder, or what. He then discovered the microphone had not been working for at least two days. (Later when he ran into Les Huson, our independent acoustic expert, on the road, he told Les Huson it had not been working for a week).

Andrew then proceeded to install another noise logger next to the faulty one; this one being a Svan 957 (Polish). The first 10 minute reading on this supplementary logger was 47.8 Db.

We then noted Andrew taping the very rusty recording microphone with black electrical tape. This obviously meant moisture had penetrated the speaker and connector, therefore it was not water proof to begin with.

He also taped the holes in the logger case to keep insects and water out. This tape fell off almost instantly, due to extreme heat.

Andrew told us he didn't know how to operate the computer properly and could not answer all our questions for this reason. Normally Justin was able to answer our queries.

Once again, we observed and videoed the entire procedure from beginning to end.

FRIDAY 15th March 2013

Andrew from Aecom arrived at 9.00 am to check equipment.

He then informed us that in fact his equipment had not worked for TWO WEEKS prior to 8th March 2013.

(Last week he discovered it had not worked for ONLY the PREVIOUS WEEK of 1 to 8 March and indicated on his screen examples of gaps with no data.).

So he then asked if he could keep the logger installed at our property for one more week, to which we agreed.

He initially went about his testing procedure but then discovered there was NO DATA on the screen, but then he found it on the computer after all. He thought it may have turned off, but it hadn't.

Then he said to us "Oh by the way, I forgot the calibrator as I was in such a hurry leaving the office".

Due to not having the calibrator he didn't disconnect either machine, but changed batteries for both.

He then proceeded to change the batteries of both machines, results which read as follows -

Machine No. 1 (original)	Machine No. 2 Svan 957
Old Battery reading 11.7 volts	Old Battery reading 12.0
THIS BATTERY WAS FLAT	THIS BATTERY WAS NEARLY FLAT.
New battery 12.9 volts	New battery 12.6 volts

We noted that the case for Machine No. 1, the original machine, was full of ants, and he closed the case with ants in it.

When Andrew tested background noise with separate tripod, today he commented on how low the background noise was and how quiet it must have been living here, at 23.8 db, which told us that for the previous three weeks when he had done this separate 10 minute background noise test, the readings must have been much higher as during those weeks the turbines were absolutely roaring.

So if Andrew didn't bring his calibrator with him for this trip, then he must NOT HAVE CALIBRATED the equipment at any other location during that day, nor the previous day.

We observed and videod the entire procedure from beginning to end.

FRIDAY 22nd March 2013

AGL had requested the Aecom equipment remain at our property for a further week of noise testing. However we did not agree to this as throughout the entire five week noise testing period, when the logger was placed in our paddock, and not much closer to the house, within the garden, as it should have been, we were not able to move sheep through this paddock to our sheep yards for treatment, for five weeks. As was the situation in 2010, this severely disrupted our entire sheep management program and we did not wish to experience a repeat of the circumstances of December 2010. During the testing time in 2010, due to the above extreme inconvenience and disruption, we lost thousands of dollars worth of livestock due to fly strike.

Due to the incompetence of Aecom and the failure of their equipment during the pre-construction noise testing in 2010 we were forced to employ our own independent acoustic expert, for our own protection during the post commissioning compliance testing period.

AGL appear to have unlimited funds to pay for incompetent acoustic engineers to carry out unreliable noise testing. With the failure of Aecom's equipment for the second time, it looked as if we were up for an unlimited period of testing, which we could simply not afford.

On 15th March, Andrew told us that they had another four to five weeks testing to carry out. However, our business could not be disrupted any further due to the incompetence of the Aecom acoustic company using faulty equipment, for the second time at our property.

As Andrew dismantled the noise monitoring equipment he, once again, discovered that the equipment had ONCE AGAIN FAILED during the fifth week.

Therefore for the entire five week period of noise testing on our property, the equipment failed for THREE out of the FIVE WEEKS.

As the batteries for the equipment were FLAT at the end of each week of testing, and at the beginning, one could assume that the entire five weeks of testing COULD NOT HAVE PRODUCED ACCURATE READINGS as took place in 2010 at our property.

We ask the following questions -

1. If the batteries were flat at the end of each week's testing, and also at the beginning of the first week of testing, who knows how long the logger was operating accurately ?
2. How old were the batteries if they were flat at the end of each week's testing ? In other words, they weren't able to hold sufficient charge to last the period of one week of testing, therefore the data gathered CANNOT BE RELIED UPON TO BE ACCURATE.

The batteries were second hand to begin with, and we believe a test of this significant nature, would demand 100% efficiency, and new batteries should have been used from day one on 22nd Februaryf 2013.

We have five consecutive weeks of comprehensive data collected by our own independent acoustic engineer who did not use faulty equipment.

ANN and ANDREW GARDNER

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SUPPLEMENTARY REPORT to DPCD on Post Commissioning Compliance Noise Testing for Macarthur wind farm

- carried out by Aecom Acoustic Consultants at "Warrameann" Penshurst from 15th February 2013 to 22nd March 2013 on behalf of AGL

November/December 2010

To begin with we must report that the Pre-Construction Noise testing conducted at our property in December 2010 over a period of around two weeks, was flawed and I doubt any data at all was collected due to equipment failure.

This noise monitor was installed, 35 metres from our house, in the paddocks by Aecom on Wednesday 10th November 2010 between 10 and 11 am.

Not once during the four weeks did one representative of Aecom or anyone for that matter, visit our property to inspect their equipment. On Thursday December 9th 2010 Jacqueline Davis of Aecom came to remove the equipment. She discovered and consequently reported to us, that in fact their equipment had NOT WORKED since about Day 2. THE BATTERY WAS FLAT.

Due to the substantial loss of sheep incurred whilst the noise logger was in our paddock, blocking our access to sheep yards and thus treatment of our sheep from fly strike, we would not allow this company to continue noise monitoring any longer.

Also, by this time, construction of the Macarthur wind farm had begun in earnest and we were coping extreme impact from noise by the time they were wanting to return to measure noise data. AGL as a result had to purchase the independent noise data we had collected with our acoustic expert Mr. Les Huson whose equipment very efficiently gathered data for the same time as Aecom's equipment failed to gather data at our property.

February/March 2013

In conversation with Bart Gane of DPCD Warrnambool, we requested that Post Commissioning Compliance noise monitoring at our property not take place during February/ March as we feared a similar situation as above could take place, ie. with access to our yards prevented by the noise monitor installed in the paddock instead of the garden closer to the house, we could experience a repeat of 2010, which was very costly to our business.

However, Bart Gane insisted that noise monitoring must begin no later than 15th February. DPCD wanted this noise data to be collected under similar conditions as during pre-construction monitoring in November/December 2010, ie. during the same season, summer, before weather conditions changed considerably.

We reluctantly agreed, but requested when the Aecom engineer came to instal the equipment, that it be placed inside the garden and not in the paddock. This request was refused. Hence once again, we were forced to endure five weeks of significant disruption to the management of our business at a time when our sheep needed constant treatment in the yards, due to the adverse weather conditions. Aecom set up the noise logger equipment 35 metres from our house, in the paddock.

We believe the evidence we give in this document and our initial report outlining details of noise testing carried out at our property, confirms our claim that AGL has used misleading and deceptive conduct during the entire noise testing period. We have evidence of this taking place at other properties around the wind farm also.

1. To begin with, noise testing carried out at the property of Mr. and Mrs. Ron Jelbart, on the east side of the wind farm was carried out at a distance far greater than the 10 metres from the house, which the planning permit stipulates.

2. On one occasion the Jelbarts were also told that the equipment used by Aecom, had failed, as the battery had gone flat.

3. Noise monitoring conducted at the property of Mrs. Jan Hetherington, once again on the east side of the wind farm, was carried out a distance double the permitted distance of 10 metres from her house also.

4. On one occasion Mr. Ron Jelbart acting as an agent for Mrs. Julie Hodgens on the north-east side of the wind farm, was told by Mr. Mitchell of Aecom that on the Thursday 14th March, Mr. Mitchell had calibrated the logger at Mrs. Hodgen's property. However on the Friday 15th March he told us, the Gardners, that he had forgotten to bring the calibrator, which he had left in the office in Melbourne. When he visited the wind farm to carry out the testing of equipment, he always stayed in Warrnambool, as his duties obviously took two days to carry out. Hence, how could he have calibrated the equipment at Mrs. Hodgen's property, as he informed Ron Jelbart, when he actually left his calibrator back in Melbourne at his office ?

As Andrew of Aecom forgot the calibrator on 15th March, this means that the data gathered at EVERY site where post commissioning noise monitoring was conducted, CANNOT BE USED for the week 15 March to 22 March. This data WOULD NOT BE VALID. We are aware that the New Zealand Standard of 1998 states that equipment MUST BE CALIBRATED IMMEDIATELY UPON STARTING, AND IMMEDIATELY AFTER. This was NOT DONE, and therefore the data obtained AT ALL SITES, CANNOT BE VALID.

5. We are aware that the microphone used to carry out the Post Commissioning Compliance Noise Testing at the property of Mr. Brendon Blohm had a sock or a stocking placed over it. The New Zealand standard states that the microphone is not to be covered in any way, so we are aware.

6. We are extremely concerned with the conduct of Aecom on behalf of AGL regarding the mysterious excuse and delay in notifying us that the equipment had not worked for the week from 22nd February to 1st March.

We DO NOT BELIEVE that the equipment did not work as at the end of that week, on Friday 1st March, as, as usual we literally stood over Andrew of Aecom, watching and questioning him, whilst at the same time videoing the entire procedure. He DID NOT INFORM US OF EQUIPMENT FAILURE during that particular week, until 15th March, when he told us that, not just during one week from 1 to 8 March did the equipment fail, but in fact it had failed during the previous week, 22nd February to 1 March, also.

Had the equipment failed during the week of 22nd February to 1st March, he would have known far earlier than 15th March and we would have observed his noticing such, as we did on 8th March when he was dismayed that the equipment had failed during the previous week, 1st March to 8th March.

We emphatically dispute this claim, as NOT ONCE during our observation of his procedure on 1st March, checking equipment, computer readings and changing batteries DID HE EXPRESS ANY DISMAY, SURPRISE, OR ANXIETY as to a discovery that the equipment had failed and data wasn't collected. On Friday 8th March, as we have detailed in our initial report, he expressed surprise, concern at his findings. He then attempted to find the cause of the failure and as a result taped up the microphone, and we have video evidence of his actions. He showed us on his computer the days where the equipment did not gather data during the week 1-8 March, and discussed the entire problem with us. It was as a result of this faulty equipment and loss of considerable data during that week, that Andrew then installed the additional logger, the Svan 957.

Had the equipment failed during the week 22nd February to 1st March, he would have installed the reserve unit on 1st March, and should he not have had a logger in reserve on 1st March, he would have informed us, that he would bring another logger on 8th March, to install. He had a reserve logger in his boot on 8th March, but he only installed this as a result of discovering, on that day, 8th March, that the equipment had failed during the previous week, 1 - 8 March, and there was NO INDICATION WHATSOEVER on Friday 8th March of any failure of equipment for week 22nd February to 1st March.

I repeat, as above, NOT ONCE on 1st March DID HE SHOW ANY SIGNS AT ALL of discovering an equipment failure from the week 22nd February to 1st March 2013, nor did he show any signs of equipment failure during week 22nd February to 1st March, on 8th March either.

This week, 22nd February to 1st March, (whereby two weeks later we were belatedly informed of equipment failure), COINCIDED with the EXTREME WEATHER EVENTS which are very graphically described in my personal records, and also confirmed by the fact that we submitted written complaints, and some via the complaints hotline, nearly EVERY DAY.

We are of the opinion that Aecom discovered that the data gathered during the week of 22nd February to 1st March significantly BREACHED THE NOISE LIMITS FOR BACKGROUND NOISE AS PER THEIR PLANNING PERMIT. This data collected would have proven without a doubt that the Macarthur wind farm during that particular week was operating far beyond the accepted noise limits, and this particularly proved that the wind farm WAS NOT COMPLIANT with the planning permit.

The comprehensive evidence we have, and we have elaborated to DPCD in this document, leads us to the very strong belief that Aecom would have "scrubbed" all data for the week 22nd February to 1st March 2013, AS IT DIDN'T COMPLY WITH THE NOISE GUIDELINES. It was obviously very easy for them to claim (but how stupidly many weeks later) that their equipment failed during that week, when we KNOW THE EQUIPMENT DIDN'T FAIL. We believe the data obtained DIDN'T SUIT AGL or AECOM for the purposes of compliance monitoring during this week !!!!

We are prepared to stand up in court to prove this, and we have copious amounts of evidence to prove our claim. We have our own personal records, AGL, DPCD and about 16 other addressees (government departments and politicians) have copies of our many complaints during this period, far more than during any other week since the wind farm began operating, and AGL have records of our telephone complaints during that week also. I would imagine the data gathered by our independent acoustic expert Mr. Les Huson would also very strongly confirm this claim.

This is the greatest example, we are of the opinion, of "dodgy tactics", and misleading and deceptive conduct used by AGL and their acoustic company Aecom.

Any other company would have sacked this acoustic company years ago, particularly after the failure of their batteries during pre-construction testing at our property in 2010.

One would have thought that as a result of the debacle whereby AGL were forced to buy our independent data from 2010, the acoustic company Aecom (no other company would take the risk of re-employing such an incompetent company) would have been instructed by AGL to at least buy NEW BATTERIES for their noise loggers, which they DID NOT DO. I think new batteries, with a very long lasting capacity, far beyond the five weeks required here, only cost around \$100.

We feel the Victorian Department of Planning and Community Development would be neglecting their duty of care to Victorians, should they to begin with, not agree to peer review the extremely suspect, and hardly satisfactory data gathered by Aecom on behalf of AGL for the purposes of Post Commissioning Compliance noise testing at the Macarthur wind farm.

As our independent acoustic expert has comprehensive concurrent data to that intermittently and incompetently gathered by Aecom, using extremely faulty equipment, it would also be a dereliction of duty, should the DPCD not employ Mr. Les Huson to carry out the peer review procedure, thus neglecting to take into consideration such vital and valid data, which AGL and Aecom DO NOT POSSESS. This data is a true and proper record and has been taken in accordance with the planning permit requirements, in addition to complying with the New Zealand standards of 1988, unlike the data collected by Aecom on behalf of AGL.

We hope the Department of Planning and Community Development will grant the requests of the many severely impacted residents whose health and lives have been ruined by the impact of the 140 turbines of the Macarthur wind farm placed far too close to their homes and whose rights to a good night's sleep, let alone a healthy and safe workplace, have been taken away from them by the Macarthur wind farm.

We do not want another Waubra wind farm situation, whereby the wind farm developer is paid Renewable Energy Certificates, that is millions of tax payer dollars for a development with DOES NOT COMPLY with the government's regulations, ie. is allowed and paid to operate, without a Certificate of Compliance.

Another situation such as the Waubra situation, would end up very badly for the Department and the Victorian government, should they choose to not take into account accurate information at hand, and ignore their duty of care to rural Victorians.

ANN and ANDREW GARDNER

A. 19

Marramok

From: [REDACTED]
Sent: Thursday, 21 August 2014 2:40 PM
To: gus gardner
Subject: FW: Notes on AECOM measurements

From: W Les Huson [REDACTED]
Sent: Saturday, 25 May 2013 6:06 PM
To: Ann Gardner
Subject: Notes on AECOM measurements

Ann

I observed the deployment of the AECOM equipment at your property with you and Gus. The following points relate to those observations.

My first question of the AECOM operators was if AGL had informed them that the measurement they chose in 2010 was no-compliant with the Permit for the Macarthur wind farm. The response was that they had spoken with AGL about the monitoring position and wished to take measurements at the same location they had chosen in 2010.

It seems from the AECOM prepared compliance report that background data was not used. So, they could have chosen a measurement location in accordance with the Permit.

I observed the setup of a Larson Davis 831 sound level meter and asked for the battery voltage to be checked. The battery voltage was low for a fully charged battery and the AECOM operator advised that the battery was old but that it *should* last until he returned in 7 days. Considering the battery failures of past measurements AECOM should have invested in new batteries (about \$100 each).

Calibration of the sound level meter system was completed correctly as per standard requirements, in situ, immediately before commencement of logging. I did not observe any other calibrations that should have been completed after each measurement period (7 days) and at the start of the commencement of the next 7 day period, in situ. (I understand that the calibrator was left behind on one occasion and that the data was downloaded and measurements recommenced without calibration)

I asked if the method of laying out the microphone cable on the support pole was as per their usual practice and was informed that it was. I observed that the microphone connecting plug and socket were open to the elements and from what I saw and photographed, the connectors were not of the waterproof variety.

I asked how rainfall events were to be measured and was told that rainfall was measured at the met mast stations on the windfarm.

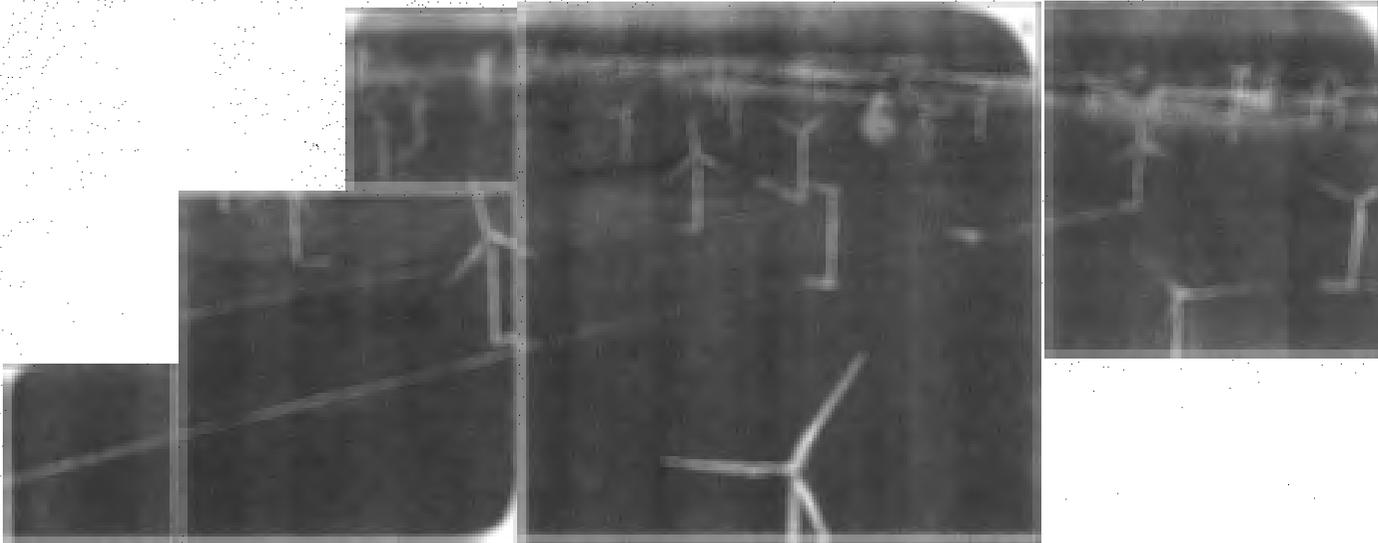
I observed one of the AECOM operators taking a reading on a nearby tripod with a B&K2250 sound level meter. Throughout those measurements there was conversation from those assembled. It appears that this extra short term measurement (10 minutes approximately) was to check for Special Audible Characteristics and similar measurements were taken at each site visit by AECOM when batteries were changed and data download. I know of no checks for SACs at night or at any other time when there were adverse weather conditions.

At a later site visit, the day after AECOM had attended to their sound level meter there was an extra logger deployed next to the original one. The extra logger was a Svantek sound level meter. I again noted that the microphone cable and connectors were open to the elements.

I am sure you can add other observations from the times when AECOM visited your property, especially any comments about the failed data recordings.

Regards

Les Huson



AGL would like to thank the people of Macarthur, Hawkesdale and the surrounding communities for the important role they played in delivering this project and their ongoing support.

Energy in action.



Macarthur Wind Farm complies with strict noise limits.

The Macarthur Wind Farm was officially opened last month by the Hon Dr Denis Napthine MP, Premier of Victoria and Member for South West Coast.

This week AGL Energy released the Macarthur Wind Farm Noise Compliance Assessment that was independently produced by AECOM Australia Pty Ltd. This assessment confirmed the wind farm is operating within the strict noise limits set in the Victorian Government's Planning Permit.

This assessment is part of a wider noise monitoring program implemented by AGL for the Macarthur Wind Farm. Over 40,000 hours of noise monitoring have been conducted to date which is well beyond the Victorian Government's Permit requirements. All results received confirm the Macarthur Wind Farm remains compliant with the strict noise limits that are in line with the World Health Organisation's guidelines.

This independent assessment has been submitted to the Victorian Government for review. If you would like to learn more about this noise monitoring program, we encourage you to visit our website agl.com.au/macarthur/ to view the full report.

The Macarthur Wind Farm has the capacity to generate enough clean, green energy to power the equivalent of approximately 220,000 average Victorian households and save approximately 1.7 million tonnes of greenhouse gases per year.

AGL and the local team at the Macarthur Wind Farm are committed to being valued members of the community and look forward to keeping you regularly updated about the project during its 25 year life cycle.

For more information about the Macarthur Wind Farm, please contact the AGL Community Relations Team on 1800 039 600, email macarthurwindfarm@agl.com.au or visit agl.com.au/macarthur/

A 20

Appeared in both Spectator + Stevedore
4/5/13 3/5/13

A 21

Media Release

Macarthur Wind Farm complies with strict permit noise limits

30 April 2013

AGL Energy (AGL) today announced that the Macarthur Wind Farm is successfully operating within the strict noise limits set in the wind farm's State Planning Permit, as evidenced in the Macarthur Wind Farm Noise Compliance Assessment independently produced by AECOM Australia Pty Ltd (AECOM).

The Planning Permit, which is enforced by the Victorian State Government, required that pending landowner approval, noise monitoring was to be carried out at specified dwellings neighboring the Macarthur Wind Farm. Noise loggers were installed between February and March 2013 to capture the noise data for this objective assessment.

This Noise Compliance Assessment is part of a wider noise monitoring program implemented by AGL since the first turbines started operating in late September 2012. All noise monitoring results received to date at 13 neighbouring dwellings demonstrate that the Macarthur Wind Farm complies with the acoustic requirements of the Planning Permit.

Scott Thomas, AGL's Group General Manager Power Development said "AGL is pleased that the independent AECOM Assessment demonstrates that the Macarthur Wind Farm continues to operate well within the Planning Permit requirements."

"We appreciate some community members have been concerned about wind farm noise levels so we wanted to make sure it was operating correctly from the start and give the community a greater level of comfort. Over 40,000 hours of noise monitoring has been conducted at Macarthur, which is well beyond the amount of noise monitoring required in the Planning Permit."

"All results received to date confirm that Macarthur Wind Farm remains compliant within the Government's strict noise regulations that are in line with the World Health Organisation's guidelines for noise limits," Mr Thomas said.

The Planning Permit requires that the noise level from an operating wind farm, measured outdoors of a dwelling at any relevant nominated wind speed, shall not exceed the background noise level before the wind farm was operating by more than five dB(A) or a level of 40 dB(A), whichever is higher. The combined noise levels were assessed at 10-minute intervals at the specified dwellings. Compliance was assessed throughout the entire day, and separately at night when the background noise level is typically lower.

The testing also monitored for special audible characteristics (clearly audible tones, impulses, or modulation of sound levels). Special audible characteristics were not determined to be present at any of the noise monitoring locations.

