

**MINUTES OF THE ORDINARY MEETING OF COUNCIL HELD TUESDAY 19TH
MARCH 2013 AT 6.00PM AT THE COUNCIL CHAMBER BEAUFORT**

Present: **Mayor:** Cr Michael O'Connor
 Councillors: R. Vance, D. Clark, T Kehoe, R. Eason

In Attendance: **Chief Executive Officer**– Stephen Cornish
 Director Corporate and Community Services – Terry Mathews
 Director Asset and Development Services – Andrew Leach

 Minute Taker – Pam Burns

Apologies: Nil

Mayor Cr. Michael O'Connor welcomed the gallery and press, read the opening prayer and indigenous acknowledgement.

Cr O'Connor requested all present take part in one minutes silence to reflect on the grief stricken Streeter family at Avoca with the recent deaths of Doug and John.

MINUTES:

CRS CLARK / KEHOE

That the Minutes of the Ordinary Meeting of Council held on the 19th February 2013 be confirmed.

CARRIED

Business Arising: Nil

Amendments: Nil

Public Question Time and Submissions on Agenda Items:

Public Representation: Nil

Question Time: Nil

ITEMS FOR NOTING:

CRS CLARK / VANCE

That the items for noting be received.

CARRIED

ITEMS FOR NOTING

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ASSET & DEVELOPMENT SERVICES - PLANNING

**3. MEASURES TO CONTROL HOUSING DEVELOPMENT IN AREAS
AFFECTED BY EXISTING AND APPROVED WIND FARMS**

File No: 66/22/16

Author: Chris Hall, Senior Town Planner

Declaration of Interest: As author of this report I have no disclosable interest in this item.

BACKGROUND

At the recent December and February meetings of Council, reports were presented outlining an approach which officers believe should be taken, to give this and other Council's with substantial interests in the wind farm industry, the opportunity to regulate new housing development which is in close proximity to existing or approved wind turbines.

Such developments if not adequately regulated, could potentially expose their residential occupants to serious acoustic and other amenity impacts. Such housing developments would also have the potential to encroach on established/approved amenity buffers around wind farms, and thus cause their operations to be constrained in future (leading to potentially costly litigation).

As a result of recent changes to middle management in DPCD, an opportunity now appears to exist for Council to act unilaterally, to present the proposal to the Department for immediate consideration.

DETAILS

Council has had direct experience in dealing with this issue, and there can be no doubt that dwellings in close proximity to wind turbines (within 2 kilometres) have/will have the potential to be profoundly noise-affected – to a point where the amenity of their occupants will be seriously diminished.

Council has established a protocol whereby (to the extent that discretionary power exists) it will require a site-specific Acoustic Impact Assessment to be prepared by proponents of dwellings in these noise-affected areas. The purpose of this is to help ensure that proponents are aware of the implications of their decisions, and can be assisted in ensuring that their new dwellings will be reasonably noise-protected.

Recent experience in the dealing of a housing development proposal in Long Gully Road Beaufort (Planning Permit Application No. PA1941/11) has demonstrated that this protocol is effective, and can be of benefit to all stakeholders involved.

As explained in the officers' December 2012 report, there are a large number of instances in wind farm affected areas, where (due to existing lot sizes) a dwelling is an as-of-right (no permit required) use. As things presently stand therefore, Council has no mechanism available to it to intervene, to help ensure that reasonable amenity safeguards will be put in place and that new dwellings are sited where they will have minimal impact from the wind farm development.

**3. MEASURES TO CONTROL HOUSING DEVELOPMENT IN AREAS
AFFECTED BY EXISTING AND APPROVED WIND FARMS - *continued***

Details of the preferred method of control were set out in the previous reports. In essence, the approach would be for the VPPs (and thus all Planning Schemes throughout the State) to be amended so that:

- (a) A minor change would be made to the land use controls for “Dwelling” in the Farming Zone and Rural Living Zone, so that (where desired by the individual Responsible Authority) a Planning Permit required for all new dwellings regardless of lot size if the site for the dwelling is less than a specified distance (preferably 2 kilometres) from a wind turbine site forming part of an approved or existing wind farm.
- (b) A new State planning policy would be introduced, which includes policy guidance relating to the assessment of Planning Permit Applications for dwellings, or other sensitive land uses that are proposed in the near vicinity of (and likely to be affected by) an approved or existing wind farm.

The important point to make is that this approach would merely introduce a new planning tool into the VPPs, which is available to those Councils that wish to utilise it. There would be no requirement on Councils to active the schedule trigger unless they felt the need to do so.

Discussions with a number of nearby Councils have indicated that although there would probably not be an objection to the control mechanism being introduced, there are mixed views as to whether or not there would be a desire in their particular circumstances. The Moyne Shire, which is the most effected by wind farm developments have provided written correspondence indicating that they are supportive of such controls being introduced.

During earlier discussions with senior Department of Planning and Community Development (“DPCD”) officers, there was a view that there should be a general consensus at least between a number of Councils as to whether or not the measure should be introduced. This attitude has changed however, and it is now being suggested by DPCD staff that the proposal has strong merit and should be put forward for Departmental evaluation according to its planning merits – with or without collaborative support from other Councils. The view now being taken is that as there would be no compulsion for any Council(s) to utilise the provision, its popularity or otherwise should not be a relevant consideration. The only substantive question should be, would the provision be a worthwhile planning tool for those Councils that wish to use it.

DPCD is now finalising a re-draft of all VPP zones (which includes a review of the rural zone provisions). Indications are that these new rural zoning provisions are now being finalised for potential roll-out in the near future.

It has been suggested that Pyrenees Shire Council should submit its proposal to DPCD without delay, via the new Wind Farm Coordinator (Mr Paul Jarman), so that it can be considered as part of the current (but near concluded) rural zones review.

**3. MEASURES TO CONTROL HOUSING DEVELOPMENT IN AREAS
AFFECTED BY EXISTING AND APPROVED WIND FARMS - *continued***

It is evident however, that this opportunity is momentary and that unless it is acted upon immediately, then it will be lost. In view of the above-mentioned circumstances, it is considered that Council should authorise its officers to submit the proposal to DPCD without delay – and without prior/further formal consultation with other Councils (officers of these Councils would nevertheless be advised of the initiative, and kept informed of its progress).

As Mr Jarman is both the Wind Farm Coordinator and the Manager of the Flying Squad Assistance Program, he will be well placed to action the proposal, should it be found to have merit – perhaps with financial assistance to Council so that it can prepare a formal report and draft State planning policy provision for inclusion in the VPPs, in connection with the relevant Ministerial amendment.

CONCLUSION

It is considered that the proposed control mechanism has strong planning merit, and if introduced into the VPPs, it will provide those Councils that wish to have it incorporated in their Planning Schemes, a valuable tool for proactively dealing with housing development proposals in wind farm noise-affected areas.

An opportunity is currently available to Council to submit its proposal to DPCD for objective consideration. It is considered that Council should avail itself of this opportunity.

ATTACHMENTS

3.1 Schedules

CRS CLARK / EASON

1. That Council resolve to submit the proposal to DPCD without any further consultation with other Councils.
2. That if the Council is asked to provide a further report to the Minister or the draft of any new provisions for inclusion in the VPPs, if necessary an application for ‘flying squad’ funding could be sought to cover the cost involved in implementing the amendment.

CARRIED