This independent assessment, conducted in accordance with the relevant Standard, has been submitted to the Victorian Government for review, and uploaded to the website which is accessible via www.agl.com.au/macarthur/.

A 2.2

From: Frances Duffy

Sent: Thursday, June 20, 2013 10:10 AM

To: Ann Gardner

Subject: Response to emails

Dear Mrs Gardner

AGL would like to confirm receipt of your emails dated Wednesday 12 June 2013, Thursday 13 June 2013, Sunday 16 June 2013, and assigns complaint references MWF 130612, MWF 130613, MWF130616a respectively.

I note your on-going difficulties with your health and disturbed sleep patterns and would urge you to obtain medical advice on these. However, based on extensive scientific studies, AGL does not accept that the symptoms you are experiencing are as a result of the operation of the Macarthur Wind Farm.

I acknowledge your objection to the Macarthur Wind Farm and your request for the turbines to be turned off. However, the planning permit for the Macarthur Wind Farm has a range of stringent requirements, including a noise limit based on internationally accepted design levels which are consistent with the World Health Organisation's guideline for noise limits. AGL continually monitors the operation of the Macarthur Wind Farm and it is operating within this limit. Consequently, we have no plans to switch off turbines at Macarthur Wind Farm.

In response to your comments on infrasound, there have been multiple scientific, thorough, peer-reviewed studies on wind farm noise that have found that infrasound from wind farms is not problematic. AGL will soon be publishing the results of its own infrasound studies at Macarthur Wind Farm which we will send to you.

I acknowledge your request for further noise testing to be conducted at your residence. However, AGL has already conducted a significant amount of noise testing, both as part of the compliance obligations under the Planning Permit and further testing beyond these requirements at your property. The noise test results unequivocally confirm that the wind farm operates within the stringent criteria set by the Permit. Our operational activities have not changed.

Notwithstanding the above, we take your concerns seriously and wish to continue to work with you to resolve your concerns. Therefore AGL proposes to conduct further noise testing on your property as you request.

However, in the event that compliance is established (meaning compliance with the appropriate standard as set down in the Permit (NZS 6808: 1998), or if infrasound testing is requested by you (in accordance with globally recognised criteria), AGL would require a public statement from you to acknowledge that compliance with the standards required by the permit have been established.

There are some conditions that AGL must insist are met should we enter into this arrangement:

- only organisations registered with the Australian Acoustical Society would be accepted by AGL to conduct the testing
- subjective assessments must be undertaken by a professional acoustic engineer (grade Member of the Australian Acoustical Society)
- all testing apparatus be NATA Certified

I look forward to hearing from you Mrs Gardner and trust we can come to a suitable agreement. You may use my work email: fduffy@agl.com.au for this correspondence.

Please direct all other correspondence to one of the following options:

Phone: using the 1800 039 600 toll free number

- Email: using AGL contact information posted on the wind farm web site
<http://agk.com.au/macarthur/>
- Mail: via AGL Head Office, L22, 120 Spencer Street, Melbourne, Vic. 3000, Attn: Head of Wind Operations

As a fourth alternative, a dedicated Macarthur Wind Farm email address (MacarthurWindFarm@agl.com.au) has also been set up that can be used to register a complaint.

This will ensure that your queries complaints are dealt with quickly and efficiently as directing enquires to individual email addresses at AGL may result in delays or unanswered emails.

Yours faithfully

Frances Duffy

AGL Energy Limited
L22, 101 Miller Street
North Sydney NSW 2060
Locked Bag 1837
St Leonards NSW 2065

M: 0427343667
T: (02) 9921 2102
F: (02)9921 2474
E: <mailto:XXXXXX@agl.com.au>
agl.com.au

Frances A Duffy

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2
3

AGL would like to thank and acknowledge our neighbours for assisting with this important study.

Independent report demonstrates no change in infrasound levels after construction of Macarthur Wind Farm.

AGL would like to thank and acknowledge neighbours of the Macarthur Wind Farm for assisting with an independent report by Resonate Acoustics which was released this week showing that infrasound levels at the Macarthur Wind Farm have not changed since construction of the wind farm.

Infrasound is a very low frequency noise which is always present in the environment, whereas low frequency noise overlaps the infrasound range.*

AGL Energy Limited voluntarily commissioned the report to help alleviate community concern about noise.

The research measured infrasound and low frequency noise at residences 2.7 and 1.8 kilometres from the nearest turbine before any turbines were operating, when approximately 105 of 140 turbines were operating, and when all 140 turbines were operating.

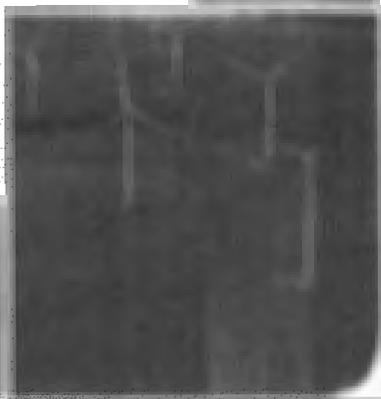
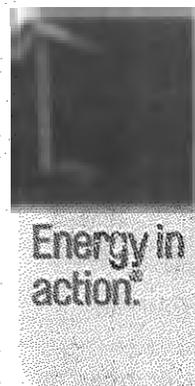
The report also shows that there was a marginal increase in low frequency noise levels which may be the result of noise from the wind farm, although these levels were compliant with the low frequency noise criteria.

Resonate Acoustics' Infrasound & Low Frequency Noise Operational Monitoring report was also reviewed by internationally renowned low frequency acoustic expert, Dr Geoff Leventhall.

In addition to the infrasound monitoring, AGL undertook noise monitoring at 25 neighbouring properties between October 2012 and May 2013, since the first operation of a wind turbine at Macarthur Wind Farm. All results confirm the Macarthur Wind Farm remain compliant with the strict noise limits that are in line with the World Health Organisation's guidelines.

If you would like to learn more about the Resonate Acoustics' Infrasound & Low Frequency Noise Operational Monitoring report, we encourage you to visit our website via agl.com.au/macarthur to view the full report.

AGL and the local team at the Macarthur Wind Farm are committed to being valued members of the community and look forward to keeping you regularly updated about the project during its 25 year life cycle.



* People are often exposed to low frequency noise in the environment, as it is a characteristic of human life. In a rural environment, typical sources would be vehicles, agricultural machinery, water pumps, compressors and natural sources.

For more information about the Macarthur Wind Farm, please contact the AGL Community Relations Team on 1800 039 000, email macarthurwindfarm@agl.com.au or visit agl.com/macarthur

A 24

SUSTAINABLE DEVELOPMENT

7. Macarthur Wind Farm Noise Compliance

Presented by	Oliver Miles
Report authors	Russell Guest
Attachments	1. Macarthur Wind Farm Noise Compliance Assessment Report prepared by AECOM 2. Macarthur Wind Farm Noise Compliance Assessment Peer Review by SLR Consulting Australia Pty Ltd 3. Mattlocks correspondence containing questions raised by SLR Consulting in the Peer Review report 4. Correspondence from Robert Smith Freshfields (3 July 2014) in response to Attachment 2 5. Correspondence from SLR regarding compliance
Confidential Attachments	6. Mattlocks Lawyers advice (25 August 2014) to Council regarding compliance

OFFICER'S RECOMMENDATION

1. That Council receives and acknowledges the following reports:
 - a) *'Macarthur Wind Farm Noise Compliance Assessment Report'* prepared by Aecom for the permit holder (AECOM report); and
 - b) *'Macarthur Wind Farm: Noise Compliance Assessment Peer Review'* prepared by SLR Consulting Australia Pty Ltd for Moyne Shire Council (Peer review).
2. That Council determines whether it is satisfied that the Macarthur Wind Energy Facility is operating in compliance with the New Zealand Standard 'Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators' (NZS 6808:1998)(the 'Standard').
3. That if Council considers the AECOM report to satisfactorily demonstrate compliance with the Standard and conditions 20 to 27 inclusive of Planning Permit PL-SP/05/0283, Council requests the permit holder to make the changes recommended by Council's peer reviewer and provide a final version of the AECOM report which will be placed on the Council file in relation to this matter.
4. That Council informs the permit holder that for purposes of Condition 26 of the permit, the compliance noise monitoring program should be repeated not less than 10 months and not greater than 12 months of the date of this Council resolution.

SYNOPSIS

- This report informs Council that the Macarthur Wind Energy Facility is operating in compliance with the New Zealand Standard 'Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators' (NZS 6808:1998)(the 'Standard').

BACKGROUND

- On 22 July 2013, Council became responsible for the noise compliance permit conditions for the Macarthur Wind Energy Facility.
- Council officers were informed prior to the transfer that the permit requirement for a Noise Compliance Assessment report had been met and that the report had been submitted to DTPLI on 26 April 2013. The Department also informed Council that they would arrange for, and meet the cost of a peer review of the report.
- In January 2014 Council commissioned its own peer review, as it was apparent that the Department had not commenced such a peer review.
- Council retained Mr Gustaf Reutersward from SLR Consulting Australia Pty Ltd (SLR) to review the Noise Compliance Report for Vestas Wind Technology Pty Ltd (Vestas). (Refer to Attachment 1)
- SLR's peer review report was received on 10 April 2014.
- It identified several issues that AGL would need to address before the peer reviewer could make a final recommendation regarding noise compliance. On 23 April 2014, Council's solicitors (Maddocks) wrote to AGL's Wind Farm Operations Manager setting out these questions and requesting a response within 14 days. (Attachment 3)
- A response from AGL's lawyers (Freehills) was eventually received by Maddocks on 3 July 2014. (Refer to Attachment 4)
- Council then requested SLR to review the response and advise Council if the additional information provided would enable an informed decision to be made regarding noise compliance.
- SLR's reply was received on 24 July 2014, stating that the Macarthur Wind Energy Facility was compliant with the New Zealand Standard 'Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators' (NZS 6808:1998).

STRATEGIC LINK

- Moyne Planning Scheme
- Planning and Environment Act 1987

DISCUSSION

- Council is the responsible authority for establishing if the Macarthur Wind Energy Facility is compliant with the New Zealand Standard '*Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators*' (NZS 6808:1998), at any dwelling existing in the vicinity of the wind energy facility as at 7 February 2006.
- The AECOM report was provided to Council pursuant to the noise compliance assessment conditions in the permit. Condition 21 requires that the initial noise compliance monitoring program commence within 2 months of the commissioning of the last turbine in the WEF. AGL have complied with this condition.
- As Maddocks have advised, (Confidential Attachment 6) the noise compliance issue for the Macarthur Wind Farm has been unduly complicated by the wording of the planning permit. For example, the permit wording is so vague it is unclear whether Council is required to make a resolution regarding noise compliance. However in order to be transparent and to act in the most appropriate manner as the responsible authority, Maddocks recommends to Council that a resolution is the best means of addressing the noise compliance issue.
- Council's decision regarding noise compliance is in response to the permit's requirement that the Macarthur Wind Farm meets the New Zealand Standard '*Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators*' (NZS 6808:1998).
- In making a determination about compliance, Council's responsibility is not to comment on the adequacy or otherwise of the Standard, or whether the noise levels thereby set are appropriate or not.

CONSULTATION

- Discussions have been held between Council Officers and AGL.

FINANCIAL IMPLICATIONS

- If some ratepayers do not agree with the findings, there may be financial implications such as further testing or legal advice.

RISK

- Using the peer review process to obtain independent and expert acoustic advice, Council has maximised its capacity to make an informed decision regarding this extremely complex technical matter.

CONCLUSION

- Based on the assessment made by Council's independent peer reviewer (SLR Consulting Australia), the Macarthur Wind Farm can be determined to be noise compliant.
- On that basis it is recommended that Council resolves that the Macarthur Wind Energy Facility is operating in compliance with the New Zealand Standard 'Acoustics - The Assessment and Measurement of Sound from Wind Turbine Generators' (NZS 6808:1998).

A 25

Marramok

From: [REDACTED]
Sent: Monday, 22 September 2014 1:39 PM
To: [REDACTED]
Subject: peer review Compliance Noise report Macarthur wind energy facility

Dear All,

The residents of this district have compelling evidence to suggest NON COMPLIANCE of the Macarthur Wind Energy Facility, and will provide a report from an independent acoustic expert to that effect, once he has had a chance to consider the SLR peer review report.

I understand that, based on the peer review assessment by SLR, the wind energy facility can be determined to be noise compliant, and on this basis it is recommended that Council resolves the wind energy facility is operating in compliance with the New Zealand standards.

The residents have been in possession of this additional evidence for over twelve months now, given to us by AGL, but not to DTPLI or Moyne Shire (SLR) for the purposes of peer review.

I have continually requested a copy of the peer review from the Moyne Shire, but my several requests have been refused.

It would definitely be in Moyne Shire Council's best interests to defer the intended resolution of compliance with NZ standards until after our independent acoustic expert has submitted his report. This has been made impossible by Council's deliberate withholding of the peer review until now.

We demand that Moyne Shire Council make ALL correspondence concerning testing and the peer review process available to Mr. Les Huson for his consideration which will enable him to submit his report, based on this additional significant evidence, to Council as soon as possible.

[REDACTED]

A 26

Marramok

From: [REDACTED]
Sent: Monday, 22 September 2014 10:16 PM
To: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Subject: FW: Report prepared by Ann and Andrew Gardner on five week's Compliance Noise testing at their property "Warrameann"

Dear All,

I feel sure I sent you all this report last year, but am sending it again, to refresh your memories prior to the Council meeting tomorrow.

I have already sent an email today suggesting it would be in the Council's best interests to delay their intention to confirm that, based on the SLR peer review of AGL's Compliance Noise Report, the Macarthur w.e.f. is compliant.

It would appear that the fraudulent noise testing procedure carried out by Aecom on behalf of AGL, of which EVERY councillor is fully aware, has been totally IGNORED.

Should Moyne shire council deem the Macarthur wind farm to be COMPLIANT, this would prove to be nothing more than WILFULL BLINDNESS.

I hope the Council will NOT choose to ignore my earlier email today requesting all information/correspondence regarding noise testing etc. be forwarded to Mr Les Huson.

The report which Mr. Les Huson will provide to Moyne Shire Council, as soon as he has all available information provided to him by Moyne Shire Council, will most certainly prove this wind farm IS NOT COMPLIANT.

Ann Gardner on behalf of residents of Moyne Shire

Our Ref: ANA.382046
Your Ref:



16 January 2014

By Email: moyne@moyne.vic.gov.au

Mr David Madden
CEO Moyne Shire
Princes Street
PORT FAIRY VIC 3284

Dear Mr Madden

Request to investigate and remedy nuisance caused by the Macarthur WEF

We act for the 36 clients identified in the Schedule attached to this letter (**our clients**) who have recently provided the Moyne Shire Council (**the Council**) with 20 formal Notifications of Nuisance (**the notifications**) pursuant to s62 of the *Public Health and Wellbeing Act 2008* (**the Act**).

In this letter we set out the Council's obligations to our clients under the Act.

Pursuant to the Act, the Council **must** investigate the notifications: s62(2). Our clients instruct us that the Council has commenced such an investigation by interviewing some of our clients in relation to the notifications.

In addition, given the nature and seriousness of the matters raised in the notifications, it is evident that there exists a "*serious risk to public health*" as defined in s3 of the Act. Accordingly, the facts and circumstances outlined in the notifications are matters warranting a Health Impact Assessment to be conducted by either the Secretary or the Chief Health Officer, in accordance with s53 of the Act.

Further, we also point out that this is "*a serious public health matter*", falling within s50 of the Act and, therefore, warranting a "*public enquiry*" to be conducted by the Secretary, in accordance with that provision.

The notifications

The notifications were provided to the Council by our clients progressively during October 2013 and concern the impact from noise nuisance generated by the Wind Energy Facility (WEF) operated by AGL Energy Ltd (AGL) at Macarthur, the impacts being only experienced since the WEF's commencement of operation. For completeness we enclose copies of all of the notifications given to the Council by our clients.

The WEF comprises 140 Vestas V112 turbines, each with a 3MW capacity, 56m blades erected on 90m towers. It is the largest WEF in the Southern hemisphere.

Lawyers

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Date: 16 January 2014
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We note that the original planning consent was based on much smaller 1.8 MW turbines with 45m blades. In response to AGL's amended application to introduce much larger Vestas V112s the Planning Department wrote that:

"Overall the changes are not considered to cause material detriment. The applicant has provided information demonstrating how noise and shadow flicker do not adversely impact on surrounding non-contracted dwellings. The increased size of turbines is balanced by the reduction in number of turbines. As such it is considered the proposed changes will NOT require notice under section 52 of the Victorian Planning and Environment Act 1987."

Our clients disagree with those assertions.

The notifications outline the noise emissions generated by the 140 industrial wind turbines that operate within the WEF and the impacts of those noise emissions. Our clients' homes and properties are all in the vicinity of the WEF. You will note from the Schedule that there are 16 children (some of them infants) residing in 6 of these homes.

It is evident from the matters raised in the notifications that the noise generated by the WEF clearly constitutes "nuisance" as defined by s58 with the Act: being a "noise or emission which is, or is liable to be, dangerous to health or offensive"; where "offensive" means "injurious to personal comfort".

All of our clients have described facts and matters in the notifications showing that the noise emissions from the WEF are "injurious to personal comfort" in that the noise generated interferes with the reasonable use and enjoyment of their homes and/or properties.

The Council's obligation to investigate the nuisance

By s62(2) "the Council must investigate any notice of a nuisance". As noted above, we understand that the Council has taken the initial step of interviewing some of our clients. Please note that our clients do not consider these interviews to be the limit of the Council's obligation to investigate the matters raised in the notifications. However, our clients are ready, willing and able to assist by providing further information to the Council, including participating in interviews.

The Council's obligation to remedy the nuisance

We respectfully suggest that the facts and matters set out in the notifications do not admit of any reasonable conclusion, other than a conclusion that the operation of the WEF constitutes a nuisance as defined by the Act. Accordingly, the investigation by the Council (which the Council is bound to undertake) will not be concerned with identifying *whether* a "nuisance" exists but will be concerned with identifying the nature of the nuisance that does exist; and with identifying what is required to remedy the nuisance.

By s60 of the Act "the Council has a duty to remedy as far as is reasonably possible all nuisances existing in its municipal district."

We respectfully suggest that the Council's duty in that respect is clear and absolute.

We note that (separate from the duty established by s60) the Council is provided with a power under s62(3)(a): where "a nuisance is found to exist the Council must take any action specified

To: David Madden
Date: 16 January 2014
Our Ref: ANA.382046
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in subsection (4) that the Council considers appropriate. Relevantly, by s62(4)(b) the Council has the power to “issue an improvement notice or a prohibition notice”.

While we note s62(3)(b), our clients consider that any subsequent assertion by the Council that “the matter is better settled privately” would, in the circumstances, constitute a manifest breach of the Council’s express duty (ie the duty established by s60 of the Act) to remedy this particular nuisance.

Our clients are farmers and graziers, many of them with young families, and simply they do not alone or at present have the individual means to prosecute a private claim in nuisance against a company with the resources of AGL, and nor is it reasonable to expect them to have to, to remedy the nuisance. Our clients consider that the Council has a duty not only to remedy the nuisance detailed in the notifications in accordance with the Act, but also a duty at common law to protect our clients from reasonably foreseeable harm, of which the Council now has notice.

One “reasonably possible” step open to the Council in responding to the nuisance is to issue “a prohibition notice” preventing AGL from operating its WEF at night-time. Such a notice would remedy the consequences of the nuisance at night-time and, therefore, avoid the more serious and adverse consequences presently suffered by many of our clients and/or their 16 children; namely, sleep disturbance and sleep deprivation.

Issuing a prohibition notice preventing AGL from operating the WEF at night-time is clearly “reasonably possible” and would remedy the nuisance created by the WEF; and, thus, satisfy the Council’s duty to our clients and their children under s60 of the Act.

The nuisance generated by the WEF constitutes a “serious risk to public health”

The notifications make it evident that the noise emissions from the WEF at night-time are adversely impacting on many of our clients’ ability to sleep normally. Many of them describe having difficulty sleeping (ie sleep disturbance) since the WEF commenced operation. Over the longer term, this results in sleep deprivation.

The World Health Organisation (**WHO**) in its Night Noise Guidelines for Europe (2009) makes the following statements concerning noise, sleep and health:

WHO defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, and recognizes the enjoyment of the highest attainable standard of health as one of the fundamental rights of every human being. Environmental noise is a threat to public health, having negative impacts on human health and well-being (pVII).

There is plenty of evidence that sleep is a biological necessity, and disturbed sleep is associated with a number of health problems. Studies of sleep disturbance in children and in shift workers clearly show the adverse effects (pXI).

The review of available evidence leads to the following conclusions (pXII).

- Sleep is a biological necessity and disturbed sleep is associated with a number of adverse impacts on health.

To: David Madden
Date: 16 January 2014
Our Ref: ANA_382046
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- There is sufficient evidence for biological effects of noise during sleep: increase in heart rate, arousals, sleep stage changes and awakening.
- There is sufficient evidence that night noise exposure causes self-reported sleep disturbance, increase in medicine use, increase in body movements and (environmental) insomnia.
- While noise-induced sleep disturbance is viewed as a health problem in itself (environmental insomnia), it also leads to further consequences for health and wellbeing.

As recognised by the WHO, sleep disturbance is in and of itself an adverse health effect, which brings with it associated health effects both psychological and physiological, bringing consequences for health and wellbeing; particularly for young children.

As detailed in the notifications this adverse health effect is being experienced by many of our 42 clients, as well as some of their 16 children; which include young children and infants.

Our clients quite properly consider the sleep disturbance and sleep deprivation many of them are suffering (which is being caused by the night-time noise emissions from the WEF) as a serious threat to their and their children's immediate and long-term health.

The impact on our clients' health can be effectively eliminated (or, at least, reduced) by preventing the WEF from operating at night-time, which would alleviate those problems being suffered in relation to sleep disturbance and sleep deprivation. Accordingly, the facts and circumstances outlined in the notifications constitute a "serious risk to public health"; by reference to those matters set out in the definition of that term in s3 of the Act.

As the consequences of the nuisance (as detailed in the notifications) include matters constituting a serious risk to public health (as defined by the Act) the Council's duty to remedy the nuisance is simply amplified. However, given the number of persons adversely affected by the nuisance, including very young children, it may be that the Council wishes to enlist the support of other persons or entities with responsibilities for public health under the Act.

Health Impact Assessment at the direction of the Minister

We note that by s53 of the Act the Minister (being the Minister for Health) may, by direction in writing, require the Secretary or the Chief Health Officer to conduct a Health Impact Assessment of the public health and wellbeing impact of a matter specified in the direction.

We note that there has never been a Health Impact Assessment performed in relation to the health or wellbeing impacts caused by any WEF operating in Victoria (or at all within Australia). No Health Impact Assessment has been carried out at the Macarthur WEF.

Our clients uniformly reject any suggestion that the document created by the Victorian Department of Health in April 2013 (purportedly relating to the adverse noise impacts from WEFs) has any relevance to the matters raised in the notifications. Likewise, our clients also reject assertions based upon the NHMRC's Rapid Review. Neither of these documents is the result of any field research carried out at operating WEFs in Australia – and additionally our

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clients reject the validity and accuracy of many of the conclusions and statements contained in those documents.

Moreover, the assertions made in these documents do not have any bearing upon the consequences for our clients caused by the nuisance generated by AGL's WEF; or the Council's duties to our clients under the Act; or at common law. The duties created by the Act are quite separate and distinct and will not be relieved by reference to, or reliance upon, the assertions made in either document.

Given the matters outlined above, we respectfully suggest that the Council should write to the Minister requesting that a Health Impact Assessment be carried out at the Macarthur WEF without delay; and that the Minister direct the Secretary and the Chief Health Officer, accordingly. Our clients are ready, willing and able to assist with and participate in a Health Impact Assessment.

Public enquiry in respect of a serious public health matter

As noted above, our clients properly consider that the matters raised in their notifications constitute a "*serious risk to public health*", as defined by s3 of the Act. Accordingly, these matters also constitute "*a serious public health matter*" as that term is employed in s50 of the Act.

We note that by s50 of the Act "*the Secretary may conduct a public enquiry in respect of any matter which the Secretary considers as a serious public health matter.*" We note also that the Minister may direct in writing the Secretary to conduct such a public enquiry.

As outlined above, in addition to requesting that the Minister carry out a Health Impact Assessment, we respectfully suggest that the Council should write to both the Secretary and the Minister requesting that a public enquiry be conducted without delay in relation to the Macarthur WEF. In the case of the Minister, the Council's request would properly include a request that the Minister direct in writing the Secretary to conduct a public enquiry.

Our clients are ready, willing and able to assist with and participate in a public inquiry conducted in accordance with the Act.

Our clients consider that the consequences that they and their children suffer from the operation of AGL's WEF (particularly those suffering sleep disturbance and sleep deprivation; or other adverse health effects) constitute "*a serious public health matter*". Accordingly, our clients consider that the Act places the Minister and the Secretary under an obligation to conduct a Health Impact Assessment, if not, a public enquiry. Given the scope and nature of the matters raised in the notifications the Council may well wish to have the Minister and Secretary initiate both a Health Impact Assessment and a public enquiry.

Irrelevant considerations

As noted above, our clients do not consider that the documents produced by the NHMRC and the Victorian Health Department (referred to above) have any relevance to the duties, powers and obligations established by the Act. In particular, these documents do not relieve the Council of the express duty created by s60 of the Act "*to remedy as far as is reasonably possible all nuisances existing in its municipal district*".

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Our clients also do not consider assertions made by AGL (or any of its noise consultants) concerning the noise emissions from the WEF to be relevant to satisfying the Council's duties arising under the Act. Moreover, assertions that the noise levels recorded by AGL (and any of its noise consultants) might satisfy relevant noise standards and/or the conditions of its planning consent are, likewise, irrelevant.

The noise standards have no bearing on whether or not a "noise or emission is, or is liable to be, dangerous to health or offensive", where "offensive" means "injurious to personal comfort". Accordingly, the Council (the Secretary and the Minister) would fall into error by having regard to the terms of any noise standards and would fall into further error by having regard to assertions made by AGL concerning the satisfaction of any such noise standard; or the conditions of its planning consent.

It is evident from the Objectives, Principles and Application set out in Part 2 of the Act that planning considerations have no part to play when assessing whether the Council has satisfied its duties and obligations under the Act; or in relation to the exercise of the Council's powers under the Act.

Next steps

As noted above, our clients are ready, willing and able to assist the Council in its investigation into the nuisance set out in the notifications. Likewise, our clients are ready to assist with and participate in any Health Impact Assessment and/or public enquiry carried out by the Minister, the Secretary or the Chief Health Officer.

We would be pleased if you would inform us of the steps which the Council plans to take as part of its investigation of the nuisance. Likewise, we would also be pleased if you would inform us of what steps the Council plans to take to remedy the nuisance; and when the Council proposes to take such steps.

We would appreciate it if all future correspondence and communications concerning the Council's investigation of the nuisance (and the remedial action it proposes to take) be directed to the author.

Likewise, we would also appreciate receiving copies of any correspondence passing between the Council and the Minister or the Secretary.

Yours faithfully
Piper Alderman

Per:

A N Abbott
File Principal

Copy: To the Mayor and all Councillors

A 28


15 October 2013

Mr. David Madden,
CEO,
Moyne Shire Council,
Princes Street,
PORT FAIRY Vic. 3284

Dear Mr. Madden,

NOTIFICATION OF NUISANCE

We are Ann Gardner, Andrew Gardner, Susannah Gardner and Serrin Gardner of 457 Eckersleys Road, Peshurst Vic. 3289.

This is a Notification of Nuisance under Section 62 of the Public Health and Wellbeing Act 2008 ("the Act").

The Nuisance is that defined in Section 58 of the Act as "noise or emission" which is, or is liable to be dangerous to health or "offensive". The noise in question is generated by 140 3 megawatt Vestas wind turbines operated by AGL Energy Ltd. at its Macarthur wind energy facility ("the noise nuisance").

The noise nuisance is "dangerous to health" in that it -

1. gives us constant, severe headaches.
2. causes dizziness.
3. causes severe ear/nose/teeth/jaw pressure day and night.
4. causes nausea, heart palpitations and tight chest to the extent that we think we might be having a heart attack.
5. severely disrupts our sleep.
6. sends vibrations through our body, coming through the floor/couch or bed.
7. severely affects our ability to work on the farm and provides great danger carrying out physical demands of farming, such as riding motor bikes through rocky terrain in the paddocks.
8. affects our ability to work in our woolshed and other farm sheds, due to the extreme impact of infrasound within the walls of such.

The noise nuisance is "injurious to personal comfort", in that it -

1. deprives us of our proper night's sleep (our common law right), therefore we feel absolutely wretched the next day, and start the day with severe headaches forcing us to take tablets regularly.
2. we cannot carry out the usual running of our business with safety, due to the great discomfort we feel due to headaches, severe head pressure and nausea, let alone heart palpitations. This provides a great danger to our wellbeing and personal safety.
3. we're unable to relax and enjoy living in our own home any more, by ourselves or with friends. It's taken away the pleasure of just "being at home", in our magnificent surroundings.
4. we're unable to enjoy being outside our home in any way, whether it be relaxing with friends, working in the garden or carrying out general domestic duties. We cannot even hang the washing on the clothes line, without being severely impacted by the infrasound or the background noise.

The Council has a statutory duty to remedy as far as is reasonably possible all nuisances existing in its municipal district under section 60 of the Act.

The Council must investigate the subject matter of this Notification of Nuisance within a reasonable time in accordance with Section 63 of the Act.

We look forward to providing you with further evidence of noise nuisance, its danger to our health and the injury it has and is causing to our personal comfort, as part of the Council's investigation.

Would you please notify us of when you will interview us again (as we've had our preliminary interview) regarding the subject matter of this Notification of Nuisance ?

Would you also please notify us of what other steps you intend taking to investigate the subject matter of this Notification of Nuisance ?

We look forward to assisting your investigation and hearing from you in relation to this Notification.

Yours sincerely

ANN C. GARDNER

ANDREW R. GARDNER

on behalf of SUSANNAH GARDNER

 SERRIN GARDNER

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SUSTAINABLE DEVELOPMENT

10. Macarthur Windfarm - Investigation of Nuisance Complaints

Presented by	Oliver Miles
Report author	Russell Guest and Murray Wurfel
Attachments	1. Legal advice - Confidential Attachment 2. Blank interview and diary forms 3. Summary of individual responses 4. Department of Health - Windfarms, Sound and Health

OFFICER'S RECOMMENDATION

1. Having conducted an investigation of the nuisance complaints made under the *Public Health and Wellbeing Act 2008* in relation to noise and health impacts from the Macarthur Wind Energy Facility (Facility), that Council determines, on the basis of:
 - a. the best currently available information including from the National Health and Medical Research Centre (NHMRC) and the Victorian Department of Health; and
 - b. its own investigations of the complaints received,that the Facility is not currently causing a nuisance of the type governed by Part 6 Division 1 of the *Public Health and Wellbeing Act 2008*.

2. Having conducted an investigation of the nuisance complaints made under the *Public Health and Wellbeing Act 2008* in relation to noise and health impacts from the Macarthur Wind Energy Facility (Facility), that Council determines, on the basis of:
 - a. the best currently available information including from the National Health and Medical Research Centre (NHMRC) and the Victorian Department of Health; and
 - b. its own investigations of the complaints received,that the Facility is not currently causing a nuisance of the type governed by Part 6 Division 1 of the *Public Health and Wellbeing Act 2008*.

SYNOPSIS

- Following the receipt of 23 written complaints from property owners in proximity of the Macarthur Wind Energy Facility interviews were conducted at the complainants' residences, between 18 November 2013 and 3 March 2014 by Murray Murfett Environmental Health Officer, assisted by Russell Guest, Co-Ordinator Energy and Major Projects. The investigation findings are that in respect to noise, that the noise from the Macarthur WEF is, at the very least liable to be offensive, but is not able to be regarded as a nuisance.

Sustainable Development

Macarthur Windfarm - Investigation of Nuisance Complaints (cont'd)

- With respect to the complaints made concerning effects on health until a National or State enquiry investigates this matter, and given the current information and evidence available to Council, it is not reasonable to come to any conclusion on possible health impacts.

BACKGROUND

Origin of the Investigation

- A group of 20 landowners collectively engaged their own acoustic consultant and employed Piper Alderman Lawyers, to represent them regarding background noise compliance.
- Piper Alderman Lawyers wrote to Council earlier this year enclosing copies of two letters sent to the Minister of Health and the Permanent Secretary of the Department of Health.
- Amongst many other matters covered, the letter to Council requests the support of Council to require the undertaking of a Health Impact Assessment - as provided for in the Public Health and Wellbeing Act - of the impact of the Macarthur Wind Farm.
- Council considered this request at its meeting of 27 May 2014, and resolved:
"That Council reconsider this matter when the investigations being undertaken under the Public Health and Wellbeing Act are finalised".
- Shortly after this, complaints were lodged regarding nuisance caused by the Macarthur Wind Energy Facility, under the provisions of the Public Health and Wellbeing Act 2008.
- All landowners represented by Piper Alderman made submissions regarding nuisance to Council.

Legal Advice - The Public Health and Wellbeing Act 2008

- The assessment of, and determination of the existence of a nuisance is a complex issue and advice was obtained from Maddocks solicitors on four occasions, being letters dated:
 - 09 September 2013
 - 18 October 2013
 - 16 May 2014
 - 25 August 2014*(Refer to Attachment 4, Legal advices – Confidential Attachment).*
- The key point of the early advice was for Council to wait until the noise compliance matter as required by the planning permit allowing the Macarthur WEF, was resolved before making a determination on the nuisance claim.
- This has delayed the presentation of this report from April 2014, to October 2014, as the noise compliance matter was not resolved until the September 2014 Ordinary Council meeting.

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Nuisance Windfarm – Investigation of Nuisance Complaints (cont'd)

- The Public Health and Wellbeing Act 2008 (PHWB) establishes procedures for Council to follow, in dealing with nuisances which have been notified to Council.
- Division I of Part 6 of the Act is critical in determining what activities are governed by the nuisance provisions of the Act.
- Division I is headed "Nuisances" and Section 58 reads:
This Division applies to nuisances which are, or are liable to be, dangerous to health or offensive.
 - (2) *Without limiting the generality of subsection (1), this Division applies in particular to nuisances arising from or constituted by:*
 - (a) *premises; or*
 - (b) *water; or*
 - (c) *animal, including a bird or insect, capable of carrying a disease transmissible to human beings; or*
 - (d) *refuse; or*
 - (e) *noise or emission; or*
 - (f) *state, condition or activity;*
 - (g) *other matter or thing- which is or is liable to be dangerous to health or offensive.*
 - (3) *For the purpose of determining whether a nuisance arising from or constituted by any matter or thing referred to in sub section (2) is, or is liable to be, dangerous to health or offensive:*
 - (a) *regard must not be had to the number of persons affected or that may be affected; and*
 - (b) *regard may be had to the degree of offensiveness.*
 - (4) *In this section, offensive means noxious or injurious to personal comfort.*
- The Division only applies to "nuisances" which are, or are liable to be, dangerous to health or offensive.
- Noise can be a nuisance but noise is not by itself a nuisance. What this means is that, in order for the nuisance provisions of the Act to apply, the activity must:
 - first, be a nuisance of the type recognised by law; and
 - second, it must be a nuisance which is, or is liable to be, dangerous to health or offensive.
- Section 58(2) (see above) does not define nuisance. Rather it simply sets out a list of activities which could constitute a nuisance.
- "Nuisance" is not defined by the Act. As the Division only applies to "nuisances" (and not other conditions), it is necessary to understand what "nuisance" means.

Definitions and Concepts Central to the Nuisance Complaints

- This section of the report is to provide Council with a basis that it has correctly understood and considered the relevant factors, before making a decision on the nuisance claims.
- The main terms that need to be understood to obtain an understanding of the framework within which a Responsible Authority needs to act regarding the Public Health and Wellbeing Act. These are explained as follows:

What is a nuisance under the Act?

- In order for the nuisance provisions of the Act to apply, the activity must:
 - First, be a nuisance of a type recognised by law; and
 - Second, be a nuisance which is, or is liable to be, dangerous to health or offensive.

Substantial and Unreasonable

- What constitutes a substantial and unreasonable degree of interference is decided according to the reasonable standards for the enjoyment of those premises.
- As such, the nature and character of the locality of the Macarthur WEF is a relevant factor. While planning permission does not prevent a finding of nuisance, it does alter the character of the locality of the wind farm.
- It is the changed character that is to be considered, rather than the location of the character before the wind farm - private nuisance is to be decided by reference to a locality "with that permitted development or use and not as it was previously".
- The character of the locality has therefore changed significantly with the construction of the Macarthur WEF

Social Utility of the Macarthur WEF

- In determining reasonable standards one must also consider the nature of the activity and its social utility.
- The social utility of the Macarthur WEF is significant, in that it is a source of renewable energy that does not cause greenhouse gases or other pollutants.

Compliance, or non-compliance with the planning permit

- Compliance with the planning permit and the relevant industry standard (New Zealand Standard 'Acoustics - the Assessment and Measurement of Sound from Wind Turbine Generators' (NZA 6808:1998) (Standard) is highly relevant.
- The Macarthur WEF is compliant with the planning permit and Noise Standard.

Sustainable Development

Macarthur Windfarm - Investigation of Nuisance Complaints (cont'd)

Offensive

- Offensive is defined in the Act as "noxious or injurious to personal comfort". This is a relatively low threshold.
- The results of Council's interviews with the complainants indicate that the noise from the Macarthur WEF, whether or not the WEF is complying with the permit and Standard, is impacting on personal comfort.
- Such impacts or effects of the noise, being that:
 - It is heard inside homes,
 - Disturbs sleep and
 - Is audible over the television;are all ways in which the noise could be argued to be injurious to personal comfort, and therefore, offensive.

Dangerous to Health

- The current position of the relevant regulatory authority, the Department of Health, is that there is no evidence of health impacts caused by wind farms.
- This was reflected by the recent National Health and Medical Research Council (NHMRC) report entitled "Systematic review of the human health effects of wind farms, National Health and Medical Research Council, Canberra) which found:
 - That although a very comprehensive search for literature on the adverse health effects of wind turbines was conducted, on present evidence the association of exposure to wind turbines and adverse health effects appears to be very limited.
 - There is no consistent evidence that adverse health effects are caused by exposure to wind turbine noise.
 - There is, though, consistent—albeit probably confounded—evidence that noise from wind turbines is associated with annoyance, and **reasonably consistent evidence that it is associated with sleep disturbance and poorer quality of life.**
 - None of this evidence is sufficient to establish a cause-and-effect relationship.
 - While no research has directly addressed the association between infrasound from wind turbines and health effects, **the possibility of such an association cannot be excluded on present evidence.**
- The results of Council's interviews with the complainants indicate they believe that the noise from the Macarthur WEF has affected their health.
- There was no specific medical evidence to support these impacts.
- The existence or otherwise of a private nuisance is not ascertained solely by reference to the impact of an activity on the complainant, but also by reference to the reasonableness or otherwise of the person undertaking the activity.

Sustainable Development

Nuisance Windfarm - Investigation of Nuisance Complaints 2014/15

- Legally it is not necessary for the noise to be, or liable to be, dangerous to health in order for it to be offensive, as dangerous to health and offensive are alternatives. That is it can be offensive, even if it is not dangerous.

What Council must do in considering the investigation and what measures are available to remedy the nuisance?

- Section 61 of the Public Health and Well Being Act establishes what an offence under the Act is. Relevantly it states that:
Section 61 - Offence of causing a nuisance
(1) A person must not-
 - (a) cause a nuisance; or*
 - (b) knowingly allow or suffer a nuisance to exist on, or emanate from, any land owned or occupied by that person.*

*Penalty: In the case of a natural person, 120 penalty units;
In the case of a body corporate, 600 penalty units.*

(2) A person is not guilty of an offence under subsection (1)(b) if the person had a lawful excuse for knowingly allowing or suffering a nuisance to exist on, or emanate from, any land owned or occupied by that person.
- Once Council has completed its investigation, it must then consider all of the evidence and determine whether a nuisance exists.
- If Council determines that a nuisance exists, Council is required to remedy the nuisance (pursuant to the duty contained in Section 60),
- There are a number of options available to Council under the Act to deal with a nuisance. The options available include:
 - prosecuting the person causing the nuisance;
 - prosecuting the owner or occupier of the land; and;
 - issuing an improvement or prohibition notice to the person who has contravened the Act.
- However, if Council determines that the noise is substantial and unreasonable and that a nuisance does exist, it will have a duty to remedy, as far as is reasonably possible, that nuisance.
- In short, the issue of remedy here is complex. The common remedies for nuisance include issuing an improvement notice or a prohibition notice, or bringing a prosecution.
- One of the key complicating factors with this matter is that the noise has been found to be compliant with the planning permit, meaning any notice that required the noise (the nuisance) to stop or reduce for any period would, in effect, impinge on what is permitted by the permit.

Sustainable Development

Macarthur Windfarm – Investigation of Nuisance Complaints (cont'd)

Options available to Council if it finds the nuisance is only “Offensive”

- If Council determines that the noise is offensive as it is injurious to personal comfort but that it is not a substantial and unreasonable interference with the private right to use and enjoy land, there will be no nuisance under this Act and no obligation or power for Council to proceed down this path.
- If Council determines that there is no nuisance, there is no obligation to take enforcement action under the Public Health and Wellbeing Act.
- In the absence of such an action, then Council is left to deal with the situation on the basis of its powers under other Acts – the key one here, being the Planning and Environment Act.
- That Act has no capacity to deal with this matter. Being “offensive” is not an offence under the Planning and Environment Act and Council has determined that noise is compliant with the conditions and requirements of the planning permit.

STRATEGIC LINK

- Under the provisions of the Public Health and Wellbeing Act 2008, Council is the responsible authority required to investigate complaints of nuisance.

DISCUSSION – INTERVIEWS

- Of the 23 complainants Officers were able to interview 20, with an interview ranging in size from one to three people.
(Refer to Attachment 2, Blank interview and diary forms and Attachment 3, Summary of Individual Responses.)
- The questions were designed to:
 - Establish the existence and source of the nuisance
 - Determine impact (times, duration, locations within the house)
 - Effects (physical, emotional, social and financial)
 - Causes of variability (including times and weather conditions)
 - Review any records kept
- In addition, the investigating officers requested several of the complainants to keep an events-based log of their experiences, and also recorded their own experiences at each of the complainant’s properties.
- Three complainants were not interviewed (no longer resident in the district, unavailable due to work commitments or unwilling).
- The responses were given in a considered manner by the interviewees and in the officers’ opinion reflected the genuine feelings of all those interviewed.
- Each complainant was guaranteed anonymity. None of the complainants had wind turbines on their property.
-

Sustainable Development

Macarthur Windfarm – Investigation of Nuisance Complaints (cont'd)

- The responses from the on-site interviews were then summarised to provide a picture of the alleged nature and extent of the effects on a household occupants.
- In general, the alleged effects varied on residents, according to a number of variables, ranging from occasional and annoying, to more severe impacts, which included:
 - sleep deprivation (being woken and /or being kept awake)
 - headaches, nausea
 - body vibrations
 - structural vibrations within their dwellings
 - having to spend nights away from their home, for respite.
- Unsolicited comments, covering other alleged impacts not addressed in the questionnaire were made by the complainants. These included:
 - social impacts (relatives, friends and neighbours becoming estranged and local community activities ceasing)
 - frustration (at having to constantly justify their concerns)
 - potential effect on farm devaluation and the impact on future and succession planning
 - the potential of being surrounded by wind farms (or “wind factories”)
 - impact on wildlife (e.g. deserted wetlands)

THE INTERVIEW RESPONSES

NOISE

Analysis of whether the noise is “substantial and unreasonable”

- What needs to be decided is whether the noise is or is not a nuisance.
- Noise based on the results of the interviews, constitutes interference with the private right to the use and enjoyment of land.
- However, it is not clear that it is a substantial and unreasonable interference.
- Council’s legal advice is that a highly relevant factor in determining whether the noise is substantial and unreasonable, is whether the Macarthur WEF complied with the planning permit noise standard.
- Council determined at 23 September 2014, Ordinary Meeting that the Macarthur Wind Farm was compliant with the relevant noise standard and relevant planning permit conditions.
- The compliance with the standard, which was set by the relevant authorities as the arbiter of what noise is allowable, is therefore the major determinant that if it complies it is insubstantial and reasonable.

Sustainable Development

Macarthur Windfarm – Investigation of Nuisance Complaints (cont'd)

Analysis of whether the noise is “offensive”

- The “offensive” threshold is met if the noise is “injurious to personal comfort”. That is the noise impacts on the complainant’s work, leisure time and sleep and occurs regularly, if not on a daily basis.
- It is particularly significant that the “offensive” impacts also were reported at night when there is a greater expectation that there will be less noise.
- A significant number of the complainants work shift work, which requires them to sleep during daylight hours, and as a consequence the daytime noise impacts on sleep.
- The complainants all describe the noise, and therefore the impacts of it, as varying with wind speed and direction. To a lesser extent variances relating to cloud cover and cloud ceiling were noticed.
- Although the Wind Farm is compliant, the noise experienced by the complainants is considered to meet the second, lesser criteria, of being “offensive”.
- Only if the noise meets the other criteria of substantial and unreasonable interference” thus becoming a nuisance can any practical action be undertaken by Council.
- This is because there is no offence for being offensive in the Act. The Planning and Environment Act is also of very little assistance, by meeting the permit condition, there is also no offence with respect to noise.

HEALTH

Outcomes of Investigation

- The households interviewed reported the following alleged health impacts:
 - Just under one third reported ear issues such as buzzing, tinnitus or increased sensitivity;
 - Five said they experienced headaches; and
 - Two also said they experienced nausea or a feeling of sickness from the noise.
 - The disturbed sleep and/or deprivation of sleep referred to by almost all of the complainants' households could be, at least in some cases, regarded as a health issue, or being dangerous or liable to be dangerous to health.
- Of the 20 complainants interviewed, the responses were categorised as being either high, medium or low level.

Sustainable Development

Macarthur Windfarm - Investigation of Nuisance Complaints (cont'd)

RESULTS

- The health aspects of the nuisance complaints made pursuant to the Public Health and Wellbeing Act, are summarised as:
 - 4 impacts were categorised as **high level** in nature. That is the complaints were reported as being:
 - Both audible and inaudible sensations;
 - Serious sleep deprivation resulting in increased potential for workplace and driving accidents;
 - Nausea and headaches;
 - Extreme ear pressure effects;
 - Constant tiredness, anxiety, body vibrations, stresses; and
 - Having to leave the property regularly to obtain a good night's sleep.
 - 9 were categorised as **moderate**. That is the complaints were reported as being:
 - audible sensations;
 - sleep disturbance and deprivation;
 - inability to relax at nights;
 - nuisance noise heard over the top of the television;
 - impacts outdoor activities;
 - 6 were categorised as **low level**. That is the complaints were reported as being:
 - occasional sleep interruptions, only occasionally heard;
 - no major impacts but annoying during their relaxing times.
- Such effects included claims of physical, emotional and mental impacts.
- There was no specific medical evidence to support these alleged health impacts although a number of people have consulted the medical profession.
- The reported effects on residents varied within households, were often cumulative and not immediately noticeable in some cases.
- Conflict within households, neighbourhoods and communities was reported,
- Several residents reported what was considered to be quite severe impacts on their health that included nausea, sharp pains, headaches, ear pressure changes and dizziness.
- Council Officers are not qualified to state these effects are or are not caused by the Macarthur Wind Energy Facility.
- As Council is aware, the topic of the claimed adverse impacts on health caused by wind farms has been a hotly debated and contentious issue.

Sustainable Development

Macarthur Windfarm – Investigation of Nuisance Complaints (cont'd)

- Council considered a report at its March 2014 Council meeting on the outcomes of the National Health and Medical Research Council (NHMRC) report entitled “Systematic review of the human health effects of wind farms, National Health and Medical Research Council, Canberra”.
- This was an independent review (Undertaken by University of Adelaide) of the literature to determine whether there is an association between exposure to wind farms and human health effects and, if so, whether this association is causal or might be explained by chance, bias or confounding.
- The conclusions were:
 - That although a very comprehensive search for literature on the adverse health effects of wind turbines was conducted, on present evidence the association of exposure to wind turbines and adverse health effects appears to be very limited.
 - There is no consistent evidence that adverse health effects are caused by exposure to wind turbine noise.
 - There is, though, consistent—albeit probably confounded—evidence that noise from wind turbines is associated with annoyance, and reasonably consistent evidence that it is associated with sleep disturbance and poorer quality of life.
 - None of this evidence is sufficient to establish a cause-and-effect relationship.
 - While no research has directly addressed the association between infrasound from wind turbines and health effects, the possibility of such an association cannot be excluded on present evidence.
- Consequently the quality and quantity of evidence available to address the questions is at best limited.
- The NHMRC stated further and better research on the relationship between noise from wind turbines and health, sleep and quality of life is warranted.
- Council simply does not have the resources, or expertise to address such questions, which need to be done on an Australia wide approach.

Sustainable Development

Macarthur Windfarm – Investigation of Nuisance Complaints (cont'd)

AGL's RESPONSE TO COMPLAINTS

- The complaints regarding alleged noise and health impacts were regularly submitted to AGL over the period from when the Macarthur Wind Energy Facility commenced operating to date.
- The planning permit established a system where all complaints that were covered by the Planning and Environment Act were to be submitted to AGL, who were to respond in accordance with their endorsed complaints process.
- Health matters that were the subject of the nuisance complaints under the Public Health and Wellbeing Act were also included in these complaints
- As required by the permit, AGL has provided a copy of their register on a monthly basis, and by cross checking with the copies of the e-mails received indicate the register accurately reflects the complaints received.
- The standard response provided to complainants is as set out in the example following:

Issue	Resolution Summary	Outcome
Claiming disturbed sleep due to the wind farm, concerned about impacts	Email acknowledged. Reference number sent. Advised to seek medical attention for all health related matters	There has been no change to wind farm operation since noise compliance has been established.

- Note AGL have been claiming compliance since April 2013 when they forwarded their compliance report to the Minister for Planning. Their position is they comply with the noise standard therefore audible noise is not a planning matter, and adopt the view there is no evidence of health effects, but do include the advisory warning to seek advice.
- This action, combined with sending a letter to all local medical doctors' claiming that there is no evidence wind farms have any effect on health, and promoting the "nocebo" effect, caused much ill will amongst the respondents to the survey.
- The gulf between the two views is entrenched and given the totally inadequate research undertaken in Australia to date, will only continue.

CONSULTATION

- Council Officers interviewed 20 of the complainants. No direct consultation on the matters of the nuisance complaints has taken place with AGL. The EPA, Department of Health, Department of Transport, Planning and Local Infrastructure and AGL are aware that nuisance complaints have been received and that an investigation was undertaken.

FINANCIAL IMPLICATIONS

- While the investigation phase is now complete, Council is potentially facing substantial costs if it wished to prosecute this matter.

RISK

- Council is addressing issues that are extremely technical, and which have yet to be properly addressed as evidenced by the NHMRC report recommending further research on noise and health impacts.
- The lack of proper research exposes Council to the risk that it can make a considered judgement based on the best available advice, but that in a short space of time further evidence is produced invalidating the advice provided.
- Risk of complainants taking Council to Magistrate's Court under the provisions of the Public Health and Wellbeing Act.

CONCLUSION

- Council's solicitors on assessing the evidence formed the view that:
"On balance, applying the legal tests and considering the relevant factors, we consider that the noise from the Wind Farm is not substantial and unreasonable, and therefore conclude that a nuisance does not exist."
- Council's Environmental Health Officer and the Co-ordinator of Major Projects, opinion is that the noise from the Macarthur WEF is, at the very least liable to be offensive, but is not able to be regarded as a nuisance. Council officers do not doubt the complaints are genuinely held.
- Council has determined previously that the Macarthur WEF complies with its planning permit conditions in relation to noise.
- There is no doubt that the affected landowners are convinced the Macarthur Wind Farm has to varying degrees had a detrimental effect on them.
- With respect to the effects on health, until an enquiry investigates this matter and given the current information and evidence available to Council, it is not reasonable to come to any conclusion on possible health impacts.
- Therefore Council is not in a position to accept and thus decide on the health aspects of the nuisance complaints.

BRETT LANE MISLEADING ACTIONS AND CONDUCT - MACARTHUR WINDFARM - 2005 - 2009 incl.

1. BLA only carried out flora and fauna surveys in spring/summer and autumn over 18 days, not surveying at all in winter - supposedly covering area of 55 square kms for 183 turbines. Didn't survey early dawn or late dusk when most birds moving. Therefore didn't observe any brolgas, several species of egrets, whiskered terns or wedge-tail eagles. Didn't see any of the large no. of rare or threatened species seen on Atlas of Victorian Wildlife for Macarthur wind farm site and district.

2. BLA didn't consult any neighbours to the wind farm to enquire about presence of Brolgas in or around w.f. site. Winter of 2004 when the survey should have taken place was a particularly wet one and as a result a prolific birdlife in the abundant wetland areas. We had a Brolga pair and chick during that winter (also pair and chick winter 2009) and have always had a pair on our property during winter, Brolga breeding season for the last 30 years, as have other properties in close proximity to wind farm site. Map used by BLA (from Atlas of Vic. Wildlife) is misleading and incorrect as no mention of Brolga locations around wind farm site, let alone throughout wind farm site which locals are convinced about, particularly as large manmade wetland in centre of site. Participating landholders also deny presence of Brolgas, though a pair flew over during site inspection during Panel in 2006.

3. BLA lied about numbers of Brolgas utilising sites in and around w.f. site, claiming impact of less than 3% on S.W. Victorian population whilst DSE claimed at least 30% of S.W. Vic. Population could pass through w.f. site from flocking to breeding sites.

4. BLA didn't see any Striped Legless Lizards and didn't survey for potential habitat though it is claimed that 10-15% of w.f. site is potential Striped Legless Lizard habitat, rather "a precautionary approach was adopted".

5. BLA lied saying no Conservation Parks near wind farm site. In report to panel in 2006, in response to European criteria quoted by Andrew Chapman under "35 Precautions for site selection of wind farms" which stated that wind farms should not be located in or near -

A International or Nationally significant sites for nature conservation

B. other areas with large concentration of birds

C. areas subject to high use of significant numbers of threatened species,

BLA falsely claimed "none of these descriptions applies to the proposed wind farm or its surroundings".

The wind farm site is 12 kms from Mt. Napier (State Park), 15 kms from Mt. Eccles (National Park) and 25 kms from Tower Hill (State Game Reserve).

It also lies within the recently announced world accredited Geo Park in S.W. Victoria.

6. BLA didn't monitor the Southern Bent wing Bat correctly. The w.f. site is in the centre of the flight path between nationally significant Southern Bent wing Bat mothering sites at Naracoorte in S.A. and Warrnambool. The Bat Monitor was only used on 69 nights, and DSE claimed it should have been used over 2 to 3 years. The Bat Monitor (Anabat) was unable to distinguish

differing bat sounds and stood only 45 metres high with a radius of 20 metres, therefore was only able to monitor 22% of bat movements, as it only reached the lower flight levels. DSE recommended more conclusive bat surveys be carried out.

DSE claim the Macarthur windfarm could have a high impact on the local Southern Bent wing Bat population using the site for foraging habitat and also due to collision with turbines (particularly with night lights) during flight for migration. DSE claims this impact could have very significant long term consequences for this population as Southern Bent wing Bats can migrate in large numbers. Dr. Greg Richards, employed by BLA to analyse their bat studies quoted "bat usage of the site is very low", yet another false statement.

7. BLA claimed wind farm site is largely cleared of native vegetation and concluded most of the Nationally threatened Species likely to occur in the region would NOT due to lack of habitat. Their map used grossly underrepresented the area sustained by native vegetation. It was quoted at some stage that the land was generally flat and due to pasture improvement over the years sustained exotic pastures - RUBBISH. The vegetation map only showed Poa and no indigenous vegetation in riparian zones, particularly Curly Sedge. This is a total misrepresentation as the wind farm site is in rocky barrier country, around 50% being stony and excellent habitat for flora and fauna. BLA claimed no species or ecological communities will be significantly affected - WRONG - over 100 kms of huge access tracks let alone the massive excavation (and possible blasting, though denied) for 183 turbines will decimate native habitat and ecological communities.

A 31

[REDACTED]
28th May, 2009
Ombudsman Victoria,
Level 9,
459 Collins Street,
North Tower,
MELBOURNE, Vic. 3000
Reference C/09/7111

Dear Sir,

I am writing to register my complaint regarding the Department of Sustainability and Environment's handling of the entire lead up process and subsequent panel hearing for the Macarthur wind farm which took place during February, 2006.

The Panel disregarded evidence given by neighbours, particularly regarding the presence and significance of broilgas on the site and properties adjacent, in favour of the proponents' and Brett Lane and Associates' misleading evidence and opinions.

Brett Lane's Flora and Fauna study, which took place over a very short period and certainly wasn't thorough, considering the 55sq. kilometre site, was grossly misleading and inadequate. He only conducted two short evening and two dawn observations on the site, with no sightings of broilgas. He consulted landholders far away from the site within 40kms, however failed to consult neighbours on the perimeter of the site. Knowing full well that broilgas live in and around the site and that the site is directly beneath the flight path from registered flocking and breeding sites as reported by neighbouring landholders, the DSE rather than recommending buffer zones, decided, upon the proponent's recommendation, that only post construction monitoring of the broilga population need take place. This result confirms the government favoured the proponents. The DSE panel members even observed a pair of broilgas flying overhead, however the proponents attempted to deny they were even broilgas, but had to admit they were eventually. Just this morning prior to writing this letter I have observed our pair of broilgas which have been present on our property for years, foraging in one of our paddocks, in the company of their broilga chick, obviously born in 2008. The turbines will be directly placed underneath the regular flight path between the feeding and roosting sites of these particular broilgas, let alone others which feed around the site.

The DSE panel members obviously made recommendations to the Minister knowingly using false information regarding the proponent's claim that the majority of the community were in favour of the project, based on the number of submissions received for, as against the proposal. The manner in which many of these supporting submissions was gathered can only be described as fraudulent.

We thought throughout the panel the DSE disregarded matters which neighbours thought needed attention. They ignored our genuine concern at the massive fire risk posed by the construction

and operation of the Macarthur windfarm. This was displayed when they allowed, upon the proponent's invitation, the head of the Western Victorian CFA to address the panel hearing, with misleading claims that the wind farm would pose no greater fire risk than any other farm. As part of our presentation, a video was shown of the massive Lake Bonney South Australia turbine fire in January, 2006 which due to the extreme height of the turbines was unable to be extinguished as no equipment would reach such a height and consequently "spotted" for kilometres.

In our extremely inaccessible rocky barrier country, fire is always a huge threat, let alone with our future proximity to the Macarthur wind farm. A fire such as occurred at Lake Bonney in S.A. would literally burn to the coast, given the right conditions on a bad day. However, once again our concerns were dismissed lightly with the DSE favouring the proponents. One would think fire risk would be of the utmost concern in this district, particularly with the aftermath of Black Saturday this year, knowing the Western District of Victoria is the most fire prone area in the world.

In 2005 we applied for a planning permit for two farmstay units to be built on the southern side of our property, that which faces the Macarthur wind farm site, in an area which we feel will be the impact zone from the effects of the wind turbines on our animals grazing. The Moyne Shire gave us approval, but it certainly didn't suit Macarthur Windfarm Pty. Ltd. who proceeded to take us to VCAT. Our VCAT hearing (Proceeding No. P3361/2005) took place on 14th June, 2006. Needless to say, we lost, in fact one could definitely claim we were crushed by the government. This was a most upsetting experience with the additional humiliation of being reported and ridiculed throughout the daily newspapers, locally and nationally. This was a blatant example of the government making decisions favouring wind farm developers. This case took away our right as individuals to develop our property as we wish, in favour of a wind farm developer, thus setting a very disturbing precedent. No doubt you will be able to access details of this case using the VCAT number I have quoted above.

I shall be forwarding further evidence supporting my concerns to you as soon as I am able to gather relevant documentation.

Yours faithfully,

ANN C. GARDNER

Secretary,

HAWKESDALE MACARTHUR LANDSCAPE GUARDIANS

A 32

Marramok

From: [REDACTED]
Sent: Monday, 22 September 2014 3:57 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Graham Lloyd Article from Today's Aust

Dear Ann,

Thank you for your email. My understanding is that under the conditions of the planning permit AGL need to prepare a report on both issues. I understand this report is with DEPI. I want be supporting any action until DEPI have made a recommendation .

James

Sent from my iPhone

> On 22 Sep 2014, at 7:53 am, "[REDACTED]" wrote:
>
> Dear All,
>
> This is an ABSOLUTE DISGRACE

>
> And AGL are denying it, but no surprise at all.
>
> WHAT IS THE MOYNE SHIRE GOING TO DO ABOUT THIS APPALLING SITUATION ?
>
> Will the Shire allow this carnage to continue, or will they insist on turning off the main offending turbines until the killing of birds stops ?
>
> This report didn't take into account the bat deaths as with only monthly monitoring of bird/bat kill, of course any bat carcasses would have decomposed as this only takes LESS THAN ONE WEEK....
>
> I would like to hear from you please.
>
> Ann Gardner
>
> From: [REDACTED]
> Sent: Monday, 22 September 2014 7:39 AM
> To: gus gardner
> Subject: FW: Graham Lloyd Article from Today's Aust
>
>
>
> Message protected by MailGuard: e-mail anti-virus, anti-spam and content filtering.
> <http://www.mailguard.com.au/mg>
>
>
> <The Australian, 22 Sept '14, P1.jpg> <The Australian, 22 Sept '14,
> P2.jpg>

A 33

[REDACTED]
19th November, 2010

Mr. C Lapsley,
Fire Services Commissioner,
Level 26/121 Exhibition Street,
MELBOURNE, Vic. 3000

Dear Mr. Lapsley,

On 15th November I rang in on the 774 talkback program at 5.30pm asking the question "Does the CFA recognise the enormous fire danger the proliferation of thousands of wind turbines in South Western Victoria will cause, and how does the CFA intend fighting these fires given that -

1. There is no equipment which will reach the height of the nacelle of the turbine in order to extinguish the fire.
2. Most of these wind farms are to be constructed in rocky barrier country, which vehicles cannot access.
3. It will not be possible to use fire bombing aircraft as visibility in amongst the thousands of turbines will be zero.
4. Wind turbine fires cannot be extinguished with water as they are electrical and burning oil.

Unfortunately during this program listeners ringing in were only able to pose the question to you, but didn't have any opportunity to discuss their concerns at all. Your apparent ignorance of the gravity of this situation has prompted me to correspond with you following the program. I was very surprised to hear you quote that the towers will be between 50 and 60 metres high. In fact the Macarthur wind farm which our property joins will have 140 turbines which are 80 or 90 metres to the nacelle, and the Peshurst wind farm just to the north and east of our property will have 225 turbines which are 100 metres to the nacelle, nearly double the height you claim. If all the wind farms proposed in our immediate district are constructed, the area from Peshurst to Port Fairy and Hawkesdale to Macarthur will be back to back wind farms of more than 750 turbines in just this one 20 - 30 km wide corridor to the sea.

You also didn't appear to understand my description of the majority of the country down here which is rocky barrier country, and totally inaccessible by wheeled vehicles. You gave me a rather uninformed answer saying that if it is a small fire (which they don't appear to be, referring to S.A. three fires in last four years), the CFA will have the vehicles placed in proximity to the base of the tower. One of my points is that these turbine fires will not be able to be reached by vehicle given the nature of the terrain. There'll be nobody living anywhere near the Macarthur wind farm so the fire won't be small by the time trucks come from kilometres away, by which time it will be well on its way to the coast.

Throughout the preliminary period leading up to the panel for the Macarthur wind farm, the proponents AGL continually claimed that "a wind farm poses no greater threat than any ordinary working farm". This claim is rubbish as in this rocky country we are not able to use big farm machinery, but of course the community has been conned into a false sense of security by this

spin.

My husband made a very comprehensive presentation regarding the great fire risk posed to neighbours by the Macarthur wind farm, at the panel hearing in February 2006. This was just after the Lake Bonney wind farm fire in S.A. and he used the 7.30 report DVD as evidence to show the panel just how horrific a wind turbine can be when it ignites and throws ash and debris out on such a large radius. Given the extremely strong winds we experience in summer, combined with low humidity and soaring temperatures, this will be a recipe for disaster. To our dismay AGL brought in Paul Hill, the local CFA Community Liaison Officer who spent half an hour counteracting our claims and convincing the panel that the Macarthur wind farm would not pose a fire threat whatsoever. When questioned about their fire fighting plans AGL told that each turbine had a small extinguisher inside the tower, but in fact the towers would be locked at all times. Their employees would also be able to help fight the fires. Unless there are special conditions for wind farm employees, one could not imagine any of these people would have any training whatsoever let alone have done any of the required courses to even jump on a fire truck.

I am aware that there have been three fires in the last four years at wind farms in South Australia.

1. At Lake Bonney on 22 January 2006 where fire fighters could not extinguish the blaze because the tower was too high at 67 metres (In south-west Victoria the towers will be 80 to 100 metres tall) . Fire fighters had to stand and watch as fire destroyed the turbine and extinguish spot fires which ignited due to ashes from the turbine.

2. Cathedral Rock wind farm near Port Lincoln on Tuesday 3rd February 2009.

3. Just recently at Cape Jervis at the Starfish Hill wind farm. Safework South Australia made CFS and other emergency crews move back one kilometre to extinguish spot fires as the blades were still turning whilst on fire, one could imagine like a giant sparkler !!!

During the Macarthur wind farm panel in 2006, AGL also claimed their access tracks would assist with fire fighting. However, these are dead end tracks and it has since been determined that access tracks at wind farm sites are in fact "death traps". One could only imagine a similar situation to that at the Linton bushfire years ago where a dead end track gave no escape route for the fire truck. Of course in this rocky barrier country, once again due to the rugged terrain a vehicle would be unable to go off the track at all hence the description of "death trap" for wind farm access tracks.

Another very serious issue which I'm sure the CFA has not addressed is the fact that since wind farm developers have moved into this district and a multitude of wind farms have been proposed and approved, the communities have been ripped apart in a manner which has never been seen in Australia before. There is emerging a very serious social problem where the wind farms have pitted neighbour against neighbour and friend against friend. So the once cohesive community, where neighbours helped each other and looked out for one another, is a thing of the past and the CFA will find that once these wind farms are established, there will be a grave lack of volunteers due to the animosity within the once harmonious communities. I have heard several of our locals claim that the wind farm landholders or the CFA won't need to ask their neighbours to man the trucks to fight a wind farm fire, as they'll be in their solicitor's office!!

Is the CFA aware of the serious health problems which people living up to five kilometres from a wind farm may suffer? Statistics show that over time many of the neighbouring farmers to a wind farm eventually move away as the turbines are placed far too close to their homes and workplaces, and they just can't bear to live there any more. What's more, often the wind farm companies are forced to buy up neighbouring properties to literally stop publicity about the negative effects suffered living next to a wind farm (refer Waubra wind farm where seven properties have now been purchased by Acciona).

The Victorian government has committed to having 20% of the state's power produced from renewable energy by 2010. In order to meet this commitment this will require the construction of literally thousands of wind turbines, most of which will be in the south-west of Victoria due to the proximity to the 500 KV line to South Australia. So our south-western district which along with California is the most fire prone in the world, will be littered with wind turbines and I am of the opinion that the CFA have not recognised the extreme gravity of this situation. Your uninformed answers to me on the radio today indicate that the CFA have not been pro-active and will have a massive problem on their hands if they don't address this extremely serious situation.

Mr. Lapsley I seem to recall you admitted you were having problems organising guidelines for wind farm firefighting. During Ash Wednesday in 1983 around 75 people were killed in Victoria, many of them in Victoria's south-west. This district is going to be wall to wall wind turbines, just like a pin cushion. Our property will be surrounded north, east and south by 365 massive wind turbines, and Black Saturday will pale into insignificance compared to the catastrophe which awaits the CFA if a more serious, pro-active approach isn't adopted.

It's time the CFA stood up to government and stopped sacrificing regional safety satisfying the government's insane push to look "green" with this inefficient and dangerous form of electricity generation.

Yours sincerely,

ANN C. GARDNER (Mrs)

A 34

From: Ann Gardner [REDACTED]
Sent: Tuesday, 5 March 2013 1:30 PM
To: Scott Thomas
Subject: fire yesterday

Scott,

I am writing to ask you if AGL realised just how close the Macarthur wind farm was to being totally burnt out yesterday by the fire burning south-westwards from the Penshurst-Warrnambool Road, via Stonefield Lane ?

It would appear that the fire was only several kilometres from the north-east corner of the Macarthur wind farm and burning on a several kilometre front toward the wind farm.

What preparation did AGL make in the event of the fire entering the Macarthur wind farm ?

How many appliances did AGL and the Macarthur wind farm have available, and in fact apply, and what sort were they ?

Were the CFA asked to protect the Macarthur wind farm ?

We noticed AGL didn't take any precautionary measures by turning off the turbines at any stage during the afternoon or evening, during which our entire district was at severe risk of being wiped out by this fire.

The residents of this district would appreciate your prompt response.

Concerned neighbours of the Macarthur wind farm.

Sent: Thursday, March 07, 2013 2:50 PM

To: [Ann Gardner](#)

Subject: FW: fire yesterday

Ann,

I refer to your two emails sent on Tuesday 5 March 2013 and your email today in relation to the fire that occurred north of Hawkesdale.

As previously advised, it is important to firstly reiterate that AGL has developed a number of fire prevention and management arrangements in accordance with the Macarthur Wind Farm Environmental Management Plan (EMP) that was endorsed by the Department of Planning and Community Development. This EMP includes a specific Fire Risk Assessment Plan which was developed in consultation with Department of Sustainability and Environment, Moyne Shire Council and the Country Fire Authority.

Further to this, there is also a site emergency response plan that details the appropriate steps for various emergency scenarios that may occur, including fire.

I can confirm all firefighting equipment that was detailed in the email Scott Thomas sent to you on Friday 1 February 2013 were available on Tuesday.

In addition, I can confirm that in response to the fire on Tuesday, a risk assessment was conducted in accordance with our site emergency response plan and the Macarthur Wind Farm was not considered at risk. The CFA were not asked to protect the Macarthur Wind Farm. The warning issued by the CFA on Tuesday was a 'Watch and Act alert.' As such, all site personnel were advised of the fire and adhered to this warning. Wildfire trained personnel also travelled to the north end of the wind farm to assess and monitor the situation.

It is important to note it is the CFA who must retain the overarching control in fire emergency situations. As such, the CFA can request for the turbines to be turned in off if they deem it necessary and the site team will arrange for this to occur immediately. However on Tuesday, AGL received no direction from the CFA to shutdown the wind farm. Considering this and the findings of our risk assessment, the wind farm continued to operate.

Now that the permanent Operations team has recently been formed at the Macarthur Wind Farm, it is our intention for suitable representatives from this team to also assist the community firefighting efforts where appropriate going forward. We are liaising with the CFA further in relation to this matter however as it is the CFA who must retain the overarching the control of emergency situations, AGL and our contractors will only be operating under their guidance.

Regards

Amanda

Dear Amanda,

Could you please inform the people of this district by whom the risk assessment was conducted on Monday, whereby the conclusion was reached that the Macarthur wind farm was not considered to be at risk by the fire in extremely close proximity to its perimeter?

We would appreciate if your company were not so condescending in relation to our grave concerns on fire risk, having been put in the unacceptable situation where our rights to aerial fire fighting of any sort have been taken away from us by this company's development.

We are quite aware that the CFA has the overarching control of emergency situations. We, the people of this district all form part of the CFA and have been voluntary members for 33 years in our case, and a lot longer in many other cases. We actually know how the authority within the CFA works, but please let AGL realise that it is WE, the residents of this district who are the first to the fire – we are the ones who physically collect the truck, along with others who are first on the scene.

We certainly do not wait for instructions from head office in Hamilton – there are various tiers of authority within the local community and should one not be available or away at the time, others are in charge at first.

We cannot comprehend how the Macarthur wind farm was supposedly “not at risk”, as it appeared the fire was burning not much more than five kilometres from the wind farm boundary in the direction of the wind farm, when our own property was placed at severe risk. Our property is at least seven kilometres from the fire scene and I would say it was the most dangerous situation we had ever been placed in in the 33 years we have been here.

We are quite aware of the grading of the fire being “Watch and Act Alert”, but if you know anything of the history of fires in this district, sometimes things get out of hand VERY QUICKLY and also information can be misjudged – fire does not travel according to the text book and spotting can and does often occur kilometres away.

So please treat the locals with a bit more respect and don't send us your “spin” which seems a bit text-book like for this very serious situation.

We look forward to hearing exactly who made the decision that the Macarthur wind farm was not at risk on Monday, as it is still at risk at this very moment and will be until we have large volumes of rain with follow up.

The residents of the Hawkesdale/Macarthur/Penshurst district.

A 35

Turbo blow to real farm

Karen Collier

A WOOLGROWER fears he will be left with stressed sheep, bankruptcy and damaged birdlife if one of Victoria's biggest wind farms is built.

Western District sheep breeders Andrew and Annie Gardner say the \$600 million Macarthur Wind Farm may also threaten broligas and striped legless lizard habitats.

The Gardners claim noise from 183 turbines near their property would disturb hundreds of highly strung merinos that produce some of the nation's finest fleeces.

They are fighting AGL's proposed project, claiming the effect on the emotional wellbeing of his sheep and reduced land values could send them broke.

The *Herald Sun* this week pictured a pair of broligas on the Gardner property.

The pair's concerns emerged in a Victorian Civil and Administrative Tribunal hearing on their bid to build two tourist cabins near a fence line shared with the planned wind farm.

"Claims and allegations of financial ruin, bullying... possible destruction of striped legless lizard and broliga habitat, uninformed and ignorant experts, dire environmental impacts and the emotional wellbeing of sheep. This case has all the hallmarks of a riveting novel!" VCAT member John Bennett noted.

Mr Gardner told the tribunal his merinos, which produced ultra-fine wool for high-end fashion garments, had a



Highly strung: wind turbines are said to threaten these merinos and broligas. Picture: MIKE KEATING

sensitive nervous system and too much noise could disrupt breeding and wool quality.

But Mr Bennett believed the sheep would get used to the sound of wind turbines.

He also noted the Gardner business had been in financial strife nearly a decade before the suggested wind farm.

Mr Bennett last week ruled against the two units being built close to the boundary.

Southern Hydro, which last year was bought by energy retailer AGL, was willing to accept the cabins elsewhere.

Mr Gardner said he was concerned that wind farm developers were being given too much power under the state's push to expand green energy.

A brief on the proposed wind farm at Macarthur is being prepared for State Planning Minister Rob Hulls.

Mr Hulls' spokeswoman, Claire Miller, said an independent panel had considered concerns over environmental and other impacts.

AGL spokeswoman Julie Psaralagos said final approval from the company board would be sought if the State Government gave the green light to the Macarthur Wind Farm.



Farmer: Andrew Gardner.

Baillieu sniffs breeze

Ellen Whinnett

TED Baillieu has signalled a clampdown on wind farms in sensitive coastal areas as part of his pitch for the bush vote.

The Liberal leader yesterday unveiled part of his regional and rural policy — which contained little in the way of new ideas, but was a wide-ranging attempt to win back traditional Liberal voters who deserted the party at the past two elections.

Among his promises was a moratorium on any new wind farms and a plan to transfer the power to approve them from the State Government to councils.

Wind farms are shaping up as a key area of disagreement between the two main parties leading up to the November 25 state poll, with the Bracks Government introducing legislation requiring 10 per cent of all energy to be bought from such clean suppliers as wind energy providers.

The Baillieu Liberals are much less enthusiastic, believing wind farms are too heavily subsidised, divisive and inappropriately sited.

Have your say:
Voteline, Page 21

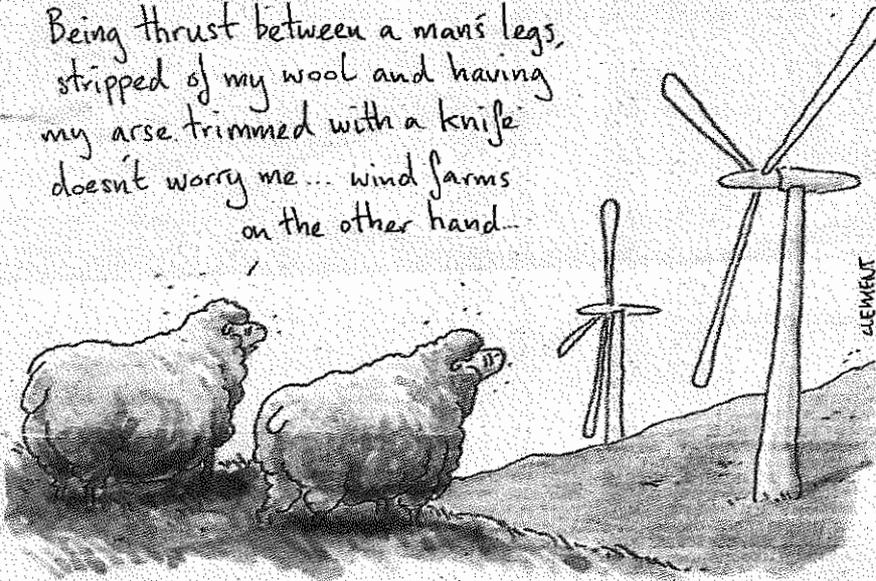
A 36



Edited by Andrew Main

rearwindow@mail.fairfax.com.au

Being thrust between a man's legs,
stripped of my wool and having
my arse trimmed with a knife
doesn't worry me... wind farms
on the other hand...



Sheepish claim in long-winded saga

If you thought it was a lot of horse feathers about the orange-bellied parrots and the proposed Bald Hills wind farm in Victoria, there's another wind farm proposal down that breezy coast that allegedly might upset merino sheep.

The claims were made in the Victorian Civil and Administrative Tribunal by woolgrowers Andrew and Ann Gardner during a hearing last month into their application to build two holiday units in the shadow of Southern Hydro's proposed \$600 million, 183-turbine wind farm at Macarthur, halfway between Hamilton and Port Fairy. The Gardners were not happy about the planned wind farm to be erected on the

property next door, and it was claimed during the hearing that the units were a form of Trojan horse to stymie the development. The Gardners, meanwhile, appear to have been worried about stress on their sheep.

"[This case includes] claims and allegations of financial ruin, bullying, intimidatory behaviour, opportunistic obstructionist behaviour, possible destruction of Striped Legless Lizard and Broilga habitat, uninformed and ignorant experts, dire environmental impacts and the emotional wellbeing of sheep," VCAT member John Bennett said in a judgement published this week.

"This case has all the hallmarks of a riveting novel."

A 37

[REDACTED]
[REDACTED]

14th August, 2006

Stuart Morris,
President, VCAT,
55 King Street,
MELBOURNE, Vic. 3000

Dear Sir,

I have several questions which I would like you to answer regarding VCAT No. P3361/2005. They are as follows -

1. Why was VCAT's decision on this matter circulated widely to media Victoria and indeed Australia wide within two days only, of our being notified of the decision and long before it was listed on VCAT's website as a public document?
2. Did you give instructions for this action to be taken? If not, who did?
3. What criteria determines such action? Is it the supposed character of the case, the fact that it displayed the hallmarks of a riveting novel, according to the tribunal member and that it would make sensational reading? Or was it an attempt by government to spread a political message that anyone objecting to a wind farm as they will be severely affected, will be crucified as we have been?
4. We would appreciate being informed how Mr. Bennett was able to make such a defamatory and incorrect statement regarding our financial situation nearly a decade ago, when this had no relevance to this case, and he had no access to our financial records?
5. As a result of VCAT's circulation of this decision to our local papers, the Melbourne dailies and the Financial Review, we have endured widespread and unbearable humiliation which has had a devastating effect on our life and health in these last few weeks. We are wondering, is it VCAT's mission, being under DSE to "destroy at all costs" anyone who dares stand up for their own rights to ensure the survival of their business living next to a wind farm? In this district, we are all too aware of the situation whereby DSE pursued a Mr. Knight over clearing his property, to the extent that he suicided, and we wonder if anyone within your department has considered the effect the wide circulation to the media may have upon our already stressful existence since this decision was made. The cartoon in the Financial Review summed it all up, not to mention the callous way in which it was reported in all the papers, all due to the flippant attitude of the tribunal member. However, the cartoon in the Financial Review also displayed the total

ignorance of that reporter, as was also displayed by Mr. Bennett, of the unique nature of our business. Has anyone heard of Bioclip as a method of shearing?

6. We are wondering if you would inform us the way which we may advise our daughters to handle the pressure of the shocking media reports ridiculing us and our business - what do they say to the many people who ask them about our financial situation (which by the way, was no business of Mr. Bennett) , and how do we prevent them from worrying any more about our health than they already have so far? What do I say to my elderly mother who was devastated to read about the totally untrue report that we were in “financial strife” nearly a decade ago? How does she handle the enquiries from all the people in the small country town in which she lives? How do we handle the people who are sniggering behind our backs in our local towns who have read about our family and business being ridiculed by a VCAT tribunal member, which has been splashed all over our local papers?

We would appreciate honest answers to our questions, as we are certainly struggling enormously to handle the severely damaging fallout from VCAT’s action by spreading the result of this case to the media Australia-wide. We are not questioning the decision - we realised long before the case began that we didn’t have a hope of winning, given this government’s determination to implement its Wind Energy Policy at all costs.

Yours faithfully,

ANN C. GARDNER (Mrs)

A 38



TO WHOM IT MAY CONCERN

How Australian is it to destroy a highly unique, successful business like ours ?

Please find enclosed copies of reports in the Ermenegildo Zegna Media Publication booklet distributed world-wide for Paulo Zegna's 2011 Wool Award visit in September 2011.

Our fears for the impact on our business, expressed constantly to AGL from 2005 to 2012 (we have written at least 100 letters to AGL over this time) always were regarding the possibility of the detrimental effect on this highly sensitive enterprise by the operation of wind turbines located far too close to our property boundary. We could not have ever imagined the serious and severe (ultimately terminal) impact construction of the Macarthur wind farm has had on our shedded sheep enterprise, forcing us to reluctantly close the sheep shed. This of course could have been avoided, had AGL acceded to our multiple requests over eight years, to consider our business.

Please note that the ABC 7.30 report televised during the second week of October, 2011, falsely compared our SHEDDED sheep ULTRA-FINE wool-growing enterprise with a PADDOCK SUPERFINE wool-growing enterprise, two TOTALLY DIFFERENT operations.

This extremely serious error was organised by AGL's consultant Mr. Greg Walcott who does not know the difference between super-fine and ultra-fine wool.

This was a blatant attempt on behalf of AGL to discredit us in front of the Australian public.

Numerous letters to the Chairman and Managing Director, and Directors of AGL have never been replied to by these people over eight years.

During a meeting at our home on 28th November 2011, Mr. Scott Thomas apologised to us for what AGL had done to us, in front of witness Mr. Ken Johnstone. Mr. Thomas assured us at this meeting, that the impact on our business would be considerably minimised from that date on.

In direct contrast to this assurance, disturbance by dust and noise was significantly increased during December 2011, and then taken to a more extreme level from January to March 2012 when rock crushing material was ferried constantly in heavy dump trucks to a rock crushing plant located close to our property boundary.

During the period from October 2011 to August 2012 we continually complained in writing to Scott Thomas, Jeffrey Trompf and others, pleading to stop our business being severely disturbed and seriously damaged, with no result.

We have all of our comprehensive correspondence to AGL on record, in addition to substantial daily diary entries.

ANN and ANDREW GARDNER

1st September, 2012

A 39

[REDACTED]
[REDACTED]
6 September, 2012

Mr. Scott Thomas,
General Manager Power Development, AGL Energy Ltd.,
101 Miller Street,
NORTH SYDNEY, N.S.W. 2060

Dear Scott,

We have been advised to forward to you the enclosed documentation. These documents relate to our claim for financial compensation by AGL Energy Ltd. for the substantial damages caused to our farming operation as a whole, but more particularly to the abrupt forced closure of our ultra-fine shedded sheep wool-growing enterprise. This considerable damage has taken place over the last 22 months due solely to extreme disturbance by construction activities of the Macarthur wind farm.

Since 2005 we have continually pleaded with AGL to consider our extremely sensitive and successful ultra-fine wool growing enterprise. We would have written far in excess of 100 letters to AGL requesting they consider our business, but to no avail.

NOT ONCE has an AGL representative contacted us to enquire as to the extremely sensitive nature of our wool-growing enterprise.

NOT ONCE has an AGL representative enquired as to why our farming enterprises are so different to any other in this entire district.

NOT ONCE has an AGL representative shown any consideration or compromise whatsoever toward our incredibly intensive and specialist elite wool-growing enterprise.

Rather, as a result of our many, many attempts to gain some respect and consideration, AGL has chosen to fight us, to ridicule us and to humiliate us publicly and in the media. They have attempted to destroy us and our business, succeeding in the latter.

We are requesting AGL compensate us for the severe damage which has caused the closure of our highly lucrative shedded sheep enterprise, and also several incidents resulting in totally unacceptable stock losses of our future genetics and wool production, in our paddocks.

Nobody deserves to be treated in the extremely disrespectful manner which we have by AGL over the past eight years, and nobody deserves to have their business ruined by their neighbour's activities.

We request you reply to us within seven days.

Yours sincerely,

ANN and ANDREW GARDNER

17 40

FINANCIAL LOSSES INCURRED BY MARRAMOK PASTORAL COMPANY PTY. LTD.

1. November/December 2010

Loss of more than 100 ultra-fine sheep (not taking into account future reproduction and wool value) \$12,000 to \$15,000

2. August 2011

Loss of more than 60 purpose bred ultra-fine lambs for our shedded sheep enterprise (taking into account future reproduction and wool value) \$180,000

3. March 2012

Closure of shedded sheep wool-growing enterprise due solely to unacceptable extreme noise and dust impact from rock crushing plant located near our southern boundary, in addition to rock crushing activities previous year. This disturbance began October/November 2011 and was extreme (both dust and noise) during December. Once rock crusher was located south of our property in February/March 2012 (of which we were never notified) the impact from noise/vibration and dust was continually far worse than ever experienced from November to December.

Ten year projected income loss due to fact it will take at least ten years to breed up sufficient suitable ultra-fine micron (along with other criteria) sheep to operate this enterprise again – income of between \$100,00 and \$200,000 per annum. This time frame will be greater due to lambing losses incurred due to helicopter in 2011, and most recent lambing losses due to rock crusher disturbance, (February/March causing greatly reduced conception rate of ewes) and also construction activities during lambing July/August 2012. We are one of only two breeders of these sheep in Victoria (the other breeder using his progeny for his own sheep shed) and therefore unable to buy replacements. \$1 million to \$2 million

4. Loss of more than 120 lambs due to construction activities from January to August - 2012 (taking into account future reproduction and wool value)

a. Reduction in conception rate in February/March due to extreme disturbance caused by location of rock crusher plant near our property.

b. Lambing losses July/August caused by continual disturbance from construction - continual traffic/horn honking/reverse beepers and heavy vehicles/cranes during erection of turbines and other

construction activities. \$360,000
minimum

5. March 2012

Idle infrastructure (large purpose-built 80 x 40 foot sheep shed/feed shed/multiple silos/enormous straw shed valued at \$300,000 @ 5% per annum for ten years \$150,000

FINANCIAL LOSSES INCURRED BY MARRAMOK PASTORAL COMPANY due to construction activities of AGL at Macarthur wind farm 2010 to 2012

TOTAL \$ 1,702,000 to \$ 2,705,000

A 4 1



7th September 2012

This document is written in support of our claim for compensation by AGL for considerable financial losses incurred by our business since 2010. It outlines events which have taken place since spring 2010 due to AGL's lack of consideration for us and our business. This succession of events has resulted in the forced closure of our very successful ultra-fine shedded sheep enterprise (after 30 years of breeding specific genetics and 11 years of 365 days a year constant monitoring and feeding sheep daily, without a day off) in addition to numerous other events since 2010 which have resulted in totally unacceptable financial losses incurred to the operations of Marramok Pastoral Company Pty. Ltd.

Many of these events generally come under the heading of "nuisance", literally that our family's rights to run a business and enjoy the amenity of our property have been taken away from us by AGL.

Since 2005 we have been constantly requesting AGL take our specialist ultra-fine wool growing enterprise into consideration, with the development of the Macarthur wind farm so close to our farm boundary. We have continually attempted to impress upon AGL the unique nature of our business, the fact that we are not ordinary farmers and that our sheep have a highly sensitive nervous system. This information has been totally ignored.

We are of the opinion AGL has been attempting to destroy and get rid of us and our business since 2005. Sadly AGL has succeeded in destroying our business with successive actions and activities particularly during construction of the Macarthur wind farm. We had always been most fearful of the detrimental impact on our business once turbines began operation but we would never in our wildest dreams have imagined the severe impact during construction.

Page 11 of the document Reply on behalf of the Proponent prepared by Mark Dwyer for and on behalf of AGL on 9 March 2006 quotes "The Gardners have only one turbine within 150 m of their southern boundary - it scales from the plans at approx. 130 m". To this date we have NEVER been informed of any changes to the initial permit or plans but we now find we have not a turbine of 1.8 megawatts with 45 metre blades 130 metres from our boundary, but a 3 megawatt turbine with 56 metre blades 90 metres from our boundary !!!

Page 13 of the document Reply on behalf of the Proponent states, regarding removal of an access track initially proposed adjacent to the southern boundary of the Gardner property "This will remove wind farm related activity in this area". Unfortunately this did not remove wind farm related activity in this area. Due to the location of the closest turbine at 90 metres from our boundary (about which we were never advised) wind farm related activity has been constant in the entire area close to our southern boundary, to the extent that our sheep in the paddock (not to mention the 400 in the shed) have been continually disturbed for more than twelve months now, resulting in significant lambing losses and significant production losses in general for three years !!!

During the panel in 2006 we presented a submission outlining our extreme concern for the detrimental impact of the far too close proximity of turbines to our property boundary which would potentially have a detrimental effect on our ultra-fine sheep which are literally like a thoroughbred horse, with such a highly sensitive nervous system. Instead of taking notice and adopting a conciliatory approach towards their proposed neighbours, AGL flew Mr. Malcolm Hayes, a supposed acoustics expert out from England in their attempt to crush us and our evidence. Mr. Hayes himself had no knowledge whatsoever of ultra-fine merino sheep and when questioned was not able to relate the difference between crossbred Corriedale sheep and ultra-fine merino sheep.

We quote from the document REPLY ON BEHALF OF THE PROPONENT 9 March 2006 page 16 Section 6.11 which reads as follows:

“The noise will not affect livestock, and will be far less than noise from commonly used farm machinery or vehicles”.

Page 13 of this document section 5.8 reads “Despite unsubstantiated assertions, there is simply no evidence before the panel of any likely impact on the Gardners' superfine merino wool operations. The evidence of Malcolm Hayes is that there should be no impacts from noise to livestock”.. How incredibly wrong was this evidence !!!!

We recently received a profuse apology from another witness called by AGL during the panel in 2006 to discredit our claim that the wind farm would seriously affect our business. He told us he was so sorry and he now realised how wrong he had been in speaking out against us.

In 2007 we even received a phone call from Mr. Graeme Ebbett Managing Director Meridian Energy offering us a “relocation” package. Yet another example of AGL/Meridian's attempt to get rid of us and our business !!!

Since Spring 2010 our wool-growing enterprise both paddock and shedded enterprise have been detrimentally affected by construction activities.

We have in our possession a letter from AGL's Mr. Jeffrey Trompf which typifies the contempt with which AGL has regarded us and our business since 2005. He claimed “I believe there is opportunity for you to review the management of your livestock in the context of our construction activities should you think that necessary”.

In November/December 2010 we suffered substantial losses of sheep due to fly strike which should have easily been avoided if it were not for the presence of a noise monitor in close proximity to the access from the northern side of our property to our sheep yards. As a result of this area hosting a noise monitor we were prevented from mustering our sheep into the yards for monitoring and treating for fly strike. Not one animal was lost from the southern half of our property with uninhibited access to our yards where we were able to inspect and treat any suspect fly strike. Well over one hundred sheep died a very tragic death over this four week period, a very expensive loss to our business. We have never in 30 years had deaths from fly strike as we are extremely diligent farmers who constantly monitor our sheep.

In August 2011, we again incurred serious stock losses due to mis-mothering of lambs caused by constant buzzing by a helicopter every 5 minutes for two days in total, as cement was ferried from a

batching plant to a site near our farm boundary. During lambing any disturbance whatsoever is prohibited as mis-mothering takes place, whereby a ewe abandons its lamb. This took place as a result of the ewes taking fright being driven every five minutes up against the extreme far fence similarly to being mustered every five minutes by helicopter. As a result of this totally unacceptable disturbance, we lost well over sixty ultra-fine lambs which were specifically bred for shed entry in years to come. We were not the only neighbours to have our lambing severely affected by this unacceptable disturbance by a helicopter.

In November 2012, our sheep were heavily impacted upon by dust and noise caused by construction activities in the paddock south of our boundary. We constantly complained and consequently Mr. Scott Thomas, AGL General Manager Power Development met with us to listen to our concerns. He assured us he would ensure the noise and dust impact would be minimised from that time on.

The following month December saw even greater impact on our sheep by dust and noise, certainly not a reduction as we had been assured. We were offered a noise monitor near our house and farm sheds, but despite numerous requests to AGL, this was NEVER forthcoming. We wonder why ? !!!! In fact we now have learnt that AGL were in breach of the terms and conditions of their Planning Permit, by not installing noise monitoring equipment within a certain time of our complaints. This breach took place constantly from October 2011 till August 2012.

However, the previous experiences of dust and noise contamination paled into insignificance compared with the horrific belting we, our paddock and our shedded sheep suffered emanating constantly for many weeks from the rock crushing plant inappropriately located just south of our boundary. This impact was just horrific to the extent that we complained by email nearly every day, if not every second day, and sometimes more than once daily. To us it appeared like living in a war zone with the noise and vibration of the huge rock crushing and excavating equipment being felt severely within the walls of our home, and resonating within the walls of our purposely built sheep shed, which is built five feet off the ground.

Our 400 shedded sheep were constantly traumatised and as a result began showing signs of stress very early into the period of the location of the rock crushing plant so close to our property. As time went on these sheep began to display an irregular pattern of eating and many finally stopped eating completely. In our 11 years of this specialist enterprise we have never had an experience whereby ALL the sheep are stressed. On occasions during this time, we may have experienced occasional individual sheep with problems, going off their food and eventually these would have exited the shed. Once their system is damaged, they never recover.

Another consequence of the horrific inundation of our property by dust over such a prolonged period of time, was that the dust contaminated the drinking water in the sheep shed, which is supplied by fresh water only. Any variation in water quality severely affects the shedded sheep and the sudden contamination by copious amounts of dust further exacerbated the detrimental impact on the sheep's health.

As a result of this devastating and traumatic experience, on April 15th 2012 we were forced to remove all of these sheep in their extremely fragile state from the shed back into the paddock, before we experienced too many deaths.

It was all we could do, over about six weeks to literally nurse them back to some semblance of health in the paddocks, thereby gaining strength in order that they could handle trucking to the butchers. As

our previous experience has shown the system of these extremely sensitive sheep, does not ever recover once damaged, hence we were forced to sell them to the butcher, at a greatly reduced price.

We are only one of only two farmers in Victoria who breed these ultra-fine Saxon bloodline sheep. The other breeder has his own sheep shed so we are unable to source the specific sheep suitable for our shedding elite woolgrowing enterprise. One cannot just buy them in the market. So it will take us ten years to breed up enough sheep to open our shed again. In fact it will take more than ten years, having our lambing so severely affected by the helicopter last August.

In 1999/2000 we purpose built our sheep shed and all the associated infrastructure required, which is worth in excess of \$300,000. No business, let alone a farm as small as ours, can afford to have assets such as these sitting idle and not being utilised at all. The opportunity cost of having this infrastructure idle for ten years is huge. When we entered this enterprise we invested such a large amount of capital for at least 25 years, with the intention of one of our daughters and partner taking over, in our succession plan.

This situation could certainly have been avoided should AGL not have adopted their "crush and destroy" attitude towards the Gardners, and shown some respect for us as neighbours since 2005. Despite all of our repeated written requests, probably up to a hundred over these years, requesting consideration for our business, not one AGL representative, Chairman, Directors, Managing Director has bothered to even acknowledge our requests let alone give us the courtesy of a reply to them.

As AGL are aware, in 2011 we were awarded second prize in the highly coveted Zegna of Italy awards, which is literally the Oscars of the woolgrowing world and was recognition that we are literally the second top fine woolgrowers in the world. As a result of this second prize our reputation was cemented and our wool highly sought after. Since this recognition we have only sold wool privately as this is far more lucrative than the auction system which is not as attractive at the moment. Our latest sale of individual fleeces saw us paid 139,000 cents a kilogram for some of our fleeces and prior to that the sale price was 150,000 cents a kilogram, which is an unbelievable price. Our shedded sheep usually cut around 550 to 650 kilos and whilst not all fleeces are worth this amount, you can imagine the premium wool prices we are now prevented from receiving, thanks to AGL.

Due to being forced to close our extremely successful shedded sheep enterprise, we feel we have also been denied our opportunity to better our position in the Zegna of Italy annual competition. When one achieves second best in the world, the natural progression would be to attempt first prize. First prize in the Zegna competition, along with supreme recognition, also attracts the lucrative prize of one's winning fleece weight in gold bullion, amounting to around \$50,000.

Apart from the value of our property which is now severely reduced, we have been stripped of our ability, should we wish to sell in the near future, of selling this highly productive property as a "going concern", ie. walk in walk out with the sheep shed and literally 400 of the finest wool growing sheep in the world operating as an ongoing enterprise. We would hate to think of the reduction in value due to this situation, which took place due to circumstances beyond our control.

This issue is all about accountability and AGL must be accountable for their reckless and totally inconsiderate actions which have resulted in the destruction of the most successful enterprise which accounts for 80% of our income, and which would have returned an average of between \$100,000 to \$200,00 per annum for the next ten years. As a result of this devastating situation we are left with a

very small farm which is unviable, thanks to AGL. We have what is called "less than a living area" ie.our property will NOT provide sufficient income to pay the farm's operational costs, let alone for us to live on.

We feel that in Australia, this so called proud bastion of democracy and free enterprise this situation should never, ever have been allowed to take place. We should never have been forced to endure such detrimental impact upon our business which will be ongoing for at least ten years, and we are asking that AGL compensate us fairly for the totally unacceptable financial damage they have inflicted upon us. We enclose documentation outlining the cost to our two farming enterprises caused wholly due to the Macarthur wind farm currently being constructed right next to our boundary.

ANN and ANDREW GARDNER

MARRAMOK PASTORAL COMPANY PTY. LTD.

[REDACTED]
[REDACTED]

4 2

**IN THE VICTORIAN CIVIL AND ADMINISTRATIVE APPEALS
TRIBUNAL
Planning and Environment List**

No 2910 of 2012

BETWEEN

CHERRY TREE WIND FARM PTY LTD
Applicant

and

MITCHELL SHIRE COUNCIL
First Respondent

and

**TRAWOOL VALLEY-WHITEHEADS CREEK LANDSCAPE GUARDIANS
INC**
Second Respondent

and

ORS including the Waubra Foundation
Respondents

STATEMENT OF Andrew Robert Gardner

Filed by the Waubra Foundation

STATEMENT OF Andrew Robert Gardner

1. I am Andrew Robert Gardner of 457 Eckersleys Road, Penshurst. My telephone number is
 2. I am a full time farmer, on a small sheep grazing property. I am sixty seven years old.
 3. My wife Annie and I have lived and worked on our farm since March 1980.
 4. Our home is situated 1.7 kms from the nearest turbines of the Macarthur wind development. We have an arc of about 7 turbines closest to our home, between 1.7 to 1.9 kms from our family home. The remaining 133 turbines of the Macarthur Wind Development lie in grid fashion immediately behind this arc to the south, south-east, south-west and to the east of our home.
 5. We had been told by the wind developer that there would be no health impacts, and we did not expect to be affected. We were also told by the wind developer the noise would be no greater than that of an ordinary working farm.
- vvv
6. In October 2012, the first 15 wind turbines started operating. My wife Annie was badly affected immediately.
 7. After approximately six months I started to experience sleep disturbance and headaches.
 8. In July 2013 when we were lambing I started to experience severe "bolts" of pressure, particularly while walking about checking our ewes and lambs in the paddocks.
 9. I also noticed the same sensations occurring randomly, inside my home, and inside the farm sheds, as well as out in the paddocks.
 10. I cannot see the wind turbines from inside my home.

11. I became particularly disturbed by the severity of intense pain caused by these “bolts” of pressure to the back of my head. It felt as if someone had chopped into the back of my head with an axe – a truly frightening and painful experience.
12. I have lived and worked on our farm for 33 years, and have never experienced anything like these sensations or “bolts” of pressure before. Nor do I feel them when I am away from home.
13. For a short period of time, between 16th July 2013 and 3rd August, Mr Les Huson, an independent acoustician, used our home to collect acoustic data, whilst trialling some new equipment for measuring infrasound and pressure changes. This particular data collection was part of some self funded investigative work Mr Huson was carrying out at Macarthur wind development. We were happy to make our home available to Mr Huson, as we are very keen to try and find out what is causing these new symptoms and the sleep disturbance.
14. We had previously employed Mr Huson to conduct pre and post construction noise monitoring, however this self funded investigative work by Mr Huson was separate.
15. I am unable to use a computer and had no way of knowing what frequencies and pressures were being measured by Mr Huson’s equipment at the time.
16. After telling Mr Huson about these symptoms and sensations of bolts of pressure, he suggested I keep a diary for the time he had his equipment in my home. I did so, and I made my diary available to Mr Huson so he could determine if there were any correlations between my symptoms and the data he had collected.
17. Due to the severity of the impacts on my wife, which have included nausea, palpitations, chest pain, and severe pressure sensations in her head, ear, teeth,

jaw, & nose, we have regularly left our home for two days and nights since October 2012. When we are away, neither of us feel the sensations and symptoms which we notice when we are home and the wind turbines are turning. We both sleep very well. When we return home, the symptoms return, unless the turbines are not turning.

18. On Tuesday 5th October, 2013 I experienced one of the worst episodes whilst riding my motor bike on the farm. We had just been away for three days and had only been back an hour. I felt a sudden bolt of pressure to the back of my neck, together with nausea and heart palpitations, and I felt very unwell. I am concerned that I could have a motor bike accident if this occurs again. At the time I was concerned I was having a heart attack because I felt so unwell.

Below is a list of episodes I recorded in my diary in the period when Mr Huson was conducting his monitoring.

DATE	TIME	DESCRIPTION
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16.7.2013

6 pm Felt pressure bolt in living room.

8.10 pm Mild impact in living room.

9.15 pm Extreme head pressure bolt (between temples). Annie also felt it.

17.7.2013

9.45 am Bolt of head pressure at back gate. Headiness continued all morning while checking lambing ewes on bike. Quite hazardous.

4.20 pm Impact from pressure bolt at back of house by workshop. ENE wind.

4.50 pm Impact from pressure bolt in front of house.

4

18.7.2013

10.40 – Continuous pressure bolts, outside garage and in living room.
11.15 am

11.35 am Another bolt in chair in living room.
Affected ALL day in paddocks, and also in bed at night.

19.7.2013

early Affected early morning in bed before I got up.
morning

9.30 am Felt bolt in side of head between house and workshop.

Away till 22.7.2013

23.7.2013

1.30 pm Bolt of pressure up laneway.

3.30 pm Ears popping checking Dyson's paddock.

10.30 pm Sinus head pressure in living room.

11.30 pm Pressure bolt to head in bedroom.

vv

24.7.2013

11.30 am Bolt of pressure checking lambs in paddocks.

25.7.2013

2.00 pm Head pressure bolt by lambing pens.

6.00 pm Head pressure bolt by big hay shed.

8.30 pm Pressure bolt to head, in living room. North wind.

26.7.2013

6.30 am Head pressure bolt in bedroom. North wind.

8.00 am Pressure bolt to head in chook yard.

10.00 -
12.00 midday Constant head pressure all the time checking lambs.

27.7.2013

5.50 am Head pressure bolt in bedroom.

7.15 -

7.40 am North wind. Severe head pressure in bedroom.

9.00 am Severe head pressure all around yard.

9.10 am Head pressure bolt in kitchen.

Head pressure all morning going around lambing ewes.

11.15 am Pressure bolt to head in living room.

11.50 am Another pressure bolt to head in living room.

Away overnight.

28.7.2013

2.50 pm Felt head pressure onwards for rest of day. North-east wind.

29.7.2013

8.00 -

10.30 am Impact from severe pressure all the time around ewes and lambs.

10.30 am Pressure bolt to head by sheep shed double gates.

10.35 am Pressure bolt to head at back door.

7.00 pm Head pressure bolt at sheep shed double gates.

10.00 pm Bolt in house at back door/toilet. North-west wind. Raining.

10.15 pm Impacted in bathroom and shower.

10.30 pm Impacted in bedroom. Had to take panadol for headache (pressure).

30.7.2013

Bad night's sleep. Westerly wind.

3.00 am Woke up. Could not get to sleep for 3 hours.

Woke feeling impacted.

9.00 -

10.00 am Badly impacted by several bolts near double gates by sheep shed.

Mustering green tag M/S for drenching. Impacted along laneway.

5.30 -

5.45 pm Putting sheep back, hit by pressure bolt.

6.50 pm Pressure bolt to head in top shed.

7.00 -

7.15 pm Impacted by head pressure bolts in living room.

31.7.2013

Disturbed night. North wind.

8.30 am Impact head pressure bolt in sheep shed.

9.35 am Impact head pressure bolt in kitchen.

5.00 pm Head pressure bolt impact back gate.

8.10 pm Annie impacted in house.

1.8.2013

8.50 am North wind. Pressure bolt to head back gate.

9.50 am Head pressure bolt going around ewes.

2.50 pm Head pressure bolt back porch.

3.25 pm North side sheep shed. Head pressure bolt. Massive impact.

3.45 pm Triple "whammy" severe bolt south of sheep shed.

3.55 pm Big impact head pressure bolt by two tanks back of house.

7.10 pm Impacted in living room.

10.30 pm Ears popping near shed.

10.35 pm Head pressure bolt in living room chair.

2.8.2013

4.10 am Head pressure bolt - impacted in bedroom. Took 2 Panadol.

11.25 am Impact, head pressure bolt blue living room chair.

1.15 pm Head pressure bolt, impact on back path between house/workshop.

1.45 pm Head pressure bolt in blue living room chair.

Signed by the abovenamed
Andrew Gardner



.....
Date: 16th October, 2013

A 43

Marramok

From: [REDACTED]
Sent: Monday, 27 October 2014 6:07 PM
To: gus gardner
Subject: LES HUSON Expert Evidence Cherry Tree Hill

Huson, L. Expert Evidence at VCAT Cherry Tree Hearing

**Extract from expert evidence statement given by
Mr Les Huson, Acoustician,
in the Cherry Tree Victorian Civil Administrative Tribunal Hearing on 24th October, 2013 in
Melbourne, Australia**

Statement of Opinion

1. Infrasound propagation attenuation is minimal in the near field to a large wind farm such as Macarthur. Little infrasound attenuation is observed from 1800m out to 6400m from the nearest turbines on the southern side of the wind farm.
2. For far field infrasound propagation from two wind turbines at Leonards Hill we have measured a propagation attenuation rate that follows $11.4 \log_{10}(R1/R2)$ where R1 is the nearer distance from the sound source and R2 is the further distance. This propagation result is valid for the conditions of measurement and may increase with increased turbulence or decrease in less turbulent wind conditions.
3. **Industrial infrasound levels of 0.5 Pa pk-pk at 12.5 Hz have caused recognised and accepted nuisance complaints.¹ Pressure transients exceeding 5 Pa pk-pk have been observed that correlate with observation of Mr Gardner that causes him concern. Other lower amplitude pk-pk pressure transients have also correlated with Mr Gardner's diary logs with an overall correlation of 86%.**
4. **I find it entirely plausible that infrasound can cause nuisance and disturbed sleep in communities surrounding wind farm developments similar to the Macarthur and Leonards Hill developments.**
5. My research to further analyse infrasound propagation under differing weather conditions has yet to be completed. However, rms spectral peaks in the frequency range between 0.5 Hz and 5 Hz at distances out to 6400m inside a bedroom of a brick veneer dwelling with windows closed have been measured in excess of 70 dB re $2E-5$ Pa rms from the Macarthur wind farm that uses the Vestas V112 turbines (see chart 20 of PowerPoint presentation). Similar infrasound levels are observed 650m from two 2MW turbines at Leonards Hill.
6. Further research to correlate infrasound with sleep patterns is needed and this is not the subject of my current research.

[Download reference to industrial noise source case study used by Mr Huson as an example in his expert evidence \(Point 3 above\)](#)

A 44

Mr and Mrs Gardner

Thank you for your email dated Monday 12 January 2015. It has been recorded in our database. Your reference number is MWF150112a.

The health and wellbeing of the communities in which we operate remains a priority for AGL. To date, we have carried out extensive noise monitoring at various locations around the wind farm. Over 40,000 hours of data has been captured - well above our permit obligations. All information from our noise monitoring program shows that the wind farm remains compliant with the noise levels outlined in the planning permit. Independent infrasound monitoring also confirms that there has been no change in infrasound levels from before the turbines started to current operations today.

In February 2014, Australia's medical and scientific research body, the National Health and Medical Research Council, published a study titled Evidence on Wind Farms and Human Health which concludes "there is no reliable or consistent evidence that proximity to wind farms or wind farm noise directly causes health effects." The Australian Medical Association has concluded that "The infrasound and low-frequency sound generated by modern wind farms in Australia is well below the level where known health effects occur."

The Victorian Department of Health have also released a report on wind turbines and infrasound, which can be found here. The South Australian Environmental Protection Agency has also released a report on wind turbines and infrasound which can be found here.

We encourage you to seek medical attention for any health related matters.

Kind regards



elena Orel
Community Engagement Manager

AGL Energy Limited
L22, 101 Miller Street T: 1800 039 600
North Sydney NSW 2060 E: macarthurwindfarm@agl.com
Locked Bag 1837
St Leonards NSW 2065

BRUCE ARMSTRONG;; CER Secretariat; CHAIR CLEAN ENERGY BOARD; CHRIS BARK;; CLIVE PALMER;; colin ryan; d madden; DANIEL ANDREWS; DAVID DAVIS; DAVID O'BRIEN; [REDACTED]; DEBRA RICKWOOD; denis naphthine; EPA Chair Victoria; GAVIN JENNINGS;; georgie crozier; GRAEME GILLESPIE Health Dept. ;; Graham Lloyd; 'Guest, Russell'; gus gardner; HEALTH DEPT Head; Helena Orel; Hunt, Greg (MP); IAN MACFARLANE; JAALA PULFORD;; JAMES MERLINO; james purcell; JENNY MIKAKOS; JILL HENNESSY; jill parker; jim doukas; JOE HOCKEY;; JOHN MADIGAN;; JOHN McCALLUM; JOSH FRYDENBERG;; 'Kelly, Craig (MP)'; LILY D'AMBROSIO; LISA NEVILLE; LIZ HANNA; m wolfe; Macarthur WindFarm; MARTIN FOLEY; MARTIN PAKULA; mary wooldridge; [REDACTED] matthew guy; MICHAEL ABRAMSON; [REDACTED] NATALIE HUTCHINS; NATALIE SQUIRE; NORM BRONER; Ombudsman Victoria; PETER DUTTON; r leutton; RICHARD WYNNE; ROBYN WILLIAMS; RON GRUNSTEIN; SARAH HENDERSON; Sarah Laurie; Scott Thomas; Simon Ramsay; ted baillieu; 'Tehan, Dan (MP)'; TONY ABBOTT PM; vicki askew-thornton; WARREN TRUSS; WARWICK ANDERSON; WAYNE SMITH; Wind Turbines; 'Xenophon, Nick (Senator)';

SENATOR BULLOCK;; SENATOR CANAVAN;; SENATOR DAY;; SENATOR KETTER;;
SENATOR LAMBIE;; SENATOR LAZARUS;; SENATOR LEYONHJELM;; SENATOR
McGRATH;; SENATOR MUIR;; SENATOR REYNOLDS;; SENATOR RICE;; SENATOR
WANG;; SENATOR ABETZ; SENATOR BERNARDI;; SENATOR BILYK;; SENATOR
BIRMINGHAM;; SENATOR BRANDIS;; SENATOR BROWN;; SENATOR BUSHBY;;
SENATOR CAMERON;; SENATOR CARR;; SENATOR CASH;; SENATOR COLBECK;;
SENATOR COLLINS;; SENATOR CONROY;; SENATOR CORMANN;; SENATOR
DASTYARI;; SENATOR DINATALE;; SENATOR EDWARDS;; SENATOR FAULKNER;;
SENATOR FAWCETT;; SENATOR FIERRAVANTI-WELLS;; SENATOR FIFIELD;; SENATOR
GALLACHER;; SENATOR HANSON-YOUNG;; SENATOR HEFFERNAN;; SENATOR
JOHNSTON;; SENATOR LINES;; SENATOR LUDLUM;; SENATOR LUDWIG;; SENATOR
LUNDY;; SENATOR MACDONALD;; SENATOR MARSHALL;; SENATOR MASON;;
SENATOR McEWEN;; SENATOR McKENZIE;; SENATOR McLUCAS;; SENATOR MILNE;;
SENATOR MOORE;; SENATOR NASH;; SENATOR PARRY;; SENATOR PAYNE;; SENATOR
PERIS;; SENATOR POLLEY;; SENATOR RHIANNON;; SENATOR RONALDSON;; SENATOR
RUSTON;; SENATOR RYAN;; SENATOR SCULLION;; SENATOR SESELJA;; SENATOR
SIEWERT;; SENATOR SINGH;; SENATOR SINODINOS;; SENATOR SMITH;; SENATOR
STERLE;; SENATOR URQUHART;; SENATOR WATERS;; SENATOR WHISH-WILSON;;
SENATOR WILLIAMS;; SENATOR WONG;; SENATOR WRIGHT;; SENATOR. BISHOP;;

Subject: FORMAL COMPLAINT MACARTHUR WIND FARM S 4

To AGL,

The noise emitted by the turbines at the Macarthur Wind Farm over the past few days has been EXTREME, not to mention the infrasound also.

With a south-easterly wind the turbines have been ROARING day in and day out and all night long.

Last night in particular was a SHOCKER..... vibration through the couch when I finally sat down at about 10.00 pm. However when I went to bed the vibration through the bed was WORSE. It felt just as if my body was cooking in a microwave.

All night I suffered from SEVERE nose pressure – my nose was cracking all night and very painful – there was the usual pain in the back of the neck.

I certainly didn't sleep much at all last night – perhaps a few hours to begin with as so tired from lack of sleep for nights previously. By one o'clock I was awake again and hardly slept a wink after that.

In the morning I got out of bed feeling as if I hadn't been to bed at all.

Ongoing sleep disruption is recognised by the World Health Organisation as TORTURE.

AGL, and all levels of government are knowingly allowing this TORTURE to CONTINUE.

TURN THE TURBINES OFF AT NIGHT SO WE CAN SLEEP IN OUR OWN HOMES. This is our common law right and it's been taken away from us by AGL and the Macarthur Wind Farm.

I need a receipt for this complaint.

Ann Gardner

This email is intended solely for the use of the addressee
and may contain information that is confidential or privileged.
If you receive this email in error please notify the sender and
delete the email immediately.

A 45

TO AGL/Moyne Shire

25.2.2013

FORMAL COMPLAINT MACARTHUR WIND FARM S

As I sit here I have a shocking pain up through my head from the back of my neck – I sent in a complaint last night as I just couldn't stand sitting or standing in my own home without my body feeling as if it was being cooked and burning in a microwave. The worse was yet to come – during the night after only little more than one hour's sleep I was awoken suddenly by a bolt of pressure and we both were hardly able to get back to sleep till 5 in the morning – the dogs barked all night also which they NEVER do.

AGL has to stop their "spin" about how they are testing and the noise data shows the wind farm is compliant - of course it will be compliant as it is set up in a manner which DOES NOT show up the problems.

If the Macarthur wind farm is compliant as AGL claims then WHY ARE SO MANY PEOPLE BEING SO BADLY IMPACTED ?

WHY HAS A FAMILY MADE THE DECISION TO LEAVE THE DISTRICT PRINCIPALLY DUE TO THE IMPACT OF THE WIND FARM TURBINES ?

Stop treating the affected residents as idiots – we are far from that and I think AGL knows that but they continue with their "spin" which we've all been given, on many occasions now.

THIS IS A DISGRACE – the wind has been in the south nearly every day for weeks and weeks now and our property is being SEVERELY IMPACTED by infrasound and low frequency noise.

I cannot live in my own home without being seriously impacted.

I cannot work in our sheep yards without being seriously impacted.

I cannot work in our woolshed without being seriously impacted.

My husband and I cannot work in our paddocks without being seriously impacted.

Our farm working dogs are not working in the paddocks – they are being seriously impacted, as are other working dogs on properties within a few kilometres of the nearest turbine.

DO SOMETHING other than sending back a reply saying that there isn't a problem but if there was AGL would turn off the turbines.

THERE IS A HUGE PROBLEM and nobody deserves to be treated in the manner in which many, many families are treated by AGL in this district which was once a very harmonious and serene community until this company came along.

AGL knows there is a HUGE problem here and it is getting BIGGER. The longer this company continues with its "spin" and denial, and treats the residents of this district with such contempt, the greater the evidence will grow and there will come a time soon when AGL won't be able to hide any longer.

I require a receipt number and response, along with such for the several other complaints which have not been given receipt numbers, nor responses, in recent times.

Ann Gardner

A 4 6

TO AGL/Moyne Shire

16. 6. 2013

FORMAL COMPLAINT MACARTHUR WIND FARM NO. J 2

This last week has been a nightmare TRYING to live and work next to the Macarthur wind farm.

This has been the worst week we have experienced since the week of 22nd February to 1st March 2013.

The appalling conditions were very similar for both of these weeks. During the week of 22nd February, AGL were conducting Compliance Noise testing at our property during that week, as our property was one of the four designated property for compliance testing carried out for five weeks. Amazingly the noise logger didn't work during the week 22/2/2013 to 1/3/2013 – we were told three weeks later – so that the unbelievably high and roaring winds (the same as we've had this last week) were not recorded for purposes of compliance with the planning permit. We are sure that the data during that week would have indicated background levels far in excess of the permit, and had noise monitoring taken place at our property again this last week, it would have far exceeded the allowable decibels according to the planning permit for the Macarthur wind farm.

Last week we experienced gale force winds from the south and the south-east all day and all night, similarly to the fourth week in February. The background noise was deafening – we were unable to sleep at night and unable to work in our paddocks during the day either. Several other residents complained about the horrific conditions they were forced to put up with last week.

The background noise at our property and home, and many other properties this last week WAS FAR HIGHER than is allowed under the Planning Permit for the Macarthur wind farm.

By Saturday we were absolutely wretched ... exhausted/nauseous/experiencing severely painful ears/nose/throat with pounding heart and tight chest. These are the symptoms we experienced for four days all day every day.

We have had enough, and we've had enough of AGL's written denial that our symptoms are caused by their turbines.

ANN C. GARDNER

A 4 7

TO AGL/MOYNE SHIRE

10.4.2014

FORMAL COMPLAINT MACARTHUR WIND FARM NO. R 3

Dear All,

Tuesday 25th February

Shocking night sleep with vibration/severe nose/ear pressure and pain in back of neck. Woke up feeling wretched and so tired from hardly any sleep last night.

Wednesday 26th February – shocking night again – infrasound ALL day long – headaches, vibration/chest pain and nausea.

Thursday 27th February – very disturbed sleep last night – again. Spent more time awake than asleep. Had to take tablets in the morning after breakfast to try and alleviate headache/ear and nose pressure.

Friday 28th and Saturday 1st March – went away.

Both nights, best sleep had in weeks – didn't wake up at all. No vibration in bed, no ear and nose pressure, no pain in back of neck, no headache all night.

Sunday night – Arrived home 10.30 pm and felt infrasound and severe head pressure as soon as drove down our road, closer to turbines. Bad night, with shocking infrasound in our bedroom.

Monday 3rd March

After a very bad night's sleep, I experienced BAD INFRASOUND all day long.... this day was just horrific – headaches, heart pounding, chest pains, nausea and the only too common severe head/ear and nose pressure. This was one of the WORST DAYS in a long time.

Tuesday 4th March

Another shocking night's lack of sleep – dreadful pressure ALL NIGHT.

All morning, felt nauseous – pressure in teeth/jaws and temple. SEVERE nose and ear pressure. Vibration through floor. Headache – felt SO SICK and AWFUL

These are small sections of my health diary for the week 25 February to Tuesday 4th March 2014.

Turn the turbines off at night so we can sleep in our own home – our democratic right.

I require a receipt for this complaint.

Ann Gardner

v

A 48

TO AGL/Moyne Shire

7.10.2014

FORMAL COMPLAINT MACARTHUR WIND FARM NO. G 4

Dear All,

The last few days here have been just unbearable.

Yesterday afternoon we had winds at the strength of a hurricane – to the extent that we feared rooves would blow off. Due to such tremendous strength winds, the turbines were no doubt generating huge amounts of power and as a result the infrasound/low frequency noise was unbearable.

At the height of the storms, the physical impact on my body was so painful – it was obvious that, according to the Cape Bridgewater community health survey, I was experiencing “sensation” at the extreme level of 5 as a result of such extreme weather conditions.

My heart was pounding heavily, I felt extreme nausea, along with with severe ear and nose pressure – my head was aching all day long. My whole head and chest were burning – nobody can be expected to live, let alone work, under these conditions.

Last night, trying to sleep was impossible Severe nose pressure – pain in the back of my neck – vibration in the bed all night long headaches all night long – getting up in the night several times – taking tablets to try and get some sleep. It felt as if my body was being cooked in a microwave
ALL NIGHT LONG.

SLEEP DEPRIVATION is a form of TORTURE – the World Health Organisation declares that every person has a right to have a decent night’s sleep in their own home this right has been TAKEN AWAY FROM US by AGL and the Macarthur Wind Farm.

TURN THE TURBINES OFF AT NIGHT SO WE CAN SLEEP IN OUR OWN HOME.

I require a receipt number for this complaint, and the last complaint I forwarded to also.

Ann Gardner

A 49

TO AGL/Moyne Shire

11.2.2015

FORMAL COMPLAINT MACARTHUR WIND FARM NO. X 4

This is another formal complaint against the Macarthur Wind Farm which has ruined our lives, our health and wellbeing and our business, not to mention our ability to carry out our business.

Last Thursday, 5th of February, my personal health diary reads “ Just HAD TO GET AWAY from the HELL we’ve been putting up with, with southerlies/south-westerlies and now south-easterlies for the last TWO WEEKS. Left home at 6pm”.

We stayed away for Thursday and Friday nights, only a short respite as very dry here and just cannot leave the property for fear of water problems with stock when the conditions are so extreme.

We couldn’t believe how fit and well we felt when we got out of bed each morning away unlike home when we’re forced to start the day feeling absolutely wretched, and often reaching for tablets to try and make it through the day. No headaches, no head/ear/nose and throat pressure and no constant pain in the back of the neck, not to mention nausea – all “sensations” which we are forced to endure due to the infrasound/low frequency noise emitted by the turbines at the Macarthur wind farm.

Upon our arrival home on Saturday afternoon we felt the impact on coming through the front gate where we are confronted with a forest of turbines as if they’re in our front paddock, they’re so large and looming over our property (closest being 90 metres) from our fence !!!

Each day since then we’ve had to put up with the impact caused by acoustic emissions – headaches, shocking ear/nose/head pressure, nausea all forms of “sensation” which would measure at the maximum “sensation “ level of 5 on the community health survey of Steven Cooper at Cape Bridgewater.

The nights have been unbearable, particularly with infrasound in our home, living room with vibration coming through the floor and couch, and going to bed in appalling conditions with vibration through the bed and SEVERE pressure in head/ears and nose. When we go to bed just before midnight I’ve noticed on the power output data website for the Macarthur wind farm, that it is churning out power at the greatest level of the entire day – just when it’s not needed of course – which confirms the reason for our extreme suffering.

However, last night I had a very frightening experience, I’ve only had once before..... went to bed at 11.15 pm – went to sleep as I usually do, having been SO TIRED from constant sleep deprivation. I woke at around midnight in a VERY DISTRESSED STATE I could hardly

breathe, my throat was sore and blocked and the pain in my chest was frightening. I honestly thought I was having a heart attack and just didn't know what to do I got out of bed but nothing changed – eventually I decided to take tablets to see if that improved anything – however they wouldn't go down ...

Today, on the power output data website I notice again, that that time of the night was when the turbines were generating at their greatest capacity – once again the “sensation” I was experiencing would have actually measured above the level of 5 if there was such a thing the time, according to Steven Cooper's studies at Cape Bridgewater, when residents were feeling “I've got to get out of here”.... What does one do in the middle of the night when there's nowhere to go ?

Ongoing sleep deprivation is recognised by the World Health Organisation as TORTURE.... this is what's happening here – we are being TORTURED by AGL and the Macarthur Wind Farm.

However, the TRUTH is coming out now – AGL won't be able to hide behind their lies and denial for much longer

Do something AGL instead of being in complete denial.... **TURN THE TURBINES OFF AT NIGHT SO WE CAN SLEEP IN OUR OWN HOMES.** This is our common law right !!!

I need a receipt number for this complaint.

Ann Gardner

A 50

A few
words.

Macarthur Community Health
12 Ardonachie Street
Macarthur VIC 3286

13 November 2012

Macarthur Wind Farm



Dear Doctors at Macarthur Community Health,

I am writing to inform you that wind turbines started to turn at the Macarthur Wind Farm located approximately 14 kilometres east of the township of Macarthur, in late September 2012. For your reference, wind farms have been operating in Australia over 20 years, with over 1,300 turbines now in service. The Macarthur Wind Farm is the sixth wind farm that AGL has developed in Australia.

Our experience has shown that some people may claim that in their opinion, there is an association between health issues and wind farms. Often these concerns primarily relate to claims of noise or excessive infrasound being generated by wind farms. This opinion has been communicated in the public arena using terms such as "Wind Turbine Syndrome".

Extensive research has been carried out in relation to this topic. No less than 17 independent international studies have been conducted by credible authorities, all of which have rejected these claims.

The health and safety of our local community is our priority, and the amount of inaccurate information regarding wind farms that is in the public realm is very alarming. It is in this context that we wish to provide you with some background information on this topic.

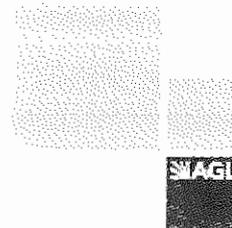
The attached information has been produced by organisations that are focused on public health and not specifically the wind industry.

To summarise:

- The Climate and Health Alliance (CAHA) is a coalition of organisations and individuals from the health sector, and includes health care professionals, health care service providers, institutions, academics, researchers, and health care consumers. Their position statement on wind farms is: (<http://caha.org.au/publications/position-statements/>)
 - *An expert review reveals there is no credible scientific evidence that demonstrates a direct causal link between wind turbines and adverse health impacts in people living in proximity to them*
- The Australian Government's National Health and Medical Research Council (NHMRC) has released the following public statement:
(<http://www.nhmrc.gov.au/guidelines/publications/new0048>)
 - *There is currently insufficient published scientific evidence to positively link wind turbines with adverse health effects;*
 - *Relevant authorities should take a precautionary approach; and*
 - *People who believe they are experiencing any health problems should consult their GP promptly.*

The NHMRC will be publishing an update to their review in May 2013.

AGL's primary objective is to ensure all our assets including our wind farms operate without unreasonably impacting the community. We are committed to maintaining factual based assessments of wind farms and sharing this information with the broader



community. If you feel it would be beneficial, we would appreciate your assistance where appropriate in directing any concerned patients to our project website agl.com.au/macarthur or our dedicated Community Engagement team on 1800 039 600.

If you would like to discuss this further, please do not hesitate to contact me on (02) 9221 2402.

Yours sincerely



Amanda Shaw
Community Engagement Manager

ATTACHMENTS: WIND TURBINE HEALTH IMPACT STUDIES

1. Climate and Health Alliance Position Statement
2. National Health and Medical Research Council (NHMRC) Public Statement
3. Doctors for the Environment Australia, Health Effects of Wind Turbines: DEA Position Statement

Further reading:

http://www.goyder.sa.gov.au/webdata/resources/files/Attachment_5.pdf

http://www.awea.org/learnabout/publications/upload/awea_and_canwea_sound_white_paper.pdf

A 51

Energy in
action.®

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]

27 November 2012

Dear Mr and Mrs Gardner,



Re: Macarthur wind farm complaint MWF121125, MWF121126a and MWF121126

I refer to the formal complaints you have recently made and to the email sent to Michael Fraser on 21 November 2012. Please find below our response to these items. I can confirm that your complaint reference numbers are:

- MWF121125 (complaint made by Mrs Gardner on 25 November)
- MWF121126 (complaint made by Mrs Gardner on 26 November 2012)
- MWF121126a (complaint made by Mr Gardner on 26 November 2012)

I would like to reiterate, as stated in my previous email, that the health and wellbeing of all the communities in which we operate remains a priority. Please let me also reassure you that if there was an issue with the operation of the wind farm, we would ensure the appropriate action was taken (including shutting off the turbines when required) to rectify the problem. As this is not the case at the Macarthur Wind Farm, as demonstrated by our noise monitoring program, it will continue to operate and the turbines will not be turned off at night.

Our statement confirming that the wind farm is currently compliant with noise regulations, in my correspondence to you on 20 November 2012, relates to the results obtained to date from the noise monitoring underway at several properties around the wind farm. These monitoring locations were identified to provide a reasonable representation of the noise levels related to the partially operational wind farm. Further to this, if a landowner has requested that monitoring be carried out at their property, in most instances, AGL has agreed and installed a monitor as a priority.

AGL's planning permit requires an initial compliance noise monitoring program to commence within two months of the commissioning of the last turbine. It is in this instance that noise monitoring is required to be carried out at your property, subject to your approval. I note that AGL previously offered to conduct additional noise monitoring at your property in June 2012, however, you declined this offer. If you are now willing for noise monitoring to be carried out at your property, AGL is willing to arrange this as a priority.

With regard to your request for noise monitoring data, I understand all information related to the monitoring previously conducted at your property has been provided to you. If you agree to a noise monitor being installed on your property, I can confirm all information obtained at your property (including the raw noise data) and the wind speed data will also be made available to you. In addition to this, please note the reports of the noise monitoring currently underway will shortly be available to be viewed on our project microsite www.agk.com.au/macarthur under the 'Community Matters' section.

I appreciate your comments in relation to doctor and patient confidentiality. I would like to confirm that AGL is not seeking to find out information specifically about your health; instead we would like to seek clarification from your GP in relation to how the diagnosis has been made that the source of such health concerns is attributed to infrasound generated by the wind farm. In order to be able to investigate your situation further, we again request your approval to discuss the doctor's diagnosis. In the meantime, because we take this issue very seriously, we intend to be in contact with the Department of Health to discuss this matter.

For your information, please find attached a copy of a submission to the senate committee (Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012) by Doctor Geoff Leventhall. This submission provides important background information on infrasound that I would encourage you to read and consider.

We acknowledge your objections to the Macarthur Wind Farm, however, I would like to reiterate that the operational wind farm is required to comply with various stringent conditions and we have a track record of responding appropriately in the event that issues arise. The Macarthur Wind Farm will be no exception.

If you are willing to accept our offer to install a noise monitor at your property or to discuss potential public health concerns with your doctor, I would appreciate it if you could please advise accordingly.

Yours sincerely

A solid black rectangular box used to redact the signature of Scott Thomas.

Scott Thomas
General Manager Business Customers and Power Development

A 52

Our Ref: ANA.382046
Your Ref:



17 January 2014

By Email: david.davis@parliament.vic.gov.au

The Honourable David Davis, MLC
Minister for Health
Level 22
50 Lonsdale Street
MELBOURNE VIC 3000

Dear Minister

Request to institute Health Impact Assessment and Public Inquiry into a serious risk to public health caused by the Macarthur WEF

We act for all of the 42 clients identified in the Schedule attached to this letter (**our clients**) who have recently provided the Moyne Shire Council (**the Council**) with 23 formal Notifications of Nuisance (**the notifications**) pursuant to s62 of the *Public Health and Wellbeing Act 2008* (**the Act**).

The notifications all relate to the Wind Energy Facility (**WEF**) operated by AGL Energy Ltd (**AGL**) at Macarthur.

We have written to the Council setting out its obligations to our clients under the Act, including the express obligation to investigate any notice of a nuisance, pursuant to s62(2) of the Act; and the express "*duty to remedy as far as is reasonably possible all nuisances existing in its municipal district*", created by s60 of the Act. Our clients instruct us that the Council has commenced such an investigation by interviewing some of our clients in relation to the notifications, in accordance with s62.

For reasons detailed below, our clients hereby make a formal request that, pursuant to s53 of the Act, the Minister, by direction in writing, require the Secretary or the Chief Health Officer to conduct a Health Impact Assessment of the public health and wellbeing impact of the Macarthur WEF.

Given the nature and seriousness of the matters raised in the notifications, it is evident that there exists a "*serious risk to public health*" as defined in s3 of the Act. Accordingly, the facts and circumstances outlined in the notifications are matters warranting a Health Impact Assessment to be conducted by either the Secretary or the Chief Health Officer, in accordance with s53 of the Act.

Further, we also point out that this is "*a serious public health matter*", falling within s50 of the Act and, therefore, warranting a "*public enquiry*" to be conducted by the Secretary, in accordance with that provision. Accordingly, for reasons set out below, our clients make a formal request that, pursuant to s50 of the Act, the Minister, by direction in writing, require the Secretary to conduct a public enquiry in respect of the public health impact of the Macarthur WEF.

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To: The Honourable David Davis, MLC
Date: 17 January 2014
Our Ref: ANA.382046
Page: 2

The notifications

The notifications were provided to the Council by our clients progressively during October 2013 and concern the impact experienced by them since the Macarthur WEF commenced operation by AGL, from noise emissions generated by the Macarthur WEF. For completeness we enclose copies of all of the notifications given to the Council by our clients.

The WEF comprises 140 Vestas V112 turbines, each with a 3MW capacity, 56m blades erected on 90m towers. It is the largest WEF in the Southern hemisphere.

We note that the original planning consent was based on much smaller 1.8 MW turbines with 45m blades. In response to AGL's amended application to introduce much larger Vestas V112s the Planning Department wrote that:

"Overall the changes are not considered to cause material detriment. The applicant has provided information demonstrating how noise and shadow flicker do not adversely impact on surrounding non-contracted dwellings. The increased size of turbines is balanced by the reduction in number of turbines. As such it is considered the proposed changes will NOT require notice under section 52 of the Victorian Planning and Environment Act 1987."

Our clients disagree with those assertions.

The notifications outline the noise emissions generated by the 140 industrial wind turbines that operate within the WEF and the impacts of those noise emissions. Our clients' homes and properties are all in the vicinity of the WEF. You will note from the Schedule that there are 16 children (some of them infants) residing in 6 of these homes.

It is evident from the matters raised in the notifications that the noise generated by the WEF clearly constitutes "nuisance" as defined by s58 with the Act: being a "noise or emission which is, or is liable to be, dangerous to health or offensive"; where "offensive" means "injurious to personal comfort".

All of our clients have described facts and matters in the notifications showing that the noise emissions from the WEF are "injurious to personal comfort" in that the noise generated interferes with the reasonable use and enjoyment of their homes and/or properties.

By s62(2) "the Council **must** investigate any notice of a nuisance". As noted above, we understand that the Council has taken the initial step of interviewing some of our clients.

We respectfully suggest that the facts and matters set out in the notifications do not admit of any reasonable conclusion, other than a conclusion that the operation of the WEF constitutes a nuisance as defined by the Act. Accordingly, the investigation by the Council (which the Council is bound to undertake) will not be concerned with identifying *whether* a "nuisance" exists but will be concerned with identifying the nature of the nuisance that does exist; and with identifying what is required to remedy the nuisance.

Our clients consider that the Council has a duty not only to remedy the nuisance detailed in the notifications in accordance with the Act, but also a duty at common law to protect our clients from reasonably foreseeable harm, of which the Council now has notice.

To: The Honourable David Davis, MLC
Date: 17 January 2014
Our Ref: ANA.382046
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Our clients consider that the Minister also has separate and distinct duties and obligations to our clients as created by the Act. These duties include a statutory duty to our clients to institute a Health Impact Assessment and/or public enquiry, in circumstances where there is evidence of a serious risk to public health, as defined by s3 of the Act.

The nuisance generated by the WEF constitutes a "serious risk to public health"

The notifications make it evident that the noise emissions from the WEF at night-time are adversely impacting on many of our clients' ability to sleep normally. Many of them describe having difficulty sleeping (ie sleep disturbance) since the WEF commenced operation. Sleep disturbance, over the longer term, results in sleep deprivation.

The World Health Organisation (**WHO**) in its Night Noise Guidelines for Europe (2009) makes the following statements concerning noise, sleep and health:

WHO defines health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, and recognizes the enjoyment of the highest attainable standard of health as one of the fundamental rights of every human being. Environmental noise is a threat to public health, having negative impacts on human health and well-being (pVII).

There is plenty of evidence that sleep is a biological necessity, and disturbed sleep is associated with a number of health problems. Studies of sleep disturbance in children and in shift workers clearly show the adverse effects (pXI).

The review of available evidence leads to the following conclusions (pXII).

- Sleep is a biological necessity and disturbed sleep is associated with a number of adverse impacts on health.
- There is sufficient evidence for biological effects of noise during sleep: increase in heart rate, arousals, sleep stage changes and awakening.
- There is sufficient evidence that night noise exposure causes self-reported sleep disturbance, increase in medicine use, increase in body movements and (environmental) insomnia.
- While noise-induced sleep disturbance is viewed as a health problem in itself (environmental insomnia), it also leads to further consequences for health and wellbeing.

As recognised by the WHO, sleep disturbance is in and of itself an adverse health effect, which brings with it associated health effects both psychological and physiological, bringing consequences for health and wellbeing; particularly for young children.

As detailed in the notifications this adverse health effect is being experienced by many of our 42 clients, as well as some of their 16 children; which include young children and infants.

Our clients quite properly consider the sleep disturbance and sleep deprivation many of them are suffering (which is being caused by the night-time noise emissions from the WEF) as a serious threat to their and their children's immediate and long-term health.

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The impact on our clients' health can be effectively eliminated (or, at least, reduced) by preventing the WEF from operating at night-time, which would alleviate those problems being suffered in relation to sleep disturbance and sleep deprivation. Accordingly, the facts and circumstances outlined in the notifications constitute a "*serious risk to public health*"; by reference to those matters set out in the definition of that term in s3 of the Act.

As the consequences of the nuisance (as detailed in the notifications) include matters constituting a serious risk to the health of a significant number of persons, including the health of young children and infants, the Minister's duties under the Act are simply amplified.

Health Impact Assessment at the direction of the Minister

As outlined above, by s53 of the Act the Minister may, by direction in writing, require the Secretary or the Chief Health Officer to conduct a Health Impact Assessment of the public health and wellbeing impact of a matter specified in the direction.

We note that there has never been a Health Impact Assessment performed in relation to the health or wellbeing impacts caused by any WEF operating in Victoria (or at all within Australia). No Health Impact Assessment has been carried out at the Macarthur WEF.

Our clients uniformly reject any suggestion that the document created by the Victorian Department of Health in April 2013 (purportedly relating to the adverse noise impacts from WEFs) has any relevance to the matters raised in the notifications. Likewise, our clients also reject assertions based upon the NHMRC's Rapid Review. Neither of these documents is the result of any field research carried out at operating WEFs in Australia – and additionally our clients reject the validity and accuracy of many of the statements and conclusions contained in those documents.

Moreover, the assertions made in these documents do not have any bearing upon the health consequences for our clients caused by the noise emissions generated by AGL's WEF; or the Minister's duties to our clients under the Act; or at common law. The duties created by the Act are quite separate and distinct and will not be relieved by reference to, or reliance upon, the assertions made in either document.

Given the matters outlined above, our clients formally request that, pursuant to s53 of the Act, the Minister provide a direction in writing to the Secretary and/or the Chief Health Officer requiring them (either or both, as appropriate) to conduct a Health Impact Assessment of the public health and wellbeing impact of the Macarthur WEF, without delay.

Our clients are ready, willing and able to assist with and participate in a Health Impact Assessment conducted in accordance with the Act.

Public enquiry in respect of a serious public health matter

As noted above, our clients properly consider that the matters raised in their notifications constitute a "*serious risk to public health*", as defined by s3 of the Act. Accordingly, these matters also constitute "*a serious public health matter*" as that term is employed in s50 of the Act.



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We note that by s50 of the Act "*the Secretary may conduct a public enquiry in respect of any matter which the Secretary considers as a serious public health matter.*" We note also that the Minister may direct in writing the Secretary to conduct such a public enquiry.

In addition to our clients' request that the Minister direct the Secretary and/or the Chief Health Officer to conduct a Health Impact Assessment, our clients also formally request that, pursuant to s50 of the Act, the Minister provide a direction in writing to the Secretary to conduct a public inquiry into the public health impact of the Macarthur WEF, without delay.

Our clients are ready, willing and able to assist with and participate in a public inquiry conducted in accordance with the Act.

Our clients consider that the consequences that they and their children suffer from the operation of AGL's WEF (particularly those suffering sleep disturbance and sleep deprivation; or other adverse health effects) constitute "*a serious public health matter*". Accordingly, our clients consider that the Act places the Minister under an obligation to conduct a Health Impact Assessment, if not, a public enquiry. Given the scope and nature of the matters raised in the notifications the Minister may wish to initiate both a Health Impact Assessment and a public enquiry.

Irrelevant considerations

As noted above, our clients do not consider that the documents produced by the NHMRC and the Victorian Health Department (referred to above) have any relevance to the Minister's duties, powers and obligations, as established by the Act. In particular, these documents do not relieve the Minister of the duties created by the Act to promote and protect the health and wellbeing of the public and, therefore, the health of our clients (as outlined above).

Our clients also do not consider assertions made by AGL (or any of its noise consultants) concerning the noise emissions from the WEF to be relevant to satisfying the Minister's duties arising under the Act. Moreover, assertions that the noise levels recorded by AGL (and any of its noise consultants) might satisfy relevant noise standards and/or the conditions of its planning consent are, likewise, irrelevant.

The noise standards have no bearing on whether or not a "*noise or emission is, or is liable to be, dangerous to health or offensive*". Accordingly, the Minister would fall into error by having regard to the terms of any noise standards and would fall into further error by having regard to assertions made by AGL concerning the satisfaction of any such noise standard; or the conditions of its planning consent.

It is evident from the Objectives, Principles and Application set out in Part 2 of the Act that planning considerations have no part to play when assessing whether the Minister has satisfied his duties and obligations under the Act; or in relation to the exercise of the Minister's powers under the Act.

Next steps

As noted above, our clients are ready, willing and able to assist the Council in its investigation into the nuisance set out in the notifications. Likewise, our clients are ready to assist with and

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participate in any Health Impact Assessment and/or public enquiry carried out by the Minister, the Secretary or the Chief Health Officer.

We would be pleased if you would inform us of the steps which the Minister plans to take to investigate the serious risk to public health created by noise emissions from the Macarthur WEF; what steps the Minister plans to take; and when the Minister proposes to take such steps.

We would appreciate it if all future correspondence and communications concerning the Minister's investigation into the serious risk to public health created by the operation of the Macarthur WEF be directed to the author.

Yours faithfully
Piper Alderman

Per:

A N Abbott
File Principal

Copy: moyne@moyne.vic.gov.au

A 53



Department of Health

Secretary

2 MAY 2014



e3360351

Mr A N Abbott
Piper Alderman
GPO Box 65
ADELAIDE SA 5001

Dear Mr Abbott

Thank you for your letter of 19 February 2014, about notifications of Nuisance made to Moyne Shire Council in relation to the Wind Energy Facility (WEF) at Macarthur.

I note your request, on behalf of your clients, for a public enquiry regarding the health effects of this WEF under s50 of the *Public Health and Wellbeing Act 2008* (the Act).

I also note that you have also written to the Hon David Davis MP, to request him to require the Chief Health Officer or myself to conduct a Health Impact Assessment of the WEF under s53 of the Act.

As you have identified, a council must investigate any notice of a nuisance, pursuant to s62(2) of the Act. In your letter you have indicated that it has commenced such an investigation.

Officers of the Department of Health have contacted Moyne Shire Council and have also discussed the matter with the Department of Transport, Planning and Local Infrastructure (DTPLI). DTPLI advises that AGL, the operator of the WEF, has completed the noise compliance report required under the planning permit and that the report is undergoing peer-review. This report will be relevant to the Council's investigation.

I have considered your request and the work currently underway to assess compliance with the facility's planning permit and the nuisance investigation. I do not believe that it is appropriate or necessary for the Minister or me to issue a directive for either an enquiry or a Health Impact Assessment.

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As you may be aware, the National Health and Medical Research Council recently released its draft review on the findings of the health effects of wind farms. It is also preparing a targeted call for research. The Department supports well-considered research and has already committed up to \$100,000 towards seeking to improve the evidence base on the issue of wind farms and health effects.

Yours sincerely



Dr Pradeep Philip
Secretary

A 54

13th January, 2015

Dear Annabel,

The main reason for writing to you today, is to invite you to come and stay with us on our small farm near Peshurst in Victoria, in order that you may familiarise yourself with what is really going on in rural Australia, as a result of the proliferation of wind farms. Then, armed with the real TRUTH and proper information, hopefully you will be able to go back and enlighten your politician friends, and colleagues at the ABC, and STOP MISINFORMING the Australian public, by casting slurs on so many hard working rural Australians whose lives and livelihoods have been shattered as a result of wind farms.

Your broadcast with Robyn Williams on Radio National's the Science Show left my husband and I, along with so many others, extremely offended and angry, to say the least.

To be classified as a "dick brain" by somebody for whom, until today, we held the utmost respect, was a grave insult, particularly as it would appear you have absolutely no idea who we are, our circumstances, nor of our degree of, and the real reason behind our suffering. .

However, upon reflection, we have concluded your attitude and derogatory comments clearly indicate you are quite uninformed and certainly ignorant of the true facts regarding the impact of acoustic emissions from wind turbines, particularly the 140 3 megawatt turbines next to which we now have the misfortune of living, being the Macarthur wind farm, the largest in the Southern Hemisphere. To* add to the extreme size, these turbines have been constructed TWICE AS CLOSE TOGETHER as their maker Vestas specifies, therefore creating far greater turbulence and noise pollution. Greater number of turbines stacked onto the parcel of land, greater the income for AGL (up to \$1million per turbine per year) and our greedy neighbours.

It would appear to us that you may have been influenced by some who have a vested interest in the wind industry, as after all, billions of taxpayer dollars are involved here. Indeed, it is our opinion there is a "groupie" mentality amongst many journalists, whom, had they bothered to carry out thorough investigation and actually visited, particularly wind farms here in south-west Victoria, may become more informed and objective, and discover for themselves what a tragedy has been inflicted upon so many hundreds, if not thousands of honest and hard working rural Australians, through no fault of their own.

My husband and I are but two of the many "dick brains" who are severely impacted, day and night by the 140 3 megawatt turbines at the Macarthur wind farm in south-west Victoria.

I challenge your shocking description of us as "dick brains". To me, you are literally referring to us as certainly amongst the lowest percentile of the population, and merely complete idiots !!!

"Dick brains" we ARE NOT.

If you have any knowledge of life in rural Australia, you'll be aware it's harsh and extremely tough. Not only are rural Australians forced to contend with weather extremities, but we have experienced little increase in our farming incomes since 1980, when my husband and I first purchased our small farming property. Our cost/price squeeze is alarming. Not only do we have to be efficient farmers, but we also must be excellent business managers, or otherwise we'd literally be "out the door" due to such dismal commodity prices. After all, farmers are "price takers" and not "price makers", and we certainly did not inherit our property, unlike our extremely wealthy wind turbine host neighbours.

My husband and I, along with many farmers impacted in this district, are highly educated, with university degrees also - far from "dick brains" as you chose to label us in your flippant referral to those rural families whose health is suffering, as a direct result of proximity to wind turbines.

Now in addition to the abovementioned external factors beyond our control, we are forced to contend with the extreme detrimental impact caused by our neighbour's industrial development. This development is trespassing our property rights to live and carry out our business, (along with our Common Law right to a decent sleep at night) where we have healthily and successfully lived and farmed for 35 years now.

When you have a moment google Annie and Gus Gardner Zegna Trophy 2011. Read The Australian article by Graham Lloyd and note the picture of my husband and myself, taken in happier times prior to our health and our business being hammered by the acoustic emissions from the 140 turbines next door. We would certainly not have achieved second place in the highly coveted Ermenegildo Zegna prize for the finest quality wool produced in the world, had we been mere "dick brains" !!!!

You will also read we have been fighting the Macarthur Wind Farm for ten years now. We were told by AGL that our health would DEFINITELY NOT BE IMPACTED by the turbines, and there would be no more noise than an ordinary working farm. However our greatest fear was for our elite ultra-fine woolgrowing enterprise, consisting of 400 shedded sheep. Sadly, this business was ruined during mere construction of the wind farm next to us - caused principally by dust billowing into our purpose built shed, contaminating the drinking water of our award winning sheep, causing them to die. We had no choice but to close the shedded sheep enterprise, and having spent 30 years breeding these specialist sheep (which one cannot buy) we simply don't have another 30 years work in us to go back into this elite industry. So we are left with several hundred thousand dollars worth of idle infrastructure, and no longer enjoy the income of up to \$200,000 annually which these sheep were capable of returning, despite many hours of long hard work, feeding them by hand 365 days of the year.

Of course you'll also see the link to the ABC's 7.30 program in 2011, where in typical ABC style, coverage of our unbelievable award (first time for individual Victorian farmers) was turned into an animal rights issue, with comparisons made (arranged by AGL) with sheep which bear NO similarity to our highly sensitive ultra-fine merinos - but it certainly made a good story, and the ABC did a wonderful job of making us look, may we use your phrase, like "dick brains" !!!!

Also, please go to the website www.lowertheboom.org and read the chilling description of what INFRASOUND does to one's body organs. I bet you don't know much about infrasound, as I certainly didn't prior to being hammered by this acoustic emission from the 140 turbines next door. Apart from the constant annoyance of extremely loud, thundering background noise (which sounds like a tornado coming, but it never arrives), INFRASOUND is the real silent killer from which my husband and I, along with many other families living out to at least 6 kilometres from the turbines at

Macarthur, are suffering. Infrasound is in the form of waves of fluctuating air pressure and ground borne vibration emitted from the turbines. I suffer from this severely day in, day out. The vibration is felt through the floor, through the couch, in my bed and this feeling is like being cooked in a microwave with an electric charge going through my body. That is what I have to sleep with all night long, along with severe nose pressure and shocking neck pain, as if somebody is chopping into the back of your neck with an axe. Other symptoms experienced include nausea, burning inside the head and chest, severe ear, nose, throat, jaw and teeth pressure, headaches, heart palpitations, and dizziness.

This is how I am forced to live on my own property and in my own house now Annabel, and it's been going on since October 2012, when the first only 15 turbines began operation. My husband suffers also, however his symptoms are more in the form of sudden severe "bolts" of pressure to the head and neck. I can hardly bear to go out to work in the paddocks, as out there, I'm surrounded by a forest of turbines, with nothing to cushion the impact between the turbines and my body. In fact we cannot provide a safe workplace any more, for ourselves, or for any other employees. Riding a motorbike through this rocky barrier country with deafening, thundering noise and bolts of head pressure, nausea and other symptoms is VERY DANGEROUS. There is a very serious Occupational Health and Safety issue here, but nobody gives a damn or will do anything about it, and AGL are in complete denial of any impact whatsoever !!!

Since October 2012, we have been forced to leave our property for two nights of each week in order that we may get a decent night's sleep. It's just amazing how well we feel and sleep whilst away, but as soon as we arrive home again, the symptoms reappear quite quickly. Isn't it pathetic that in this once wonderful country of Australia, rural residents are forced to leave their homes for respite for a few days of EVERY WEEK because they cannot live in their own homes. In fact, two families have left their properties in this district due to the above, as is the case around many wind farms in rural Australia. These people do not make this choice lightly as they have to rent a house to live in, and often do not find work either, leaving behind friends and family.

There have been about four properties for sale adjoining the Macarthur wind farm for several years now, but no interest once people discover the proximity to a wind farm. There's also a wonderful glass artist's studio several kilometres from the nearest turbine, which has been on the market for around two years also. As for your rather jocular claim you'd be buying a property next to a wind farm, Annabel, that was just sick !!! Perhaps you'd like to buy one of these unsaleable properties to see for yourselfyou may be in a financial position to throw away possibly \$1.5 million, as there's no way you'd ever resell it.... but we farmers certainly are not. Our property is all we own - we came here with nothing in 1980, through sheer hard work and tenacity have built up a magnificent farm and home, and we'll leave with nothing as NOBODY wants to buy near a wind farm. This farm is our income and our superannuation, not to mention our life, heart and soul, and the government has arbitrarily acquired it. How would you like it if I asked you to hand over ALL of your superannuation (including your home) to me ? That's what's happened here, with millions upon millions of dollars worth of prime agricultural land made unsaleable due to the greed of our extremely wealthy neighbours (wife of whom WAS my best friend) and AGL. This south-west district of Victoria is the "garden of Eden" for agriculture in this state.

So Annabel, we are extending an invitation to you to come down and meet privately with us. You may stay for a while and you can see for yourself what is going on, meet some real people whose health and livelihoods have been severely impacted. We'll also take you to picturesque Cape Bridgewater on the pristine coastline near Portland, where astounding direct correlation between

health impacts and turbine acoustic emissions, has just been emphatically proven by Steve Cooper of The Sydney Acoustics Group, employed by Pacific Hydro, the developers. We'll introduce you to three families who've been battered by this wind farm now for SIX YEARS, but have been forced to leave their homes and properties.

You have a responsibility to the Australian public to report in an informed and objective manner, far from the manner which you displayed on the Science Show with Robyn Williams. Come to our district and stay in our home. We'll be delighted to give you a taste of good country hospitality. Please come and discover that in fact, we are not "dick brains" but very genuine people, suffering greatly. Come and learn for yourself, privately and quietly, in order that you can make sure your comments in future are far more accurate and informed, than displayed on the Science Show.

Just for the record Annabel, and you might pass this onto Robyn Williams also please, the recent NHMRC review did NOT say there is not a health problem with wind turbines. The NHMRC review noted "There is consistent, but poor quality evidence that proximity to wind farms is associated with annoyance and less consistently with sleep disturbance and poorer quality of life".

From now on I will be sharing our complaints to AGL with you, so you will realise that we are in fact just ordinary hardworking sensible, smart rural residents who use our brains and are being unjustifiably physically and financially abused by our neighbour, AGL and the monster Macarthur wind farm, which should never have been built. I have evidence of what appears to me, to be serious corruption within the Victorian Planning Department with the issuing of the planning permit for this wind farm in 2006 also.

I shall also be forwarding to you some material which may educate you somewhat, in particular an anonymous preliminary health survey carried out in this district, which found around 66 residents were suffering to various degrees, as a result of the turbines at the Macarthur Wind Farm. It is felt that also many who are intimidated did not take part in this survey, for fear of employment and other community repercussions, such as bullying in the school yard, which has taken place at the Macarthur Primary School here. I won't even go into the effect on the community, which is now divided forever. However I will tell you that instead of jumping on the fire trucks, should a fire start on the wind farm, I've heard many local farmers claim they'll be in their solicitor's office working out litigation proceedings.

I will be forwarding for your information last night's edition of Stop These Things which outlines the lies, deception, fraud and corruption involved in the entire wind industry. I have uncovered what appear to me to be examples of such, in all three tiers of government over recent years. As previous Member for Hume in NSW, Alby Schultz claimed several years ago "This is the greatest government sponsored fraud in the history of Australia". I have to agree with him.

For the record also Annabel, I have been enquiring for the past 18 months, through FOI, information relating to author names/third party correspondence etc. involved with the Victorian Dept. of Health's publication of two reports in May 2013, "Wind Farms, Sound and Health". This information was refused by DOH, so I exercised my democratic right under the FOI Act of Victoria and appealed to the FOI Commissioner, who eventually ordered DOH to release a vast amount of information to me, except names on emails. Department of Health decided they didn't want to do that, so now they are taking me, as an ordinary citizen, and the FOI Commissioner to VCAT !!! What bullies are they, and what a total waste of taxpayer's money! Of course it is suspected the wind industry had a deal of input into these two reports. If this industry is so squeaky clean, what does this government

department have to hide ?

Annabel our home phone number is 03 55 763273 and I look forward to hearing from you to organise a visit to our district in the near future.

I would certainly appreciate if you would respectfully acknowledge receipt of this email.

With kind regards,

Annie Gardner

[REDACTED]

A 55

8th February, 2015

Dear Commissioner Pascoe,

We are writing to give our support for the Waubra Foundation, in the hope that common sense within the ACNC will prevail, and the ACNC realises what wonderful work the Waubra Foundation has carried out, quickly reversing the seriously uninformed decision of 11 December 2014.

The Waubra Foundation is the ONLY body assisting hard working rural Australians who find themselves, through no fault of their own, severely impacted by the acoustic emissions from wind turbines, along with other forms of excessive industrial noise.

The Waubra Foundation is a not-for-profit organisation which consists of volunteer scientists, medical representatives and others, whose sole interest is in ameliorating the severe health problems of environmental noise pollution Australia wide, and indeed, around the world.

We read that, according to the Assistant Commissioner of the ACNC, Mr. David Locke, "to date there has been NO rigorous independent scientific evidence that finds that the ill health complained of is caused by the physiological effects from wind turbines, nor that there are human diseases called 'wind turbine syndrome' or 'vibroacoustic disease'."

We find this statement OUTRAGEOUS. This is SO FAR FROM the TRUTH.

There is abundant scientific evidence of health impacts, from both Australia and overseas, but maybe this has carefully been ignored or avoided by the ACNC Assistant Commissioner, and we wonder if he has allowed himself to be influenced by the wind industry, or others with a vested interest in either wind farms or coal seam gas exploration.

There has been evidence of ill health as a result of proximity to wind turbines, since the work carried out by Dr. Neil Kelley and NASA, funded by the US Department of Energy in the 1980's which originally identified the direct causal relationship between symptoms and sensations and impulsive Infrasound/Low Frequency noise from various sound sources which included wind turbines, gas turbines and military aircraft.

Most recently Mr. Steven Cooper from The Acoustic Group in Sydney has completed a most comprehensive world first study of impacted residents and obtained noise data from the Cape Bridgewater wind farm near Portland. This study produced GROUND BREAKING RESULTS, thus forming a link between acoustic emissions from turbines and people's health impacts.

Perhaps both the Commissioner, and Assistant Commissioner should take the time to read Mr. Cooper's report, the restrictions upon which, despite mischeivous statements by wind industry advocates, were purely by design of Pacific Hydro, the developer. As we are constantly in touch with the residents who participated in Mr. Cooper's investigations, we are fully aware of the wonderful assistance and support the Waubra Foundation has given to these three families, SUFFERING SO MISERABLY OVER SIX YEARS, not to mention that given to families in an IDENTICAL position, here at Macarthur.

My family, along with many other families living within 6 kilometres from the massive 140 turbine wind farm at Macarthur in Victoria, have been impacted since the commencement of operation of the initial 15 turbines here, in October 2012.

We are so badly impacted by the infrasound/low frequency noise emitted by the turbines, even when they're turned OFF, we are forced to leave our home for at least TWO DAYS and TWO NIGHTS of EVERY WEEK, to get a decent sleep. We are both very badly impacted by the infrasound emitted by the turbines all day long also, whether this takes place in our paddocks, our woolshed (both our workplace) or in our home.

We have lived on this property for 35 years now, the first 33 very happily and healthily. Ever since October 2012, when the first turbines began operation here, we have both been badly impacted and it does not matter which way the wind is blowing. Infrasound waves travel in every direction and there is ground borne vibration also. We even suffer from the vibration which is felt through our bed, all through the night !!! Not only do we experience ongoing extreme sleep deprivation, we suffer from headaches, sore and blocked ears, nose pressure, pressure spikes to the back of the head and neck, nausea, dizziness, tightness and burning of the chest, heart palpitations and nausea.

Commissioner Pascoe, I ask of you and Mr. David Locke, the following questions.

1. Why is it that at least 23 families who have lived healthily in the Macarthur district for 30 - 60 years, since October 2012, have developed symptoms, sometimes extremely serious, as described above ?
2. Why is it that an anonymous preliminary health survey carried out in the Macarthur district, in 2013 reported around 66 residents whose health had been impacted and who suffered some degree of the symptoms described above, since the turbines began operation in October 2012 ?
3. Why is it that 2 families have been forced to leave their homes permanently since October 2012, and many families, such as ourselves, are forced to exit their property EVERY week for respite from the impact of the turbines ?

The Waubra Foundation appears to be the ONLY organisation/department which the wind industry has not been able to successfully infiltrate with their "spin", perhaps as they are NOT on the receiving end of millions of taxpayer dollars and DO NOT HAVE A VESTED INTEREST in any form of industrial development which emits excessive industrial noise, be it wind turbines, coal seam gas or the like.

We are of the opinion that Mr. Locke's decision has totally IGNORED the evidence of the serious health issues and diseases caused or increased by EXCESSIVE ENVIRONMENTAL NOISE AT NIGHT.

ONGOING SLEEP DEPRIVATION from which my husband and I, along with so many other families around the Macarthur wind farm suffer, is recognised by the World Health Organisation as TORTURE, and can lead to so many other diseases and health problems, both physically and psychologically.

Apart from the severe impact from infrasound which my husband and I experience as we go about our daily operations on our woolgrowing property, due to the fact that turbines are as close to our property, OUR WORK PLACE, as 90 metres, we begin the day EXHAUSTED due to severely disturbed sleep, if at all during the night.

The conditions under which we are now forced to work, and live are APPALLING and EXTREMELY DANGEROUS particularly when using farm machinery or driving we really should not be living here at all, but have nowhere to go, no other employment, and no money. We have NO CHOICE BUT TO STAY HERE.

The Waubra Foundation has worked tirelessly to provide such an informative website for the whole world to access, and has worked tirelessly to assist those THOUSANDS of people in rural Australia whose lives and health have been turned upside down by the debilitating impact of EXCESSIVE ENVIRONMENTAL NOISE from a variety of forms of industrial development.

We request that the ACNC reverse their uninformed decision of 11 December 2014 in order that the Waubra Foundation may continue assisting those rural Australians who are currently being treated by government and big companies, as second class citizens.

Perhaps a field visit may be in order for the ACNC Commissioners to investigate and speak to the THOUSANDS of people whom the Waubra Foundation have assisted in recent years ? This would hopefully enlighten you both of the valuable work carried out voluntarily, by the Waubra Foundation, assisting those rural citizens whose health and lives have been ruined by the greed of neighbours, wind developers and all tiers of government.

ANN and ANDREW GARDNER

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]